

Stepping Up Child Protection



An assessment of Child Protection Systems
from all countries in South Asia, including reflections from Central Asia



Save the Children

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FOREWORD

Across the South Asian region, abuse, neglect, exploitation and violence is affecting millions of children. This violence cuts across social, cultural, religious and ethnic lines. Sometimes violence is right in front of our eyes and sometimes it is hidden. But even if it goes unreported, we know children are suffering in a range of settings - at home, in schools, in the community, in their workplaces, institutions or emergencies. Oftentimes perpetrators of violence are someone the child is close to and trusts.

There are many common problems throughout the region which leave children especially vulnerable to violence. Children's vulnerability to violence is increased when they lack the protection of a parent or caregiver or live in countries torn by disasters and conflict, which are all common scenarios throughout the region. South Asian children are marginalized because of poverty, caste, ethnicity, religious belief or disability which prevents children from accessing necessary child protection and social welfare services. Children in the region face numerous harmful traditional practices, such as early marriage. Girl children meet gender biases even before birth, and such discrimination continues throughout their lives. There are 25 million of child labourers in South Asia and millions of children are trafficked throughout the region every year.

The South Asian Government's have recognized that these are pressing issues and have begun to take vital steps to ensure a protective environment for their children. Much of the work to date has been issue based and programmes are often ad hoc and fragmented. Because of this, all governments in the region have recognised that this approach is not working, and have started to develop child protection systems to ensure a comprehensive and holistic approach to ending violence. Different governments are at different stages, but all understand the need to develop an overall child protection strategy, assign a nodal agency for coordination of child protection activities and policies, and develop a sound legislative framework for the protection of children. Additionally, the role of local government and communities in protecting children has been recognized and local solutions in every country have been established or promoted.

Issues concerning children including violence and abuse, however, often transcend national borders. Regional research, debate, initiatives and programmes, can facilitate learning and sharing between countries. By understanding others experiences and successes countries can inspire, engage, support and challenge each other to each take the necessary national action to end violence against children.

Government's in the region have recognised how important regional coordination and collaboration is. The South Asian Association for Regional Cooperation (SAARC) was established when its Charter was formally adopted on December 8, 1985 by the Heads of State or Government of Bangladesh, Bhutan, India, Maldives, Nepal, Pakistan and Sri Lanka. SAARC provides a platform for the peoples of South Asia to work together in a spirit of friendship, trust and understanding. It aims to accelerate the process of economic and social development in Member States. Afghanistan joined SAARC in 2007. The SAARC Convention on Preventing and Combating Trafficking in Women and Children for Prostitution and the SAARC Convention on Regional Arrangements for the Promotion of Child Welfare in South Asia, are important documents for protecting children in the region.

But the governments of South Asia felt these conventions and agreements did not cover the entire scope of regional action necessary to end violence and in 2005 established the “South Asian Forum for Ending Violence Against Children (SAF) now renamed the “South Asian Initiative to End Violence Against Children (SAIEVAC)”, with the vision that all children, girls and boys, throughout South Asia enjoy their right to an environment free from all forms of violence, abuse, exploitation, neglect and discrimination.

Through the formation of the South Asian Initiative for Ending Violence Against Children (SAIEVAC) governments have reiterated their commitment to addressing the enormous scale and urgency of violence against children in all forms and together try to coordinate, standardize, and monitor progress annually. While the UN Study’s recommendations are an overall *broad* framework for all governments in South Asia, SAIEVAC provides *specific* actions for governments in the region and offers practical indicators to ensure governments can measure change.

Governments also recognised the valuable contribution of UN Agencies, INGOs, NGOs, Civil Society and children to ensure the sustainable, holistic and inclusive protection of all children. By listening to children and learning from their experiences we can promote effective solutions throughout the region. And by developing productive partnerships with key stakeholders we can have a larger impact for children and for ensuring child rights. Therefore children, civil society, UN Agencies and INGOs are invited to participate in SAIEVAC’s decision making processes.

As host to the SAIEVAC Secretariat, the Government of Nepal understands that we have a shared responsibility to end violence and is dedicated to supporting regional activities to further this cause. The Government of Nepal believes that the creation of a strong regional centre for ending violence against children is a crucial stride forward for children in the region. Although South Asian Countries still have a long way to go, the journey is made easier when we take it together.



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Contents

1. Introduction: a holistic and comprehensive response to child protection.....	6
Violence against children in South Asia	6
A systematic approach to child protection.....	7
Multi-sectoral, multi-stakeholder and multi-disciplinary approaches	7
Regional mechanisms to prevent violence	8
2. Methodology	9
Limitations of the Report.....	9
3. Analysis of the research: The need to strengthen child protection.....	10
Children’s right to protection.....	10
States to take the lead on child protection	11
<i>Funding</i>	11
Legal framework.....	12
<i>Strategic litigation</i>	12
<i>Individual cases</i>	13
<i>Judicial proceedings</i>	13
<i>Children in conflict with the law</i>	13
Productive partnerships.....	14
Local government action.....	15
<i>Reporting systems</i>	16
<i>Referral mechanisms</i>	16
<i>Rehabilitation of child survivors</i>	16
Mobilizing communities.....	16
<i>Civil society action</i>	16
<i>Changing the culture to support social change</i>	16
<i>Community-level committees</i>	17
<i>The importance of influential community members</i>	18
<i>Every individual can protect children</i>	18
<i>Family involvement is essential</i>	18
<i>Engaging with the media</i>	19
<i>Challenges to community support</i>	19
A framework for children’s participation	20
Linking humanitarian and development approaches.....	21
<i>Emergencies and development activities are complementary</i>	21
<i>The impacts of disasters, displacement and globalization on children</i>	22
<i>The cluster approach: linking development and humanitarian activities</i>	22
Our evolving understanding.....	23
Children are the present – not only the future	23
4. Recommendations	25
5. Definitions.....	28
Violence against children	28
<i>A broader understanding</i>	28
<i>The South Asian context</i>	28
<i>Addressing specific forms of violence</i>	30
Child protection.....	31
<i>Definition of child protection</i>	31

A child protection systems approach.....	32
UN Study recommendations.....	32
6. Situational analysis.....	34
Misconceptions about violence in South Asia.....	34
<i>Women are victims not abusers</i>	34
<i>Children are always only victims</i>	35
<i>Violence only affects girl children</i>	35
Forms of violence experienced by children in South Asia.....	35
<i>Corporal Punishment</i>	35
<i>Acid throwing</i>	36
<i>Sexual abuse and exploitation</i>	36
<i>Child trafficking</i>	37
<i>Child labour</i>	38
Harmful traditional practices.....	39
<i>Early and forced marriages</i>	39
<i>Honour killing</i>	40
<i>Dowry-related abuse</i>	40
<i>Cleansing and initiation abuses</i>	40
<i>Sex slaves for rich families and priests/pilgrims</i>	40
Root causes of violence against children.....	41
<i>Poverty</i>	41
<i>Gender inequality</i>	41
<i>Discrimination and social exclusion</i>	42
<i>Emergency situations</i>	42
<i>Children without appropriate care</i>	43
7. Legal protection.....	44
Achievements.....	44
<i>Compliance with the UNCRC and other international standards</i>	44
<i>Prevention of violence</i>	44
<i>Prohibition of violence</i>	45
<i>Juvenile justice system</i>	47
<i>Child-friendly court procedures</i>	48
Gaps and opportunities.....	48
Legal protection in South Asian countries.....	50
<i>Afghanistan</i>	50
<i>Bangladesh</i>	51
<i>Bhutan</i>	54
<i>India</i>	56
<i>Maldives</i>	59
<i>Nepal</i>	60
<i>Pakistan</i>	63
<i>Sri Lanka</i>	66
8. National child protection systems.....	69
Achievements.....	70
<i>Nodal agency for child protection</i>	70
<i>Human Rights Commission or independent Ombudsman for children</i>	70
<i>Registration of institutions</i>	71
<i>Child and social protection services</i>	71
<i>Childcare standards</i>	72
<i>Reporting violence</i>	72

<i>Referral mechanisms</i>	72
<i>Research and data collection</i>	72
<i>Budget allocation</i>	73
Gaps and opportunities	73
National child protection systems in South Asian countries	73
<i>Afghanistan</i>	73
<i>Bangladesh</i>	75
<i>Bhutan</i>	78
<i>India</i>	80
<i>Maldives</i>	84
<i>Nepal</i>	86
<i>Pakistan</i>	88
<i>Sri Lanka</i>	91
9. Community-based child protection systems	94
Achievements	95
<i>Local government response</i>	95
<i>Families and extended families</i>	96
<i>Alternative systems of care</i>	96
<i>Community protection groups</i>	97
<i>Involvement of religious leaders</i>	98
Gaps and opportunities	98
Community-based child protection systems in South Asian countries	99
<i>Afghanistan</i>	99
<i>Bangladesh</i>	100
<i>Bhutan</i>	101
<i>India</i>	102
<i>Maldives</i>	103
<i>Nepal</i>	104
<i>Pakistan</i>	105
<i>Sri Lanka</i>	106
10. Child protection in emergencies	107
Emergency situations	107
Children in armed conflict	107
International legal instruments and their effectiveness	108
Children's protection – a development and an emergency issue	109
Achievements	109
Gaps and opportunities	110
Child protection in emergencies in South Asian countries	111
<i>Afghanistan</i>	111
<i>Bangladesh</i>	112
<i>Bhutan</i>	113
<i>India</i>	114
<i>Maldives</i>	115
<i>Nepal</i>	115
<i>Pakistan</i>	116
<i>Sri Lanka</i>	117
11. Children's voices and participation	120
Achievements	120
Gaps and opportunities	121
Children's voices and participation in South Asian countries	122

<i>Afghanistan</i>	122
<i>Bangladesh</i>	122
<i>Bhutan</i>	124
<i>India</i>	124
<i>Maldives</i>	126
<i>Nepal</i>	126
<i>Pakistan</i>	127
<i>Sri Lanka</i>	127
12. An aware and supportive public	129
Achievements	129
<i>Involving families</i>	130
<i>Involving men and boys in preventing violence against children</i>	131
Gaps and opportunities	131
An aware and supportive public in South Asian countries	132
<i>Afghanistan</i>	132
<i>Bangladesh</i>	132
<i>Bhutan</i>	133
<i>India</i>	133
<i>Maldives</i>	134
<i>Nepal</i>	134
<i>Pakistan</i>	135
<i>Sri Lanka</i>	135
13. Central Asia – Kyrgyzstan and Tajikistan	136
Tajikistan and Kyrgyzstan: countries in transition	136
States' commitment to child protection	136
Local governance structures	137
Children's participation	137
Challenges to child protection in Tajikistan and Kyrgyzstan	137
National child protection systems in Kyrgyzstan and Tajikistan	138
<i>Definitions of violence and child protection</i>	138
<i>Situational analysis</i>	138
<i>Law and legal enforcement</i>	140
<i>Prevention of violence</i>	140
<i>Prohibition of violence</i>	140
National and community-based child protection systems	142
<i>Nodal agency for child protection</i>	142
<i>Independent Ombudsman for children</i>	145
<i>Social protection</i>	145
<i>Childcare standards</i>	146
<i>Reporting violence</i>	146
<i>Referral system</i>	146
<i>Data collection</i>	146
<i>Budget allocation</i>	146
Community-based child protection system	146
<i>Alternative systems of care</i>	147
<i>Community-based child protection systems</i>	147
Child protection in emergencies	148
Children's voices and participation	149
An aware and supportive public	150

14. Additional reading material.....	151
Afghanistan	151
Bangladesh.....	151
Bhutan.....	154
India.....	154
Maldives	155
Nepal	156
Pakistan.....	157
Sri Lanka	157
Central Asia (Kyrgyzstan & Tajikistan).....	159
15. Appendix 1.....	160
Work Plan of the South Asia Initiative to End Violence Against Children’s (SAIEVAC).....	160
UN Study on Violence Against Children	160
UNICEF Child Protection Strategy	160
Integrated Strategy Against Violence	160
Child Rights Information Network (CRIN).....	161
16. Appendix 2.....	162
Save the Children and Child Protection	162
What Does Save The Children Mean By ...?	163
<i>Abuse</i>	163
<i>Neglect</i>	164
<i>Exploitation</i>	164
<i>Violence</i>	164
<i>Harm</i>	165
<i>Emergencies</i>	165
A cautionary note to the reader on definitions.....	166

1. Introduction: a holistic and comprehensive response to child protection

Over the last half century children's experiences across the world have increasingly become a central focus of national and international politics. Through the work of child-rights advocates, children's right to resources, justice, dignity, non-violence and to have their voices heard has been brought into social consciousness around the world. National and international declarations and Conventions have cemented these efforts and provide a legal framework on which the rights of children should be based. Perhaps most significantly, the UN Convention on the Rights of the Child (1989) enshrines into law for all signatories children's civil, political, economic, social and cultural rights. To date 194 countries have ratified, accepted or acceded to it, including all countries in South Asia.

Since then, there has been increased recognition of children's right to protection. The UN report 'Impact of Armed Conflict on Children (1996)' revealed the extent to which children were involved in conflict around the world and set out recommendations aimed at governments, UN agencies, inter-governmental and regional bodies, civil society organizations and individuals.

Ten years later, in part as a response to this and as a request from the UN Committee on the Rights of the Child, the UN Secretary-General commissioned a study on Violence against Children. This was a global effort to establish a detailed picture of the nature, extent and causes of violence against children, and to propose clear recommendations for action to prevent and respond to it. It involved regional consultations which brought together a broad range of stakeholders including, among others, senior government officials, representatives from civil society, NGOs, UN agencies, experts, children and young people, and the media. These consultations provided an opportunity for people in the South and Central Asia region to discuss

violence together and further the agenda for children's protection.

Violence against children in South Asia

Consultations were also held in South Asia and governments, children and other stakeholders took part to plan and emphasize follow-up of relevant initiatives. The research that this report builds upon shows that throughout South Asia – and Central Asia – boys and girls of all ages, like in other parts of the world, experience violence in a range of settings and often on a daily basis. Violence has devastating and long-term effects on children, which could lead to physical, social, emotional and cognitive impairments and also put children at risk of mental health problems. Thus, efforts are necessary to end and respond to violence in the best interest of the child and as a precautionary measure to prevent further violence.

All countries in South Asia (Afghanistan, Bangladesh, Bhutan, India, Maldives, Nepal, Pakistan and Sri Lanka) have responded to the challenges and do protect children from violence to varying degrees. Many are currently reviewing and improving the reach and effectiveness of programmes, policies and legislation. The country studies conducted for this report have demonstrated that misconceptions dominate the understanding of violence against children in South Asia and there still is a need to approach the issue in a holistic and comprehensive manner.

For instance, in the region there is still a common perception that men constitute the majority of abusers; however, studies show that it is not uncommon for women to beat, threaten and humiliate children. Women may not be able to protect children against abusive male relatives or may even act as intermediaries and managers

in the trade and sale of children.¹ In addition, it is assumed that children are always victims, although quite often children themselves are perpetrators of violence. It was also believed that violence mostly affects girls, as boys are capable of protecting themselves. But boys are sometimes even more susceptible to violence in particular instances. In addition, we know that girls and boys may be the victims of violence in several settings at the same time. We also know the great damage resulting from growing up in an environment that does not treat you with respect but underlines your inferiority by scolding, harassment and beating being justified as discipline. These changes in understanding need to be reflected in legislation, policies, planning and programming.

A systematic approach to child protection

So as the understanding and perceptions of violence grow and evolve, so must our approach to child protection. We need to find comprehensive and holistic solutions for ending violence against children. Recently the importance of a systems-based approach to violence has become evident. But what does this mean in practice?

Child protection cannot be seen in isolation but requires a multi-sectoral and multi-disciplinary approach which involves a wide range of stakeholders including government, multilateral agencies, donors, communities, caregivers, families and – very importantly – children.

The UNCRC and the UN study on Violence against Children (2006) emphasize that the State has the main responsibility for the fulfilment of children's protection rights at national, district and community level. The UN Study recommends that a national strategy defines tasks and overall goals and objectives in order to end violence against children and that the State assigns a nodal agency for the coordination and monitoring of child protection between different

government ministries including those that deal with health, education and social sectors, finance, law enforcement authorities, the justice system and foreign affairs.²

Additionally, each country is to develop a national legal framework which prioritizes the prevention and prohibition of violence against children in all its forms and in all settings. National legislation has to be effectively implemented and monitored, and national laws, bylaws, polices, regulations, plans and programmes to be brought into line with the UNCRC and other international instruments and agreements.³ Countries need to base their work on research and data collection systems. As we see through the research for this report, the effectiveness of national strategies depends on the availability of data at a national, regional and local level.

Because of its proximity to children and families through service delivery, local governance and community action for child protection is essential. Local/regional tiers of government and local service providers with clear roles and responsibilities, a monitoring framework, standards for service provision and adequate resources can deliver quality services and change the lives of children. States and donors would then need to focus energy and resources on building capacity and offer training to social workers, counsellors, caregivers, police officers, lawyers, judges, teachers, health care professionals, school principals, youth workers, people employed by detention facilities and child-care institutions, immigration and humanitarian workers, and government officials/policy makers to ensure that local government has the capacity to implement national plans.

Multi-sectoral, multi-stakeholder and multi-disciplinary approaches

The multi-stakeholder approach for effective child protection involves States focusing

¹ In general, research shows that while women may also abuse children it is usually found that men abuse at much greater rates. In addition, men's abuse tends to be more serious, more often resulting in severe injury or death of the child than women's abuse. It is also important to consider the gendered difference in the rate of abuse of children, particularly sexual abuse. Evidence shows that although boys are sexually abused, girls are abused at much greater rates.

² Pinheiro P.S. (2006), *World Report on Violence Against Children*. United Nations Secretary-General's Study on Violence against Children. Geneva, Switzerland: ATAR Roto Presse SA

³ Council of Europe (2009), *Policy Guidelines on Integrated National Strategies for the Protection of Children From Violence*. Strasbourg Cedex: Council of Europe

planning and implementation around building successful partnerships with NGOs, Civil Society Organizations, INGOs, UN agencies, local authorities, media, academia, families and children.⁴ This includes developing clear procedures and defining interagency cooperation for children's participation as well as the referral, care and rehabilitation of child survivors of violence. Through our research we have found that although many initiatives exist to prevent or respond to violence, coordination between different stakeholders is limited and often there is duplication in efforts. Therefore, child protection systems in South Asia tend to be fragmented with inadequate reach. Better coordination of key stakeholders could help create functioning systems which would lead to improved quality and reach of services.

Coordination between stakeholders at community level and community-based child protection services are essential in preventing and responding to violence against children. Some of the most successful programmes in South Asia for ending violence have been those coordinated and run at the local level. Such community-based services and close work with the family is at the core as families are the ones to support children's development and well-being and to safeguard children's rights. When local governance and local groups and initiatives which engage with communities and families are promoted and supported, States can prevent violence, protect children from violence and ensure sustainability.

Regional mechanisms to prevent violence

Besides the framework provided by international instruments, there are also regional mechanisms in place to protect children from violence. The South Asian Association for Regional Cooperation (SAARC) was established in 1985 and works to accelerate the process of economic and social development in Member States in South Asia. SAARC's Social Charter, the SAARC Convention on Preventing and Combating Trafficking in Women and Children for Prostitution and the SAARC Convention on Regional Arrangements for the Promotion of Child Welfare in South Asia also provide

additional mechanisms for protecting children in South Asia.

Another mechanism is the 'South Asian Initiative to End Violence Against Children (SAIEVAC)', which is comprised of representatives from the governments of the eight South Asian countries. SAIEVAC was tasked with monitoring governments' commitments and following up actions regarding ending violence against children and was an outcome of regional consultations for the UN Study. The South Asia Coordinating Group on Violence against Women and Children (SACG) is an interagency group comprised of UN agencies and International NGOs working against violence in the South Asian region. SACG provides technical and financial support to SAIEVAC. This initiative is an example of best practice and partnership that could be replicated in regions elsewhere, and at national levels. Additionally, it demonstrates a consolidated effort of different stakeholders, including governments, to work together and find solutions to end violence against children.

⁴ *Ibid.*

2. Methodology

This study is an effort to understand existing national and community-based child protection systems in South Asia, with additional examples from two Central Asia States (Tajikistan and Kyrgyzstan). Nine researchers from Afghanistan, Bangladesh, Bhutan, India, Maldives, Nepal, Pakistan, Sri Lanka and Central Asia were involved in collecting data and examples and making recommendations for future action.

The study aims to assess the situation in each country and draw regional conclusions, and could be supplemented by more in-depth studies for each country in the region. Such studies could look at the impact of interventions and initiatives on children and determine what really works. Another purpose of developing this study is so that various agencies such as governments, UN agencies and civil society partners in the region will use the report as a point of departure for further action, comprehensive baseline studies and to ensure the implementation of the recommendations.

Save the Children Sweden developed a research outline and questions to guide researchers in collecting country-specific data and material in the following areas:

- Definition of violence and child protection
- Situation analysis including traditional practices and root causes of violence
- Legal protection
- Nationally based child protection system
- Community-based child protection system
- Child protection in emergencies
- Children's voices and participation
- An aware and supportive society

Researchers were asked to prepare country reports based on data and material gathered from primary and secondary sources such as representatives from government, UN agencies, INGOs and civil society. Programme staff, experts and selected resource persons working with child protection have also been involved in providing information. The researchers have used the most recent data and material available and based their analysis upon qualitative and quantitative data including interviews with various stakeholders.

The main focus of the study was to gather information about child protection in South Asia; however, we have included a chapter on two countries in Central Asia – Tajikistan and Kyrgyzstan. Our research found that the situation in Central Asia is similar to that in South Asia as governments and civil actors step up efforts to protect children.

A team from Save the Children brought the country studies together, analysed the results and added additional information. Referencing is to the primary sources given in the country studies.

Limitations of the Report

Researchers have collected data and information from various available sources. However, there exist information gaps in some areas, which may be due to non-availability of data and may require further in-depth studies and interviews with key stakeholders, especially communities, families and children.

3. Analysis of the research: The need to strengthen child protection

Developing a systematic approach to child protection is a challenging but urgent task if States are to meet national and international standards such as the UN Convention on the Rights of the Child. It is challenging because to be effective a systematic approach to child protection demands the attention, commitment and coordination of all levels/tiers of government and other sectors including civil society, NGOs, the private sector, academia, families, caregivers and children. It requires a national strategy, a sound legal framework and child-friendly judicial system, targeted policies and programming, trained officials, multi-sectoral and multi-disciplinary cooperation, research and public awareness to be able to prevent violence, identify child victims of violence and offer a comprehensive referral system including reporting, care and rehabilitation services. This further demands action and focus at national, district and community level to address the high levels of violence against children and meet their needs.

Children in South Asia are frequently expected to tolerate violence and be submissive to their elders. Their relationships with adults are often characterized by compliance and obedience, rather than mutual affection and trust.⁵ Different forms of violence are often interrelated, as a child experiencing one form of abuse may also experience other forms of abuse in different settings. Physical and psychological violence and punishment has been found to be the prime reason for children leaving home, quitting school or ending up in sex trades, jails, or on the street.⁶ A vicious cycle of violence is perpetuated by a lack of protection measures, poor identification and understanding of violence, denial of the degree of the problem, and a failure to prosecute perpetrators and a reluctance to end harmful practices.

⁵ Heiberg, T. (ed.) (2005). *Listen and Speak Out against Sexual Abuse of Girls and Boys*. Save the Children.
⁶ *Ibid.*

Children's right to protection

The UNCRC defines a child as any person less than 18 years, unless the national age of majority is reached earlier. In South and Central Asia national laws do not have a uniform definition of age but specify different ages at which young people can work, vote, join military service, get married, etc. Those ages vary across the region from 7 years (India and Pakistan) for minimum age of criminal responsibility at one end, to 14 years (India, Bangladesh and Pakistan) for entry into employment and 21 years (Bangladesh and India) for minimum age of marriage for boys at the other end.

Different cultures may also have different understandings of who is a child, and this may be different for boys and girls. For example, in some parts of South Asia, when girls reach puberty they are often considered as adult and ready for marriage. Despite existing laws in the region in which the lowest legal age of marriage is 16 for girls and 21 for boys, early marriage is quite common in the region with children, especially girls often being married off at age as low as 8 years and marriages even being arranged for pre-natal and newborn children. Historically in the region there is not recognition of 'childhood' as a special period in human development and there is a poor understanding of the needs of growing children.⁷

However, as signatories to the UNCRC the governments in the region have subscribed to protect all children below the age of 18. The Convention gives every boy and girl under 18 rights in every area that is important for their psychological development, health, education and social welfare without discrimination of any kind. Article 19 in the Convention states:

⁷ Jareg, E. (2008). *Listening, Learning, Acting, Preventing and Responding to Violence Against Children in Homes and Communities*. Save the Children.

'Governments shall take all steps necessary, legal, administrative, social and educational, to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child.'

This Article and others also state that governments should establish social programmes to provide necessary support for children and caregivers, as well as prevention programmes that include identification, reporting, referral, investigation, treatment and follow-up of child maltreatment. Every child has the right to be helped to recover from violence.

The recommendations from the two UN studies on the Impact of Armed Conflict on Children (1996) and Violence Against Children (2006) give valuable direction on the need to organize a systematic and structured approach to protect children. Developing a systematic approach to child protection is challenging but of urgent importance if States are to meet national and international standards and commitments such as the UNCRC. Such an approach needs to include:

- Leadership and commitment by national governments
- An effective legal framework
- Partnerships with NGOs, civil society, academia and donor agencies
- National, district and local governance of child protection
- Support for activities at the local level and mobilizing communities
- Encouraging children's participation
- An awareness of factors contributing to risks for children
- An integrated approach to humanitarian and development activities.

States to take the lead on child protection

The UNCRC and discourses around systematic approaches to child protection emphasize that it is the duty of the State to lead and coordinate the response for ending violence against children. Governments in most South Asian countries have taken steps to address issues of child rights and establish child protection systems, but the

degree to which these systems are operational varies greatly.

Though a National Child Protection System exists in the South Asia region, governments in South Asia are yet to assume full responsibility for taking the lead coordinating role, accelerating legal reforms which conform with the UNCRC and other international standards, establishing child-friendly services for care and protection, making judicial systems more child-friendly, creating space for children to give their views and opinions in matters that concern and affect them and setting up a monitoring and evaluation system to ensure services are delivered in an effective and efficient manner. This lead role by the governments is necessary in order to have a process of strategizing and building national, district and community child protection systems around a national plan, a sound legal framework, policies and programmes. Additionally, the governments need to secure funding through enhancement of budgets for child protection and forging international cooperation for the delivery of services at all levels including to the communities.

Funding

Lack of funding, a shortage of trained professionals and officials, and inadequate data are often cited as reasons for ineffective child protection systems in South Asia. On average, South Asian governments spend only 1% of GDP on social protection as compared with 12.5% spent in OECD countries.⁸ From this amount, only a very small fraction is allocated to child protection. With limited resources, most governments in South Asia are heavily dependent on donor support for child protection programmes and delivery of services. This makes it more difficult for them to challenge a donor's funding priorities.

If governments in South Asia are to prioritize child protection, current budget allocations must be reviewed to see if additional resources can be freed up from sectors like defence, where investment throughout the region is relatively high. Governments recognize that investing in child protection will have long-term benefits and will lead to reduced spending on social, health, education, and poverty reduction programmes,

⁸ UNICEF (2009). *Social Protection in South Asia. Kathmandu Nepal.*

but have not yet made this area a priority. The region has experienced economic growth over the past couple of years, but this has not reduced overall inequities.

Legal framework

An effective and comprehensive legal framework complemented by a child-friendly judicial system is the crux of a well functioning national child protection system. International Conventions and other human rights instruments such as the UNCRC guide the development of national legal frameworks. A legal and a policy framework of a country is not static but evolves as national situations, public opinion and law-makers' perceptions change, adapt and grow. For example, until recently in South Asia, domestic violence was viewed as a matter that fell within the family purview, and there was little protection for women and children against domestic violence in a legal sense. Today, domestic violence is increasingly recognized as a violation of women's rights and countries have enacted laws to protect women from such abuse. However, the needs of children experiencing domestic violence are still not widely recognized and they continue to experience overwhelming levels of violence in many forms in the home setting.

Most countries in South Asia are in the process of reviewing current legislation or developing new legislation that are in conformity with the UNCRC and other regional and international standards. However, the process of amending existing legislation or bringing in new legislation may be slow and take years before desired legislation is amended or enacted.

Moreover, the severity of a situation may call for an urgent change in the legal framework. In such a situation, people working with or for children can adopt nonconventional approaches such as strategic litigation, as well as creating media attention to change attitudes among people and speed up the process of change.

Strategic litigation

Strategic litigation is a powerful legal tool whereby a case or lawsuit can be brought to the court with the objective of creating a broader

change in society.⁹ Strategic litigation, when implemented successfully, can act as a catalyst for government action to protect children from violence.

Strategic litigation, more commonly known as Public Interest Litigation, is frequently used by civil society organizations in many South Asian countries to bring about social and legal change. To cite an example, the Public Interest Litigation case in India, *M.C. Mehta v. State of Tamil Nadu and Others*, forced the Court to look at the situation of children employed by match factories and laid out remedial actions for their employment.¹⁰

Strategic litigation is often part of a larger advocacy campaign with the goal of bringing about desired changes in legislation. However, it must be remembered that strategic litigation can also be time-consuming and expensive. Civil Society Organizations must consider all options before opting for strategic litigation and may adopt a multiple course of action which will bring about the desired result in a short time. NGOs can help in organizing public hearings with experts for judicial audiences, or prepare legal briefs which put pressure on a government.

In some countries in South Asia, the media has played an important role in raising awareness on child protection, highlighting issues, bringing violation of child rights to the forefront, and at times forcing governments to take cognizance of a matter and take action.

Thus, engaging with the media to highlight violations is another way of exerting pressure on governments. NGOs also refer cases of child rights violations they come across in their daily work to the courts, Ombudsman and Commissions¹¹ working against violence. NGOs which can creatively and efficiently use the UNCRC as a legal tool have been shown to be more effective in changing policy and raising awareness of violations.¹²

⁹ Child Rights Information Network (CRIN) (2009). *Children's Rights: A Guide to Strategic Litigation*. London: CRIN.

¹⁰ www.crin.org/Law/instrument.asp?InstID=1264

¹¹ Commissions here refers to Human Rights Commissions, Commission for Women and Commission for Children.

¹² International Conference, *Convention on the Rights of the Child: From Moral Imperatives to Legal Obligations*. In search of effective remedies for child rights violations. Geneva, 12–13 November 2009.

Individual cases

Most cases of violations, however, will go to the Court as ‘individual cases’ under the conventional system for justice. For a child, conventional judicial systems can be traumatic. A child and her/his carers may not be able to understand complex court procedures and legal provisions. Children often face uncomfortable questions from defence lawyers that may leave them confused or make them relive traumatic events, which is not necessarily helpful to a child’s rehabilitation. This holds true for most countries in South Asia also. By and large, children and adults continue to go through the same judicial system, which are seldom child-friendly. Often children are unable to cope with the pressure of judicial proceedings and stand against their perpetrator. It is important that support be offered to the child in such a situation, to ensure that the proceedings are child-friendly and that legal action is only pursued when it is in the best interest of the child. Additionally, it can be helpful if proceedings involving children are expedited and treated as a priority.

Perpetrators are often in a better position to hire a good lawyer to defend their case. High court fees, travel and accommodation costs, frequent adjournments and long delays may act as barriers for a child seeking justice. Legal representation for children and services including legal aid, counselling by a social worker, and child-friendly explanations of court proceedings can assist children in securing justice. When there is a shortfall in such services by the government, NGOs can step in to fill this gap. In several South Asian countries, it is often the NGOs that provide assistance to child victims of violence, for instance of sexual abuse, by offering legal advice, providing a safe transit home and maintaining the confidentiality of the child during the period of the trial. However, the main responsibility still lies with the government and it must find ways to strengthen legal aid and counselling services for children.

Judicial proceedings

Judicial proceedings, which respect the right of the child to be heard and take into account a child’s age and maturity level, ensure that a child can participate in a meaningful manner and be involved in his/her own defence. Privacy and

confidentiality of victims and witnesses is important throughout the proceedings to avoid intimidation, retaliation and further victimization.¹³ In South Asia, there have been some developments in this area. For instance, Bhutan has taken steps to create a child-friendly judicial system which guarantees that hearings involving children are held ‘in camera’ to protect the identity and privacy of children. Additionally, a child can testify only in the presence of his/her parent or guardian. In India, the courts through their judgements and orders have given directions for child-friendly procedures, especially in cases related to sexual offences. In Nepal, Court Guidelines have been issued on the juvenile justice system and child-friendly procedures.

Despite judicial remedies, it may not always be possible for a child to approach a court to seek justice. Cultural and social stigmatization can make it difficult for a child to pursue legal action against family members when they are the perpetrators. Parents and guardians may seek community mediation as an alternative approach to justice. In some situations mediation helps the child but in others, especially in sexual abuse cases, the child victim may be forced to marry the perpetrator, in direct violation of her rights. Additionally, throughout South Asia it is commonplace for relatives of the victims to accept compensation instead of pursuing a case legally.

Children in conflict with the law

Children themselves can also be perpetrators of crimes. The UNCRC states that child offenders should be protected by all agreed human rights standards and calls for a separate system of justice for children.¹⁴ Additional international instruments¹⁵ also specifically outline international standards for juvenile justice.

¹³ Council of Europe (2009), *Policy Guidelines on Integrated National Strategies for the Protection of Children From Violence*. Strasbourg Cedex: Council of Europe p.27.

¹⁴ Council of Europe (2009) ‘Children should not be treated as criminals’, *Commissioner for Human Rights viewpoints*.

¹⁵ United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the ‘Beijing Rules’), the United Nations Guidelines on the Prevention of Delinquency (the ‘Riyadh Guidelines’) and the United Nations Rules on the Protection of Juveniles Deprived of Liberty should be enforced.

Judicial proceedings can be more child-friendly if a separate system is developed apart from the adult criminal system. Governments in South Asia are increasingly recognizing the need to establish separate juvenile justice systems and some countries have already enacted legislation in this regard. However, their implementation remains weak.

Often conditions in juvenile centres or homes are poor, they lack adequate trained staff and do not meet international standards, and are not uniformly available throughout the country. Children in these centres are also not offered a holistic rehabilitation service which includes education (formal and non-formal) and skill development which would help them reintegrate into society.

Thus, offering important services such as education, health and sanitation facilities and counselling can help children return to their communities. Whenever possible, and with the safety of the greater community in mind, alternatives to institutionalization of children can facilitate a child's successful reintegration into their community. Other options can include guidance, supervision orders, counselling, probation, foster care and education and vocational training programmes.¹⁶

Productive partnerships

Donor agencies can play an important role by helping to support local government and decentralize service delivery and core administrative functions where possible. Additionally, they can support the government to build capacity and offer training to local social workers, counsellors, caregivers, police officers, lawyers, judges, teachers, healthcare professionals, school principals, youth workers, people employed by detention facilities and child-care institutions, immigration and humanitarian workers, and government officials/policy makers.

There is currently some tension between governments and donor agencies throughout

¹⁶ Council of Europe (2009), *Policy Guidelines on Integrated National Strategies for the Protection of Children From Violence*. Strasbourg Cedex: Council of Europe p.27.

South Asia. Governments are critical of donors, INGOs and UN agencies for dictating national policy. Donors, in turn, often criticize governments for the misuse of funding and a lack of clear strategies, policies, programmes and results for children. Because of this, donors sometimes prefer to transfer funds for social programming through NGOs rather than coordinate through government mechanisms. The result is that child protection programmes in South Asian countries are fragmented, with little overall coordination between different agencies and the government.

The Paris Declaration¹⁷ highlights the danger of duplication and developing parallel systems. The Declaration focuses on the increasing alignment of aid with a country's priorities, systems and procedures and helping countries strengthen their capacities. It also includes eliminating duplication of efforts, rationalizing donor activities, reform, and simplifying donor policies and procedures to encourage collaborative behaviour. Sustained donor support and long-term engagement and investment will lead to actual results, according to the Paris Principles.

The UN Study on Violence Against Children (2006) was developed through interagency cooperation between UN agencies, governments and (I)NGOs. Numerous national and regional consultations were organized and these processes also included children's participation. Interagency cooperation helped ensure that the findings and recommendations were based on the latest research and current realities and that the viewpoints of governments, civil society and children were included. Excellent partnerships between different stakeholders were built as they recognized the need for collaborative action to end violence against children.

Governments in the region also used the process around the UN Study on Violence to develop and strengthen partnerships. In 2005 the South Asia Initiative to End Violence against Children (SAF)¹⁸ was established by South Asian

¹⁷ *Paris Declaration on Aid Effectiveness, (2005). Declaration from a meeting of ministers of developed and developing countries responsible for promoting development and heads of multilateral and bilateral development institutions, 28 February – 2 March 2005, Paris.*

¹⁸ SAIEVAC, formerly known as the South Asian Forum for Ending Violence Against Children (SAF), is currently in the process of scaling up activities for the coming years.

governments to ensure a strong regional and governmental focus on issues of violence against children. Governments have followed up at a national level with partnerships and initiatives to institutionalize and implement decisions.

UN agencies and INGOs have also strengthened their cooperation and coordination through the South Asia Coordinating Group against Violence against Women and Children (SACG). Founded in 2004, SACG has brought together different stakeholders at a regional level to discuss the key issues and act together to influence and support government action. SACG provides a framework for multi-stakeholder partnership and collaboration with governments who are providing strategic financial and technical support to SAIEVAC.

Governments in South Asia have also recognized that INGOs, UN agencies, civil society organizations, the private sector and academia have an important role to play within a comprehensive child protection system.

NGOs often fill gaps in service delivery where government cannot provide adequate services. This is, however, most effective when coordinated by the government. Systems may thus be strengthened if the government can build partnerships, including public–private partnerships, and contract out or delegate specific services to NGOs or private providers.

Local government action

Because local government is often responsible for the implementation of policies and delivery of services, local action and coordination between different tiers of government is extremely important for child protection. Additionally, while national governments often define standards of care, local government is responsible for their implementation. Therefore,

Government representatives have decided to expand their mandate and to support initiatives to end violence against children and institutionalize a regional centre named the South Asia Initiative for Ending Violence Against Children (SAIEVAC), which will have its permanent Secretariat based in Kathmandu, Nepal. Additionally, a work plan with explicit actions to protect children from violence is being proposed and includes specific indicators on key regional issues such as early marriage, sexual abuse and exploitation, child labour, corporal punishment and trafficking.

local government, through its engagement with communities, is the primary level for national child protection systems. The South Asia governments have structures at local level to implement child protection programmes and policies. There are also efforts in the region to strengthen these local structures. For instance, the Integrated Child Protection Scheme in India calls for the establishment of a District Child Protection Society, and block and village level Child Protection Committees. Recently, in Maldives, Family and Child Service Centres have been established in each atoll to provide child protection services to children. Likewise, in Nepal, the District Child Welfare Boards form an important link between the community and the national government.

Local government is in the best position to identify issues and come up with practical and relevant solutions because it understands the context in which violence occurs. The effectiveness of policy implementation can be increased by bringing decision-making closer to the people affected. However, local government does not always have the authority to make important local-level policy decisions. There are long-term benefits if governments recognize that civil society, NGOs and the private sector all need to contribute to decision-making. But as this research shows, this requires a focus on community empowerment, participation and involvement in local governance processes. Institutional mechanisms can support the participation and representation of all groups of children.

Child protection systems in communities often develop within a specific cultural context. By devolving appropriate powers, governments can be more responsive to the needs and preferences of local people and public sector effectiveness can be improved by ensuring services are provided in a suitable manner with citizens making informed choices and influencing decisions.

Local capacity is key to ensuring effective child protection systems. Local prevention programmes can be very effective if supported by adequate financing, training evaluation and follow-up.¹⁹ Training of local professionals

¹⁹ Council of Europe (2009), *Policy Guidelines on Integrated National Strategies for the Protection of Children From Violence*. Strasbourg Cedex: Council of Europep.13.

working for and with children can detect and respond effectively to children who are at risk of becoming, or who are, victims of violence. Effective reporting, referral and rehabilitation mechanisms and services are necessary at local level for a functioning child protection system and are the ultimate responsibility of local governments.

Reporting systems

When child protection mechanisms are easily accessible and well publicized in schools, workplaces and institutions, children and adults are shown to be more active in reporting incidents of violence. Individuals are more likely to report incidences of violence if these reporting mechanisms support confidentiality and privacy of both the victims and witnesses and there is no fear of retaliation.

However, responsible adults in different professions must also be encouraged to identify child victims of violence. Increasingly, teachers, social workers, health staff and even police are trained to assist the child and report violence to the right authority. Local governance bodies and different forms of child protection committees have the task of identifying situations of risk for children, monitoring the overall situation in a geographical area and responding to children needing rescue and support.

In South Asia, police continue to be the main reporting mechanism for child rights violations. However, many individuals do not trust the police or existing systems for reporting, as often confidentiality is not maintained and witnesses or victims experience additional harassment or are pressured to drop the case. Child-friendly reporting mechanisms such as Child Helplines are being established in the countries of the region to provide mechanisms for children to report cases of violence and receive immediate help. These mechanisms need to be strengthened so that they provide more comprehensive services to children including medical aid, psychosocial counselling and legal aid.

Referral mechanisms

When formal and informal links between local law enforcement agencies, hospitals and social service agencies are in place, referral systems work better. Community-based referral systems

are strengthened if community groups are included to supplement the work and refer cases to medical, social, police or judicial services. Currently, however, there is a lack of systematic referral mechanisms for child victims of violence in South Asia.

Rehabilitation of child survivors

Rehabilitation and recovery services which foster child health, self-respect and dignity and involve family members and communities are more likely to lead to the successful recovery of children into their family and community. Rehabilitation homes set up for child victims of violence often do not meet international standards, their conditions are deplorable, they lack adequate trained and qualified staff, and there is a shortfall in rehabilitative services such as education, health, psychosocial counselling and skill development.

In South Asia, families and communities are rarely involved in the rehabilitation process, thereby increasing the likelihood that children are rejected by their families and communities when returning home. This has been the case in many Nepali villages, for example, where victims of trafficking have tried to return home after being rescued. Many girls are forced to leave their villages again because of the stigma and lack of acceptance by their families.

Mobilizing communities

Civil society action

As mentioned, civil society is involved in developing a child protection system by filling gaps in government service provision. However, it also has an important role in changing the context and culture within which problems develop, through working with families and community members, influencing behaviour change, advocating to key decision makers, mobilizing the public and encouraging children's participation.

Changing the culture to support social change

Changing attitudes and behaviour to end violence against children often means challenging traditional practices. Social change does not happen overnight and often requires long-term

engagement. This process is additionally complex in South Asia as socio-economic factors such as religion, caste, class, gender and economic status are deep-rooted and pose further obstacles to change.

For change to take place, society must first recognize that certain societal behaviours may be harmful to children. Often individuals do not understand the consequences of their actions on the long-term development of their children and feel they are acting in the best interests of the child. For example, in South Asia, early marriage and corporal punishment are still widely accepted. Communities feel that early marriage can protect a girl and that corporal punishment is necessary to discipline children. However, it has been found that when communities become aware of the impact of their actions on children, they typically take steps to change their behaviour. The concept of ‘violence-free schools’ in Afghanistan is a good practice showing that when you invest in all those involved to develop new ways of acting and behaving it is possible to see fundamental changes. A synergy effect is also created when the schoolchildren, teachers and parents bring their new perceptions to other areas such as their playgrounds, communities and workplaces.

Behavioural and attitudinal change takes place at the individual, community and societal level. Effective awareness-raising activities and campaigns can lead to an individual becoming more conscious of his or her perceptions towards violence against children, leading to positive change. Mass appeals and popular movements launched by civil society groups have acted as catalysts for social change. The movement against *sati* (self-immolation of widows on their husband’s pyre) and for widow remarriage in India are examples of successful social movements which have challenged a community’s perception towards these issues.

This process can also be accelerated when influential, trusted or enlightened individuals act as agents of change by raising awareness on issues of violence, including children’s rights, as well as challenging harmful norms and practices in the society. Throughout the region, civil society organizations have played a major role in raising awareness among people on child protection.

Governments are also taking a keen interest in raising awareness and have adopted many innovative methods. For example, in Nepal, 1974 AD, a popular rock band, have committed to raising awareness about child rights and often donate part of their income from concerts to projects that support children. Additionally, 1974 AD members act as mentors to a diversified group of youths to inform, inspire and motivate them to participate in promoting the rights of children and their protection. Civil society can also be mobilized to demand their rights and advocate for services that are not available to them. In India, Airtel mobile connections have been used to reach out to people with the message that employment of children less than 14 years is a punishable offence.

Community-level committees

Throughout the region there are many inspirational examples which reinforce the principle that when communities are engaged in a meaningful manner, they are in the forefront of preventing violence against children and their responses can bring about some of the most effective solutions for protecting children. Often this is done through community-based child protection networks or committees. Community-level committees have different names throughout the region, such as watchdog groups, child protection committees and vigilance committees, and are primarily made up of volunteers from the community. They may also include children. Sometimes the groups also have representation of police, teachers and medical personnel and may as such be part of the local governance system.

These committees keep a vigilant eye on potential traffickers or perpetrators of violence, create awareness among people on child protection issues, and identify vulnerable families and children at risk and connect them with services and programmes. In Bangladesh, for example, such committees working in border towns have been effective in reducing the incidence of trafficking of children. In Nepal, the Village/Municipality Child Protection Committee and the paralegal communities raise awareness on child protection and identify vulnerable children and families and take action to prevent violence against the children.

Increasingly, governments are forming and supporting community-based protection committees, which include representatives from local bodies such as panchayat (local governance body), the municipality, teachers and police. Since these committees are formed by a mandate from the government, they are recognized and members in the committee are able to act with authority and have greater involvement in formal decision-making processes. In India, states including Andhra Pradesh and Tamil Nadu have formed vigilance committees to take up issues of child protection.

The importance of influential community members

Community leaders and role models such as village elders, political and religious leaders, teachers, NGOs and community outreach workers who have stature in the community can play an active role in raising awareness and changing behaviour. Governments, NGOs and civil society that mobilize key local leaders and influential agents for change are more likely to see the desired outcomes. Focusing on the positive achievements of communities as a starting point for dialogue tends to be a very effective mechanism for gaining trust within a community.

Community outreach workers have been some of the most effective agents in protecting children and spreading information across communities. Because such individuals are usually from the community in which they are working, they understand the context which enables them to communicate with local people effectively. Additionally, they provide long-term support and can offer advice on an ongoing basis. Outreach work to reduce infant mortality and support the healthy development of children has many success stories in the region, and has managed in certain areas to nearly eradicate child mortality and ensure knowledge about the developmental needs of children for nutrition and care.

Visionaries and community leaders have led mass movements which challenge harmful social practices. For example, Anuradha Koirala led an anti-trafficking movement in Nepal. In addition, there are many examples throughout the region where religious leaders have spread messages of child rights and child protection. In Afghanistan, sixty mosques throughout the country committed

to promoting children's rights in Friday prayers. This is a unique way to reach parents and communities and engage them through fundamental principles of Islam which reinforce that children should be protected from violence. Thus, it is important that community members are engaged, so that they feel like part of the solution rather than the problem.

The involvement of men and boys in ending violence against children has gained momentum worldwide as well as in the South Asia region. In Surkhet, Nepal, involving men and boys has led to a decrease in incidences of early marriage and has created a safer environment for boys and girls to come together and discuss various issues including gender discrimination and gender-based violence.

Every individual can protect children

There are many social and cultural barriers to overcoming violence against children. Child protection is as much about awareness-raising and changing people's perceptions about how to raise children as it is about national resources or policies. There are many things any individual can do. It costs nothing to refrain from hitting a child, to take time to listen to a child who needs advice and help, or to persuade a neighbour that there may be better ways of disciplining children.²⁰

Dramatic results have already occurred in South Asia where principals of schools, social and health staff and parents have accepted that there are benefits to talking and listening to children rather than using corporal punishment for disciplinary purposes. These individuals have come to understand the importance of cooperation and respect and are using these principles to make a difference in the lives of many children. Success stories are numerous and there are many examples of effective practices which demonstrate how community systems can safeguard the rights of girls and boys to education and protection.

Family involvement is essential

Children are continuously growing and maturing as they move from being totally dependent on

²⁰ Jareg, E. (2008). "Listening, Learning, Acting, Preventing and Responding to Violence Against Children in Homes and Communities" Save the Children.

the adult for nutrition, nurturing and care to becoming a trusting, confident and independent person. A child's development is about physical and emotional growth, exploring, learning and refining skills. This starts with the close communication and interaction between babies and caregivers which assists the development of the brain and other functions. Good and secure parenting, as well as the quality of the interaction with other adults and children, is of critical importance in the positive development of the child. It is true that acute poverty may hinder the physical and healthy development of children, but the involvement of parents and other adults with children is extremely important for a child's positive development and can be promoted in families from any economic background.

The UNCRC recognizes the family as the fundamental social group and the natural environment for the growth and well-being of children.²¹ While community-based child protection systems involve many stakeholders in the community, interaction with individual families is an equally important factor for success. Families play a central role in protecting children from violence and need to be supported in fostering healthy and positive family environments. Too often, parents do not have the necessary understanding of the needs of a developing child and the risks for harm, or do not understand that actions like beating children is counter-productive to their development.

Parenting programmes and positive discipline techniques can help to reinforce a greater understanding of the needs of children. Programmes with families are most effective in protecting children and ending violence when they include a strong commitment to the families' needs and where family members have as much involvement in decision-making as possible.²² Parents can also offer peer support through informal channels and organized events. Governments in South Asia are starting to recognize the importance of parenting programmes. Programmes on parenting are regularly aired on Bhutan Broadcasting Service, for example, and also on several radio stations.

²¹ Preamble, UN Convention on the Rights of the Child, (1989).

²² Centre for the Study of Social Policy (2008), *Getting Started on Community Child Protection*. Washington, D.C.: Center for Community Partnerships in Child Welfare www.cssp.org/center/publications.html

Teachers are trained to understand the negative effects of corporal punishment and to discourage the use of physical punishment at home.

Engaging with the media

A free and independent media, both print and electronic, plays a critical role in raising awareness in society. Engaging the media as partners is a way to disseminate information to a huge number of people. Often, NGOs develop partnerships with media and offer capacity-building and information to media professionals.

Much of the media throughout the region is not entirely free, however. The Freedom of Press Index from 2009 rates Afghanistan, Pakistan, Sri Lanka and Bhutan media as not free. Nepal and India have only partly-free media.²³ This can cause difficulties when promoting issues. An international media watchdog, the Committee to Protect Journalists, places Nepal on a list of 13 countries where journalists are murdered on a recurring basis, and governments fail to prosecute the killers.

There are also instances where media has violated children's rights and intruded on children's confidentiality and privacy. When violence against children is reported in the news it is often sensationalized, leaving the child even more traumatized and exposed. Throughout the region, NGOs and children's organizations are actively working with media on sensitive reporting on children's violations. For instance, a media group in Bangladesh, which is led by children, monitors stories about children in the news and how children are reported about. It can also be helpful for NGOs to offer training in child rights to local media professionals which includes basic ethical guidelines for reporting on and interviewing children.

Challenges to community support

Behavioural change is not easy to attain. There may be members of a community with vested interest who oppose change and threaten individuals advocating for child protection. Such opposition can be seen in many countries in the region. For instance, an *Angamwadi* worker (community worker) from Madhya Pradesh, India, working zealously against early marriage

²³ Freedom House (2009). *Freedom of the Press*. www.freedomhouse.org

was violently attacked. Such incidents expose the vulnerability of individuals fighting against powerful groups in the community. It is important that governments recognize the contributions of individuals through suitable rewards and public acknowledgement of their commitment.

Behavioural change is not always permanent. Often when campaigns or targeted programming end, there is a possibility that individuals might revert back to harmful behaviour. When society owns the entire process of social change, however, changes achieved are more likely to be permanent. Although the focus is often on building partnerships, the nature of these relationships is the key to successful social change. Relationships that empower individuals and communities, involve mutual understanding and enhance local skills through a systematic learning process will be more sustainable. Campaigns to raise awareness and change behaviour, coupled with appropriate and accessible quality services, are an effective way of preventing violence and developing a well functioning child protection system.

Traditionally, people in South Asia lived in small, close-knit communities in villages or small towns. In the last few decades, however, urbanization has had a negative impact on traditional child protection systems and communities. As people migrate away from home, support systems break down. Although individuals may have increased access to government services in the cities, rural community and family systems which provide the basis for child protection are slowly disintegrating.

An additional challenge in South Asia is the slums which have sprung up throughout and on the outskirts of cities. Many problems arise in these areas because of the close proximity of new people and overwhelming levels of poverty. Gangs, disease, illegal factories and lack of facilities make children more vulnerable to violence. Often, these areas do not have access to government services and are therefore left out of formal protection mechanisms.

A framework for children's participation

Children themselves do not only see themselves as victims of violence – they have given strong

messages that they want to play an active role in ending it and in changing their own lives. Article 12 of the UNCRC gives children the right to give their opinion in all matters affecting their lives. Children's views are to be considered in any judicial or administrative proceeding and given due weight in accordance with their age and maturity.

Accordingly, children are increasingly being consulted and involved on many issues in the region. They have participated in several consultations to end violence against children and made recommendations to government, NGOs, UN agencies and the UN General Assembly for their own protection. There are also good examples of their involvement at community level, and governments may even include their views when developing policies.²⁴

Children's participation is more than just children giving input regarding a specific issue. Children's participation is about a society embracing the potential of children and their value in developing a healthy and positive society. Children's participation is about developing a new generation that will have the best interests of children in mind – and putting learning into practice as parents, communities and future government leaders.

Child-led groups, child clubs, youth groups and children's networks across the region play an active role in ending violence against children. As an example, in Bangladesh such groups by talking to community leaders have been able to stop people wanting to arrange child marriages from entering villages. Similarly, in Nepal, child clubs have been involved in raising awareness of trafficking, child sexual abuse and child marriage, and to some extent have been involved in successful interventions. These groups continue to mushroom in the region and several national networks have been formed to ensure children's input into decision-making processes. For example, in Sri Lanka the government has established a National Children's Council for meaningful child participation.

²⁴ Children may for instance be involved when governments report to the UN Committee on the Rights of the Child; their participation at community level is documented in "Listen and Speak Out against Sexual Abuse of Girls and Boys" and in other reports; and consultations with children have been organized in relation to meetings with the South Asia Forum for ending Violence against Children.

Children sometimes feel that their views are not taken seriously, even in supportive, protected and open settings. They may feel that decision-makers make promises they do not intend to fulfil. Children who have given their opinions and cooperated with concerned adults have asked for a stronger follow-up on their recommendations.

While involvement of children in decision-making is crucial, children should not be encouraged to take on adult roles that could affect their development and growth, especially in sensitive areas such as sexual abuse. Child participation activities also should not become a burden for children, affecting their schooling and other activities.

A key finding from research²⁵ is that girls and boys who suffer from violence seldom get the necessary support they need from adults, or an opportunity to participate in decisions affecting them. If they speak out – whether in school, the workplace, or in the justice system – they risk being punished, humiliated, ignored and ostracized.

Taking children and their participation seriously is an effective strategy for detecting risk factors and can be used to develop preventive and protective measures. When children work in partnership with adults it is possible to create an environment where children can talk about the forms of violence they experience, including less visible forms such as sexual abuse, corporal punishment and neglect.

Linking humanitarian and development approaches

Emergencies and development activities are complementary

There is an overlap between humanitarian and development efforts and a realization by professionals that they are interrelated. Poverty, lack of access to power and resources, big dams, new roads and inappropriate development programmes create situations that may be the underlying cause of an emergency. Therefore, development programming needs to consider

²⁵ Heiberg, T. (ed.) (2005). *Listen and Speak Out against Sexual Abuse of Girls and Boys.* Save the Children.

humanitarian risks in its planning in order to react to such challenges. Humanitarian activities cannot just be limited to immediate response and post-conflict recovery. They must also pursue a holistic development agenda which takes into account potential causes of vulnerability such as climate change, globalization and uneven population growth. Emergencies can offer an entry point for strengthening development work.

Population increases are taking place in the poorest areas of the poorest countries in the world.²⁶ India, Pakistan and Bangladesh figure in the top 10 most populous countries in the world and Nepal, Afghanistan and Sri Lanka are also high on the list. In addition, increased urbanization is creating more vulnerability in slums and squatter settlements. There is an increased trend towards urbanization and the growth of secondary cities in South Asia. Smaller cities are becoming large and big cities are becoming megacities as a result of increased migration from rural areas of people in search of livelihood.²⁷

Climate change is creating unpredictable weather with greater frequency and intensity of extreme weather events. Unseasonal rains and longer dry spells are degrading land resources and affecting agriculture production and rural communities. About 70% of South Asia's population (and 75% of the poor) live in rural areas and most of these depend on agriculture for survival,²⁸ so the impact of climate change is an issue of great significance to their lives and livelihoods.

Research suggests that land degradation will be the most complex manifestation of climate change, resulting in environmental emergency migrants who flee impacts of disasters on a temporary or even a permanent basis.²⁹ Environmentally forced migration, including those moving to pre-empt disasters such as floods and droughts, will additionally increase the vulnerability of children.

²⁶ Myers, N. (1995). *Environmental Exodus: An emergent crisis in the global arena.* Climate Institute:

www.climate.org/topics/environmental-security/index.html

²⁷ Basnyat, K. *Urbanization Problems in South Asia.* www.sbroong.com/social-sciences/1820055-urbanization-problems-south-asia

²⁸ The World Bank. *The impact of climate change on agriculture in South Asia.* www.web.worldbank.org

²⁹ Stockholm Environment Institute. www.sei-international.org

In coming decades, it is predicted that South Asia will experience higher-intensity rain falls and even stronger monsoon seasons. While annual flooding is already embedded in the cultural and livelihood traditions of many South Asians, climate change is expected to worsen these conditions. It is estimated that India and Bangladesh will experience up to 20 per cent more rainfall by 2050.³⁰ Already, over 500,000 Bangladeshis are displaced by floods every year, and more are likely to face the devastating loss of homes, incomes, and life from cyclones and floods as a result of climate change.³¹

Today there are 50 million ‘environmentally displaced people’, most of who are women and children. Although statistics vary, some estimate that the 2004 Tsunami in Asia displaced over 1.8 million persons, including more than 645,000 in India. In India alone, about 15 million people are affected by natural disasters every year, leaving 2.5 million homeless and 4 million displaced.³²

The impacts of disasters, displacement and globalization on children

Children are often forced into child labour, early marriage or other harmful situations as a result of climate changes and disasters. In the next decade, up to 175 million children are likely to be affected every year by disasters. Health risks such as malaria are linked to these hazards: the percentage of the world’s population exposed to malaria, one of the biggest killers of children under the age of five, is expected to increase from 45 per cent to 60 per cent in the next 100 years due to climate change.

Globalization is a major force shaping social relations worldwide.³³ It is defined as a widening, deepening and speeding up of global interconnectedness and as such a positive trend. Increased trading and communication within and between countries, many predict, will have a

³⁰ Scientist John Houghton, Interview, *Sunday Telegraph*, 1995

³¹ Migration Information. www.migrationinformation.org.

³² King, T. (Spring 2006). *Environmental Displacement: Coordinating Efforts to Find Solutions*. Georgetown International Environmental Law Review. www.allbusiness.com/georgetown-international-environmental/spring-2006/4071892-1.html

³³ Khan, S. and Najam A. (2009). ‘The future of globalization and its humanitarian impacts’ [www.reliefweb.int/rw/lib.nsf/db900.sid/AMME7Y3TR3/\\$file/TuftsGlobNov2009.pdf](http://www.reliefweb.int/rw/lib.nsf/db900.sid/AMME7Y3TR3/$file/TuftsGlobNov2009.pdf)

positive impact on communities through knowledge sharing, access to resources and ultimately living standards. Countries in South Asia have experienced economic growth; however, inequality between and within these countries has also increased. The World Bank estimates that the gap between rich and poor countries has increased 30-fold during the last decades.

In the global economy, human mobility has increased as a response to labour needs. Much money is generated by skilled and semi-skilled migrant workers and has led to a global total of remittances that has surpassed even foreign aid.³⁴ Though such mobility increases an individual’s income, it has also increased unsafe migration. Human trafficking and the smuggling of migrants create great risks for women and children as they are exploited and lured into the sex trade or dangerous labour. Currently statistics are not available for South Asia; however, country-specific reports conclude that trafficking in children and women is increasing and that it is often excessively violent and abusive.

The cluster approach: linking development and humanitarian activities

The methodology, culture and ways of working of humanitarian and development practitioners are very different. They may be working in the same institution or organization but are often in separate departments with different agendas and objectives. Slowly, however, this is changing as a result of lessons learned and changes in the external environment. An integrated approach would have to build on a development system which addresses potential causes of vulnerabilities and risks. We still need humanitarian experts and a humanitarian field but the challenge is to integrate the learning into development programmes and vice versa.

A very useful example of an attempt to have a coordinated approach is happening within the humanitarian community. In 2005, an assessment resulted in a recommendation to strengthen the effectiveness of humanitarian responses through building partnerships with agencies in all sectors, including the development field.³⁵ The purpose of such a cluster approach is to coordinate

³⁴ *Ibid.*

³⁵ Inter-Agency Standing Committee (IASC). www.humanitarianinfo.org/iasc

services, use resources optimally, and ensure accountability at all levels. Global level advocacy, standards, policy-setting, capacity building and development of tools are also important in this approach.³⁶ Early childhood development, access to education, child participation and child protection are included in the cluster system.

In the South Asia region, the responsibilities of State structures are increasing and countries are struggling to keep up with unprecedented population growth, rapid urbanization, climate change consequences and decreasing resources. Governments face challenges like never before and are having to manage these situations, other emergencies and impoverished segments of the population. Governments in the region are focusing on emergency risk populations and are trying to improve their access to limited resources, but efforts would be strengthened with more transparency and attention to good governance to curb corruption. Such a focus needs to address both the causes and the development issues by strengthening State systems as well as handling the effects of conflict and disaster. Remedies would support social protection and system building at national and sub-national levels. This is more challenging if the State is the cause of the conflict, but even then it is imperative to defend children's rights.

Our evolving understanding

Our understanding of child rights and child development is continually evolving as our awareness of violence and its impact on children increases. Professionals continue to learn through good practices, care standards and through interacting with children. Governments gain insight and learning while establishing and testing approaches to child protection in all settings and at all levels. Academics continue to research, monitor and develop new concepts and paradigms. Children's voices and their feedback and requests need to be central to developing an understanding of what they experience and what needs to be done.

Children are not only witnesses to violence – they are the victims of violence – from their conception, during upbringing and until

³⁶ *Inter-Agency Standing Committee (IASC) (2006). Guidance note on using the cluster approach to strengthen humanitarian response.*

adulthood. Society, through family, community, school and social institutions, sanctions the use of physical and psychological punishment as a tool for upbringing, and many other forms of violence such as early marriage, child labour and harmful traditional practices. South and Central Asian governments have some legislation in place but there is still a long way to go to realise all protection rights for all children in all settings. Systematic enforcement of the laws to combat violence against children is still not a priority in many societies. As a result, society rarely takes action against perpetrators, and in general there are few consequences for participating in violence against children.

Children are the present – not only the future

Children, girls and boys, are of course also at the centre of love, affection and care from families and communities and experience violence to varying degrees. They are affected differently by violence and most children have a sufficient resilience to go on with their lives and stake out their future.

Mostly, parents do their utmost to provide their sons and often their daughters with the best education possible. More schools are now practising child-friendly teaching and increasingly communities are enlightened by child-led activities and advocacy.

Thus, the South and Central Asia region is affected by the increased application of the UNCRC and its global implications. Ratified by all but two of the world's States, its provisions, based on children's fundamental entitlement to be treated with respect and dignity, have formed the basis of national legislation, regional human rights mechanisms and international guidelines. But its value lies beyond the power of the law. Historically subordinated and viewed as second class citizens, or the property of others, children are required by the Convention to be seen as individual rights-holders with sets of specific entitlements.

It is easy to become impatient with rights as a means for addressing social injustice because they require long-term commitments. The advocacy for children's rights is also in its infancy – it is not in the same league as advocacy for women's

rights or environmental issues. However, the legal and social recognition of children as rights holders helps societies to move beyond a perception of children as suitable subjects for exploitation or abuse. They may no longer be the last consideration when it comes to housing, sanitation, or the provision of food. They may be recognized as being entitled to equal access to healthcare, and be respected in schools as rights-bearing individuals, rather than future adults in need of correction or moulding. A rights-based approach, for example to State budgeting, can in addition cushion the blow of financial hardship because it helps to ensure that there is a fair distribution of resources. The Convention has helped people see that children are the present and not just the future. That's an enormous achievement. Implementation, however, is a difficult thing to accomplish, and has to be looked upon in a long-term perspective.

Cooperation, partnerships and coordination are central to an effective child protection system where children are seen as individual subjects with rights, responsibilities and dignity. Violence has to be stopped – it is hurting children and society. Standards have to be monitored by adults and children and all stakeholders in the society have the opportunity to be partners in this project. We know it costs nothing to refrain from hitting, humiliating and scaring children. To stop violence is to teach each other about how to act with respect and determination. Children are the present and we have the chance to share the messages to end violence in all its forms across South Asia.

4. Recommendations

The following recommendations are based on findings from the study of national and community-based child protection systems in the countries in South Asia, with further examples from Central Asia. The recommendations are also informed by lessons learned from many years of working in the region.

1. Government should prioritize child protection and lead its implementation at national, district and community level

There are enormous demands on governments in the South and Central Asia region including poverty, emergencies, political conflicts, weak state structures, corruption, demands from donors and limited access to the latest thinking around child protection, child rights and child development.

It is vital, however, that States remain focused on their legal obligation and moral commitment to child protection. Governments must clearly articulate their goals and objectives through national plans and strategies, provide secured funding and devolve authority to district and local levels of government for the effective implementation of programmes. Potential obstacles to this occurring must also be overcome. Ultimately, any protection efforts must be grounded in sound, evidence-based child development theory, contextual understanding and global child rights standards as well as ensuring that the best interest of the child remains central to the process.

2. All partners should coordinate and cooperate for effective management of child protection

Child protection in the South and Central Asia region receives very little political attention and minimal funds. Governments often rely on international agencies for developing strategies and local agencies serve as volunteers for implementation and service delivery. The result is a fragmented and ad hoc child protection system, which does not address children's needs in a comprehensive and holistic way.

Child protection is the basis for the healthy development of a nation – adults must take responsibility to eliminate the suffering of children. **When governments take a lead role they can coordinate the activities of international and local agencies, ministries, the private sector, academia and media to ensure that stakeholders work together for greater impact.** The lead role involves identifying lessons learned, clearly defining roles and responsibilities, offering training for all those working with or for children, and capacity building at the local level to ensure a high quality, well functioning continuum of services with clearly defined procedures for the referral of child victims.

3. Children's participation has to be at the core of all initiatives

Today, children have few – if any – safe and reliable ways of reporting violence, abuse and exploitation. Furthermore, children are only occasionally consulted by governments and adults for their opinions and are often looked upon as property of adults rather than as individuals in their own right.

According to the UN Convention on the Rights of the Child, **children are right holders who shall be treated with respect and dignity.** Governments and other actors working on behalf of children must thus recognize that children are citizens with the right to be protected from all forms of violence and to participate in decisions that affect their lives. Children must be involved in decision-making processes in a

meaningful manner and should be assisted to contribute to monitoring the work of governments, acting as watchdogs over those who claim to work in their interest. Child-led groups and organizations can also offer a platform for children to come together and discuss issues that affect their lives and plan actions to resolve such issues.

4. Understand how humanitarian and development work is complementary

Focusing on underlying causes of disasters and emergencies will support more effective disaster preparedness and response. The immediate need when responding to an emergency is to save lives, but taking steps to prevent future disasters is also critical.

Emergency response needs to be aligned with development programming and risk reduction which will, if successful, also reduce the likelihood of future humanitarian emergencies and lessen their impact. If humanitarian and development activities are better integrated, and this is reflected in policies and plans, children and communities will be more adequately protected.

It is also important for governments and civil society to understand and address the vulnerabilities of children in disasters and emergencies. While there is a general acceptance that children are especially vulnerable, there is little reflection of this understanding in policies and plans and even less understanding of children as actors in their own protection. Children should not only be passive recipients of aid, but also be given an opportunity to act as significant change agents in emergency and development.

5. All children and adults should participate to end violence against children

Many people are unaware of the negative impact some traditional practices can have on the health, growth and development of children. By offering and sharing information between key actors and the public, better practices can be established and disseminated, and people can be empowered to demand their rights.

True engagement and participation of children, adults and professionals is possible and is an essential component in ensuring that children feel secure and important within their communities. Governments and other agencies must help to mobilize the public through campaigns aimed at changing behaviours to create violence-free schools and communities. Much can be achieved through the active participation of respected community members and local leaders and groups from different cultural, political, academic, religious and media backgrounds.

6. It is necessary to build healthy and strong societies

Violence against children can occur in the family, the community, school and institutions. Children experience physical and psychological trauma and abuse, or may be forced into early marriage or child labour, or be trafficked. Positive parenting programmes and positive classroom management techniques can go a long way towards increasing the understanding of violence in communities and developing community-based child protection systems through increased learning and understanding.

Governments need to amend and enforce current laws and develop and implement national strategies, policies and programmes. However, **everyone in the community shares responsibility for ending violence**. By taking no action we condone and enable violence against children. Public discussion, which includes the views and opinions of children, is required. Additionally, communities must share the responsibility with the government to make sure real change occurs.

7. Regional and global linkages should be reinforced

Many of the vulnerabilities and causes of violence against children are common throughout the entire South Asian region and many issues cross borders and require the attention of more than one government. For example, issues relating to trafficking often involve two or more countries. The SAARC mechanism in South Asia has advanced regional cooperation on this issue by drafting the *SAARC Convention on Combating and Prevention of Trafficking in Women and Children for Prostitution*.

The governments of South Asia have made **a commitment to working together** by founding the South Asia Initiative to End Violence Against Children (SAIEVAC) and aim to establish a regional centre for ending violence based in Kathmandu. By fostering greater collaboration and cooperation among countries within the region, countries can more easily share experiences and lessons learned, and encourage evidence-based approaches to overcome prevailing challenges. This initiative should be scaled up for greater impact and integrated as part of SAARC to ensure high-level political commitment.

The United Nations Special Representative of the Secretary-General on Violence Against Children promotes regional cooperation as a key strategy for ending violence and emphasizes that regional cooperation helps to catalyse the potential offered by States in each region. Additionally, regional efforts should be linked up with the global agenda and sharing between regions should be encouraged as a strategy for ending violence against children worldwide.

States in South and Central Asia should urgently take a number of specific actions to ensure a minimum standard of child protection is established. These actions include:

- Develop and enact laws that prevent, prohibit and eliminate all forms of violence against children in all settings.
- Ensure birth registration is mandatory, and free of cost.
- Implement mass communication campaigns and community programmes to change harmful practices and support communities to understand the negative impact of early marriage.
- Complement laws against child labour by ensuring all children access education and a protective environment.
- Pursue the best interests of the child through juvenile justice systems, protect the privacy of victims and witnesses, provide free legal aid, and look for alternatives to institutionalization whenever possible.
- Implement the SAARC Convention on Trafficking and Standard Operating Procedures and focus on prevention through community-level measures to protect children from internal and international trafficking.
- Prohibit corporal punishment in all settings and support programmes which promote positive parenting and positive classroom management.

5. Definitions

Violence against children

The findings of the UN Study on Violence (2006) demonstrated the enormous scale of violence children of all ages experience in many settings, be it at home, at school, in the community and in institutions.

The UN Study brought to light a better understanding and renewed dialogue and discussion about violence against children. Though previously efforts were made to address the issue, only recently has there been growing awareness of the need to approach violence against children in a more holistic manner.

Definitions, or lack of comprehensive definitions, of violence against children in South Asia reinforce that the understanding of violence is still evolving within the region. Although countries have a firmer grasp of what violence against children entails since the 2006 study, they still have some way to go if violence is to be broadly and inclusively defined and addressed by the State through legislation and policy as well as at a community and individual level.

Violence against children can be committed by individuals or by the State, and by groups and organizations through their members and their policies. It results not only in fear of injury, or actual injury, but in fundamental interference with personal freedoms, an attack on someone's dignity and self worth, and a feeling of injustice. It includes violence by the armed forces, law enforcement officers and security forces of all kinds, and violence committed by any other State agent. State violence against children includes the use of the death penalty and other cruel, inhuman and degrading treatment including torture, forced displacement, unlawful imprisonment, extra-judicial killing and execution, enforced disappearance, and all forms of violence against children living under the care of the State including children living in institutions and children in detention and penal facilities.

A broader understanding

Definitions of violence are evolving as our understanding of violence and its impact on children changes and increases. Greater international attention and awareness of violence against children has led professionals in all fields to develop a more holistic and complete understanding that includes all forms of abuse, neglect and exploitation. This means that many actions socially and/or legally condoned throughout South Asia, such as corporal punishment, early marriage or child labour, are being included in new definitions of violence.

Since 1989, the United Nations Convention on the Rights of the Child has provided a framework for understanding violence against children. Article 19³⁷ broadly recognizes children's right to be protected from all forms of mental violence, injury and abuse, neglect or negligent mistreatment or exploitation. Article 37 states that no child shall be subject to torture or other cruel, inhumane or degrading treatment or punishment. Additional Articles specifically identify different types of violence, abuse and exploitation which children should not be subjected to. Violence is usually used as a generic term to cover all forms of physical, sexual and psychological abuse, neglect and exploitation including domestic violence and other forms of gender-based violence.

Concepts of abuse, neglect, exploitation and violence distinguish between the different forms of harm to children as described in Article 19 of the UNCRC. Further, frequently, in line with the UN Study on Violence against Children, violence is used as an umbrella concept.

The South Asian context

All countries in South Asia are signatories to the UNCRC, which is a legally binding international

³⁷ *The General Comment for Article 19 (the right to protection from violence and maltreatment) of the UN Convention on the Rights of the Child is in the process of being drafted by the UN Committee on the Rights of the Child.*

instrument outlining children's rights and including their rights to protection from violence, abuse, neglect and exploitation.

In South Asia, definitions of violence against children are rooted in cultural, social and religious traditions and understanding varies between countries, and also within countries. Often definitions found in legislation or public policy do not cover the range of different types of violence experienced by children. Additionally, no specific definition of violence exists in any of the countries in South Asia. For example, in Afghanistan the terms violence, abuse, neglect and exploitation are fairly new and such concepts remain more in the realm of scholars, academics and practitioners than in terminology used and understood by the general public.

In Bhutan the most common definition of violence would be through the terminology of 'corporal punishment'. However, corporal punishment is not commonly understood throughout South Asia and Bhutan is very advanced in identifying it as a form of violence. In most South Asian countries, corporal punishment is not included in the definition of violence and generally is not prohibited through legislation, although some countries have moved to ban it in schools.

National legislation frequently falls short of or is even in contradiction with international agreements. For example, in Pakistan, children working in domestic labour are vulnerable to many different forms of abuse and exploitation, but may not be protected by current legislation.

In Sri Lanka, 'child abuse' is often used as a composite term to capture all forms of violence against children. This is because until now the understanding has been that violence is only committed through a deliberate act and has not encompassed a wider range of violence or neglect.

Neglect is frequently not included in the definition of violence in South Asia, although it is an important component of violence in international conventions. Neglect means deliberately, or through carelessness or negligence, failing to provide for, or secure for a child, their rights to physical safety and development.

Neglect is sometimes called a 'passive' form of abuse in that it relates to the failure to carry out some key aspect of the care and protection of children which results in significant impairment of the child's health or development including a failure to thrive emotionally and socially.

Bangladesh vaguely defines the issue of parental neglect but does not cover other forms of neglect experienced by children. Bhutan is the only country that attempts to define neglect in a comprehensive way and goes as far as distinguishing between wilful and circumstantial negligence.

Child exploitation refers to the use of children for someone else's advantage, gratification or profit often resulting in unjust, cruel and harmful treatment of the child. These activities are to the detriment of the child's physical or mental health, education, moral or social-emotional development. Exploitation also covers situations of manipulation, misuse, abuse, victimization, oppression or ill-treatment.

There are two main forms of child exploitation that are recognized. The first is sexual exploitation, which is the abuse of a position of vulnerability, differential power or trust for sexual purposes. This includes profiting monetarily, socially or politically from the exploitation of another as well as personal sexual gratification.

The second is economic exploitation of a child, which is the use of the child in work or other activities for the benefit of others. This includes, but is not limited to, child labour. Economic exploitation implies a certain gain or profit through the production, distribution and consumption of goods and services. This material interest has an impact on the economy of a certain unit, be it the State, the community or the family.

Abuse is defined as a deliberate act of ill-treatment that can harm or is likely to cause harm to a child's safety, well-being, dignity and development. Abuse includes all forms of physical, sexual, psychological or emotional ill-treatment. The term 'abuse' is, in some contexts, used to refer primarily to such acts when committed in the context of a relationship of responsibility, trust or power, such as by someone who has the care of the child including parent(s), legal guardian(s) or any other person

who has the care of the child, even temporarily, such as a teacher, a community worker, a babysitter or nanny. In most contexts, though, 'child abuse' is understood to refer to all such acts of ill-treatment including when committed by a stranger. Child abuse is often justified as a disciplinary measure, a legally sanctioned act, an economic necessity, or in the name of cultural and religious practice.

Physical abuse involves the use of violent physical force so as to cause actual or likely physical injury or suffering (e.g. hitting, shaking, burning, female genital mutilation, torture).

Emotional or psychological abuse includes humiliating and degrading treatment such as bad name calling, constant criticism, belittling, persistent shaming, solitary confinement and isolation.

Sexual abuse includes all forms of sexual violence including incest, early and forced marriage, rape, involvement in pornography, and sexual slavery. Child sexual abuse may also include indecent touching or exposure, using sexually explicit language towards a child and showing children pornographic material.

Addressing specific forms of violence

Countries in the region have tended to enact legislation to address specific forms of violence such as trafficking, economic exploitation and child labour and sexual abuse. Penal Codes tend to cover rape, assault, infanticide and abandonment.

We are beginning to see efforts to include a more comprehensive definition of violence into legislation throughout South Asia. For instance, in Afghanistan, a new law on elimination of violence against women has provided a wider definition of violence which includes child marriage, forced marriage, sexual abuse, commercial sexual exploitation and physical violence. In Bhutan, the Child Care and Protection Bill (CCPB) currently being considered by Parliament defines children in difficult circumstances and children in conflict with the law and support mechanisms to promote and secure the rights of children.

In the Maldives, the Child Sexual Abuse (Special Provisions) Act of 2009 specifies special provisions to deal with sexual offences

committed against children covering stages of investigation, trial and sentencing and provides a much broader definition of sexual abuse which also includes the production, dissemination and possession of pornography.

India is in the process of developing a Prevention of Offences against the Child Bill, which would look at various forms of violence in a more comprehensive manner.

The defined age of the child varies dramatically throughout the region and differences can even be found within in-country legislation. In Bhutan, anyone under the age of 18 is considered a child.

In India, though the Juvenile Justice (Care and Protection of Children) Act, 2000, defines a child as a person below the age of 18, the child labour law and some other labour legislations ban employment of children below 14 years of age while the Delhi Shops and Establishments Act allows employment of those aged above 12 years.

Religion plays an integral role in the lives of people throughout South Asia. Although religions generally talk about non-violence and compassion towards fellow human beings, generally religious leaders have not defined what violence against children includes. There are excellent examples in Bhutan, however, which demonstrate how the best interest of the child and children's participation can be promoted through religious and cultural values. For example, school syllabi include studies on Buddhist concepts which discourage violence or abuse and teach children that violence is not acceptable. In Afghanistan over 120 mosques in Kabul province, 60 mosques in Jalalabad and 20 large mosques in Mazar-i-Sharif, including the famous Blue Mosque, address the issue of children and their rights in Friday prayers on a regular basis.

Thus, absence of a clear-cut understanding and consensus on abuse, neglect, exploitation and violence tends to create ambiguity and confusion among different organizations. There is also the likelihood that some forms of abuse, neglect, exploitation and violence may be addressed while others may be left out from the ambit. Thus, in all probability children may not be protected from all forms of violence in different settings, leading to serious protection issues.

The lack of a clear understanding and consensus poses a challenge to influencers, policy makers, law makers, researchers and other professionals in developing policies, programmes and interventions to address all forms of violence against children. Additionally, NGOs, donors, professionals, politicians and the media define violence in their own way. In Bangladesh, for example, some actors popularly relate violence against children to physical, psychological, economic and sexual violence, while others also recognize the deprivation of children's basic rights including survival, healthcare, education and participation as salient features of violence. It was also found in the Maldives that, when conducting research, the terminology used largely affected the way communities understood the discussion, and their understanding of violence reflected their understanding of children, perpetrators, and the acts of violence themselves.

For the purpose of consistency and clarity, it is useful to apply the same definition as the UN Study on Violence Against Children (2006) and define violence as:

'All forms of mental and physical violence, injury and abuse, neglect and negligent treatment, maltreatment or exploitation, including sexual abuse'

as well as the definition provided by WHO in the World Report on Violence and Health (2002):

'The intentional use of physical force or power, threatened or actual, against a child, by an individual or group, that either results in or has a high likelihood of resulting in actual or potential harm to the child's health, survival, development or dignity.'

Child protection

Child protection as a holistic concept is still a recent phenomenon in many developing countries and is still in the primary stages of development. Often, child protection models in developed countries are seen as good practices and having established an institutional framework including qualified and trained social workers. Despite this, children in developed countries, though in fewer numbers, continue to experience violence.

The challenges for child protection in the South Asia region are compounded by factors such as poverty, discrimination based on gender, caste, class and religion, the sheer number of children, limited resources and untrained staff.

Nevertheless, governments in the region are taking serious steps to address these problems and improve child protection.

Definition of child protection

UN agencies and non-government organizations often refer to child protection as measures and structures to prevent and respond to abuse, neglect, exploitation and violence which affect children in all settings.³⁸

UNICEF stresses that child protection also involves building a protective environment for children with eight essential components:³⁹

1. Change in attitudes, traditions, customs, behaviour and practices
2. Governmental commitment and capacity to fulfil protection rights
3. Open discussion and engagement on child protection issues
4. Protective legislation and enforcement
5. The capacity to protect among those around children
6. Children's life skills, knowledge and participation
7. Monitoring and reporting and oversight
8. Services for prevention, recovery and reintegration.

Save the Children defines child protection as measures and structures to prevent and respond to abuse and neglect, exploitation and violence affecting children.⁴⁰

In South Asia, child protection is an emerging concept and at present there is not a comprehensive or common definition of child protection, although many measures and

³⁸ Save the Children's definition of Child Protection, (2009). http://sca.savethechildren.se/sca/Our_work/Child-Protection/Our-definition/

³⁹ UNICEF, Child Protection Information Sheet, 'What is Child Protection?' [http://www.unicef.org/protection/files/Child_Protection_Information_Sheets_\(Booklet\).pdf](http://www.unicef.org/protection/files/Child_Protection_Information_Sheets_(Booklet).pdf)

⁴⁰ Save the Children's definition of Child Protection (2009), http://sca.savethechildren.se/sca/Our_work/Child-Protection/Our-definition

recommendations to protect children in certain situations exist. South Asian governments are now trying to include and define child protection in their policies and programmes. These definitions often include many different forms of violence. For instance, the draft Child Protection Policy of Pakistan says that child protection means addressing and preventing violence, abuse and neglect, exploitation and discrimination affecting children. It talks about creating a protective environment for children through a secure family life, backed and supported by laws and regulations to respond to the victims of violence, abuse and exploitation by providing them with care and support.

The National Child Protection Policy of the Government of Nepal (yet to be approved by the Cabinet) defines child protection as protecting children from physical, mental, psychological and sexual abuse, exploitation and any form of violence, and also includes neglect, insults, intimidation and threats. In the Maldives legislation relating to child protection is very paternalistic and does not yet take a rights-based understanding of protection.

In Bangladesh, child protection tends to focus on protection from sexual violence rather than defining child protection in a more comprehensive way.

Child protection also seeks to address root causes of violence such as poverty, insecurity, power imbalances, harmful traditional attitudes and behaviour. However, this is not reflected in definitions throughout the region. Policies tend to protect from various violent acts but fail to offer protection from root causes of violence. For example, in Nepal, the new National Child Protection Policy fails to address some of the most urgent issues for children, like harmful traditional practices such as early marriage.

A child protection systems approach

Child protection cannot be seen in isolation but requires a multi-disciplinary and multi-sectoral systematic approach which involves a wide range of stakeholders including government, donors, multilateral agencies, NGOs, community-based organizations, caregivers and families.

Child protection involves working closely with children to strengthen their capacities so they can also protect themselves from violence. Child protection work aims to develop mechanisms and structures that provide meaningful protection for all children in the long term.

The State has the main responsibility for the fulfilment of children's protection rights and must have a holistic, multi-disciplinary and systematic approach which involves both national and community-based child protection systems. This approach includes a strong legal framework to prevent and prohibit violence against children and national child rights policies.

An institutional framework must include a nodal agency at national level responsible for coordination and monitoring with the capacity to involve multiple sectors in broad-based action. Programmes and actions to prevent and protect children from violence operate across a range of disciplines and sectors including cooperation and coordination with health, education, social sectors, agencies responsible for planning for budgetary appropriations, law enforcement authorities, and the justice system.⁴¹

UN Study recommendations

The UN Study on Violence Against Children also recommended that the child protection process be coordinated by a comprehensive national strategy, policy or plan of action on violence against children which is integrated into the national planning process. It should include prevention measures at all levels, realistic and time-bound targets and be supported by adequate human and financial resources.

Additionally, a systems approach to child protection includes establishing mechanisms for childcare standards, independent monitoring, reporting of violence, referral processes, recovery, rehabilitation and social reintegration and a justice system developed in the best interests of the child. This approach also addresses integration of a range of different services and cultural, psychological, pedagogical, behavioural, physical, political and socio-economic programmes.

⁴¹ Council of Europe (2009), *Policy Guidelines on Integrated National Strategies for the Protection of Children From Violence*. Strasbourg Cedex: Council of Europe

A multi-stakeholder approach must be led by the State and include civil society members such as local authorities, NGOs, CSOs, INGOs, UN agencies, media, families and children. Planning and implementation should focus on building partnerships and increasing the participation of children. Civil society should be involved in the development of the national strategy.

Because of its proximity to children and families through service delivery, local action for child protection is extremely important and a community-based child protection approach has been proven to be one of the most effective means of protecting children against violence. It is important that local service providers have

clear roles and responsibilities, a firm monitoring framework, standards for service provision, adequate resources, and sufficient capacity and training to implement the national strategy and deliver quality child protection services.

Community-based child protection services have been seen to be highly effective ways of preventing and responding to violence against children. Families play a central role in children's development and well-being and in safeguarding children's rights. Initiatives to engage with communities and families should be promoted and developed to sustainably protect children from violence in a systematic and holistic way.

6. Situational analysis

Violence against children in South Asia cuts across social, cultural, religious and ethnic lines. Children experience violence in a range of settings including at home, in schools, in care and in judicial systems and institutions, at workplaces and within their communities.⁴² Frequently the perpetrators are known to the child and are often people in a position of trust and responsibility such as family members, neighbours, police, caregivers or teachers. Certain groups such as children with disabilities, children belonging to minority groups, children living on the streets, adolescents in conflict with the law, and refugee and displaced children are more vulnerable to violence.⁴³ Gender also often determines the types of violence children experience. Boys appear to be at greater risk of physical violence than girls, while girls face greater risk of neglect and sexual violence. However, this may be in relation to the social context.

It is very difficult to estimate the number of children affected by violence. This is partly because it is difficult to accurately assess how many children live in South Asia generally. In 2007, 51 million children born were not registered, and over half of these children are living in South Asia.⁴⁴ Birth registration is a fundamental human right without which children are invisible in the eyes of the State and beyond the reach of protection and services such as healthcare and education.⁴⁵ It also makes it extremely hard to track if they are trafficked, and without knowing the exact age of the child it is harder to prevent early marriages and child labour.

Violence against children is also highly underreported in South Asia due to guilt, shame, stigma, fear and an acceptance of violence as inevitable or as an ordinary form of punishment.

⁴² Pinheiro P.S. (2006), *World Report on Violence Against Children. United Nations Secretary-General's Study on Violence against Children. Geneva, Switzerland: ATAR Roto Presse SA*, p.7.

⁴³ UNICEF (2009). *'A report card on child protection'* New York. p.7.

⁴⁴ *Ibid.* p.5.

⁴⁵ *Ibid.* p.5.

There is a fear of retaliation from perpetrators, society and family members. Some parents and adults prefer not to take responsibility for reporting and acting on behalf of children, simply to avoid trouble. When children do get the courage to report violence, often their identity is not kept confidential, as has been the experience of many children in the region. However, this situation is slowly changing as more mechanisms are being set up throughout South Asia to ease reporting processes.

Most South Asian countries do not have a central database on all forms of violence, making it difficult to assess the overall situation. Data available is mostly from studies and surveys conducted by various non-governmental and governmental organizations. However, the region has taken great strides forward to try and reduce gaps in information – for example, the Ministry of Women and Child Development in India conducted a large-scale study on the extent of child abuse, which was the largest study of its kind in the world.

A wide range of quantitative data on topics such as child marriage, birth registration, and child labour is available. But because of difficulties in collecting quantitative data in other areas of violence against children, qualitative information is more often used for programming and planning. This sometimes means that reach or objectives of programmes or interventions are inaccurate.

Misconceptions about violence in South Asia

Women are victims not abusers

It is a common perception that men constitute the majority of abusers, especially sexual abusers, but it is not uncommon for women to beat, threaten and humiliate children. Women also may not protect their children against abusive male relatives or act as intermediaries and managers in the trade of children.

Children are always only victims

In addition, children themselves are sometimes perpetrators of violence against other children. Analysis of cases of child sexual abuse in Afghanistan show that 37.5% of boys⁴⁶ were among the perpetrators of sexual violence against other children. Additionally, the majority of phone calls received by the national Helpline in Nepal are from children being bullied by other children.

Violence only affects girl children

Boys in South Asia are generally considered able to protect themselves. However, boys are often victims and sometimes more susceptible to violence than girls. In some countries boys may be more prone to violence than girls in a particular setting. In Afghanistan, boys are at greater risk of sexual violence in the schools than girls in the same settings.⁴⁷

Forms of violence experienced by children in South Asia

Corporal Punishment

Although all South Asian states committed to prohibiting all corporal punishment following the UN Study on Violence Against Children's 2005 regional consultation and a follow-up meeting in 2006 where a regional Forum for ending violence against children was established, corporal punishment is widely practised at home and in schools and is an accepted method of punishment throughout the region. Corporal punishment in the form of hitting, slapping, kicking, beating, humiliating pulling hair, etc. is not seen as abusive when it is used as a discipline technique. Moreover, violent means of punishment are also used because parents do not know of any alternative forms of discipline. For example, a study by the Afghanistan Research and Evaluation Unit found that parents punished their children in the same way they had themselves been disciplined and were unaware of alternative means. Additionally, corporal punishment is the only form of violence accepted in relation to children but not adults.

⁴⁶ AIHRC (2007). *Report on Cases of Child Sexual Abuse*, unpublished.

⁴⁷ Save the Children. 'Violence Free School Project, Baseline Survey Report', JalalAbad, Afghanistan. p.5.

Social acceptance of violent punishments of children is so entrenched that often authority figures such as police, school principals, clergy and community leaders do not see the physical or psychological punishment of children as an issue of concern. The persisting legality and social approval of violent punishment is the most symbolic reflection of children's low status in societies, as possessions rather than individual people and rights-holders. Ending this legalized violence against children is a human rights imperative and essential strategy for reducing and eliminating all other forms of violence against children. No state can claim it has an effective child protection system while its laws still authorize and defend corporal punishment.

In North West Frontier Province, Pakistan, in consultations with 3,582 children aged 6–14, 1,231 parents and 486 teachers from government and religious schools, not one child reported never having received corporal punishment. Results found that identified punishments at homes include caning, beating with shoes, belts, wood slabs, brooms or whips, smacking, kicking, hair-pulling, ear-twisting, biting, pinching, burning, giving electric shock and pouring hot or cold water on the body. In schools, common punishments in Pakistan include slapping, kicking, caning, ear-twisting, and putting the child in awkward and humiliating postures.⁴⁸ Corporal punishment is more frequent the younger the child. Additionally, there were no significant gender differences.⁴⁹

The child abuse study in India reveals that 69% of children were physically abused in 13 states in one or more situations, and 54.68% of these children were boys and 48.29% were young children. In the 5–12 age group, nearly 3 out of 4 children reported physical abuse in one or more situations. When stakeholders were asked their views on corporal punishment over 44% felt it was necessary for disciplining children.⁵⁰

In Afghanistan it was found that corporal punishment is widely used and recognized, though to a certain extent is not entirely socially accepted. Physical violence exists to varying

⁴⁸ Save the Children/UNICEF/Schools and Literacy Department, Government of NWFP (2005). *Disciplining the Child – Practices and Impacts*.

⁴⁹ *Ibid*.

⁵⁰ Ministry of Women and Child Development, Government of India (2007). *Study on Child Abuse. India*.

degrees within all families interviewed and most commonly children experienced slapping, verbal abuse, punching, kicking, and hitting with thin sticks, electrical cables and shoes. Corporal punishment was also used on children as young as 2 or 3 years and no clear difference between the punishment of boys and girls were identified.⁵¹

Acid throwing

Acid throwing is a practice where acid is thrown on the face of another person and occurs in South Asian countries, particularly Bangladesh, Pakistan and sometimes in Afghanistan. Nitric or sulphuric acid causes the skin to burn and sometimes even the bones beneath dissolve. Many survivors lose the use of one or both eyes. Additionally, survivors face psychological trauma, social isolation and ostracism and have great difficulty finding work and, if unmarried (as many victims tend to be), have little chance of getting married.⁵²

Reasons for the attacks are commonly because a young girl or woman has refused the sexual advances of a male or has rejected a proposal of marriage, as a result of family or land disputes, dowry demands or a desire for revenge. In Bangladesh, in 2002, the death penalty was introduced for throwing acid after the number of victims rose to nearly 500 a year. However, in 2005, 267 people were still attacked and campaigners say it is because the law is ignored.⁵³ In 2009, 145 attacks were still reported.⁵⁴ Every year also an estimated 150 acid attacks occur in Pakistan.⁵⁵

Sexual abuse and exploitation

Sexual abuse is the most underreported form of violence in the region and affects both boys and girls. Sexual abuse and exploitation is defined as the imposition of sexual acts, or acts with sexual overtones, by one or more persons on a child.

Sexual abuse is seldom reported because of a lack of child protection standards and services, awareness in the community and because of the stigma attached to sexual abuse. There is also a tendency to deny that sexual abuse is home-grown – often foreigners or paedophiles are blamed as the perpetrators.

The survivors of sexual violence and exploitation are also at high risk of sexually transmitted infections. In some Asian countries, up to 30% of sex workers aged 13–19 are HIV-positive.⁵⁶ Once infected, such children are easy prey to tuberculosis and other opportunistic infections because of a lack of treatment, care and support after infection.

Sexual abuse commonly happens in the home or community, often perpetrated by someone familiar to the child. A study in Bangladesh revealed that around six per cent of children in commercial sex work initially left home to avoid sexual abuse at their own home or by their own family.⁵⁷

Country studies from the region show that children experience both contact and non-contact forms of sexual abuse. A study from Bangladesh tells that among commercial sexually exploited children, in 75 per cent of cases the girls reported forced vaginal intercourse. Eight per cent of the boys and a quarter of the sexually exploited girls had undergone forced body-rubbing. Around a tenth of the sexually exploited boys faced indecent exposure, 65 per cent were forced to touch male sexual organs or masturbate the perpetrator, while another eight per cent experienced anal penetration.⁵⁸

In another study from Bangladesh, the children identified sexual abuse and exploitation at home, in the family, community, workplace, educational institutes, street, jail and remand houses, and government and NGO shelters.⁵⁹

⁵¹ Smith, D. (2008). *Love, Fear and Discipline: Everyday violence toward children in Afghan families*. Kabul, Afghanistan Research and Evaluation Unit.

⁵² Acid Survivors Foundation. <http://www.acidsurvivors.org>

⁵³ BBC (2005). <http://news.bbc.co.uk/2/hi/5133410.stm>

⁵⁴ Acid Survivors Foundation. <http://www.acidsurvivors.org/statistics.html>

⁵⁵ Yahoo News. http://news.yahoo.com/s/time/20100311/wl_time/08599197112400

⁵⁶ UNAIDS. *HIV/AIDS and young people: A hope for tomorrow*.

http://data.unaids.org/Publications/IRC-pub06/jc785-youngpeople_en.pdf

⁵⁷ INCIDIN Bangladesh (2002). *Rapid assessment on trafficking in children for exploitative employment in Bangladesh*. Bangkok, ILO-IPEC.

⁵⁸ INCIDIN Bangladesh (2008). *Rapid assessment: Commercial Sexual Exploitation of Children and Adolescents in Bangladesh*. UNICEF.

⁵⁹ Kabir, R. (2005). *Children's Perspectives on abuse: Preliminary findings from child abuse study*. Dhaka,

There are a rising number of children working as domestic servants throughout the region. These workers are particularly at risk and face great difficulty in knowing what to do if sexually abused. Few welfare and protection programmes can reach this almost invisible group. Children are also sexually abused in the formal employment sector, including in factories, bars, night clubs and restaurants.

In India, 53.22% of children reported having faced one or more forms of sexual abuse. Among them 52.94% were boys and 47.06% girls. Findings show that abuse started at the age of 5 years, with incidences increasing with age and peaking at 12 to 15 years and then starting to decline.⁶⁰

There are an estimated 25 million street children in South Asia. Children living on the street are much more vulnerable to sexual abuse and exploitation and may be forced to support themselves through sex work or pornography, offering sex in exchange for food, clothes, shelter or drugs. These children are often recruited or coerced into the sex trade by pimps and peers, including being abused as part of pornography production.

Today the advancement in internet services has created another challenge, especially with regard to child protection in the region. With the mushrooming of net-cafés, child protection/rights organizations have voiced their concerns that children are being exposed to different kinds of abusers such as paedophiles, pornographers and child traffickers who may not easily be traced. Social interaction in cyberspace can be different as people do and say things they would not usually in real life. This can have an influence on the perceptions and developing minds of children and young people and is one of the ways abusers lure children into exploitative relationships.

Child trafficking

The criminal and clandestine nature of trafficking makes it difficult to gather reliable data, but child trafficking is known to be commonplace in South Asia. There is also a demand for young girls for

Government of Bangladesh, UNICEF, Save the Children Alliance.

⁶⁰ Ministry of Women and Child, Government of India (2007). 'Study on Child Abuse.' India

commercial sexual exploitation. Trafficking of children occurs both internally, often from rural to urban areas, and across national borders. Survivors end up in various forms of sexual and labour exploitation.⁶¹

According to the 'Palermo Protocol', trafficking refers to the 'recruitment, transportation, transfer, harbouring, or receipt of persons, by means of threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power, or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person for the purpose of exploitation.'⁶² However, it is often hard to differentiate between a child who has been trafficked and one who has experienced other forms of exploitation and abuse, especially in the context of migration or movement.⁶³

Many girls from Nepal and Bangladesh are trafficked into India for purposes of sexual exploitation. Children from Nepal are also trafficked to work in embroidery factories, carpet factories, brick kilns and in quarries.

Boys from Bangladesh are trafficked to Middle-Eastern countries to be engaged as camel jockeys. Within India, girls are trafficked from remote and rural areas to big cities and towns to be sold to brothels for prostitution, while boys are trafficked for labour. In Sri Lanka, trafficking of children for commercial sexual exploitation and child sex tourism remains a well organized economic activity that affects pockets of communities and their way of life. Both boys and girls from very young age to adult age are involved.

Trafficking is for financial gain and often poor children are more at risk. A high rate of unsafe migration, weak enforcement of law, insufficient household income, ill-treatment and physical abuse at home and in the community, alcoholism by parents, lack of food, and forced marriages

⁶¹ ILO Subregional Information System on Child Labour. *Child Labour and Responses in South Asia.*

<http://www.ilo.org/public/english/region/asro/newdelhi/ipec/responses/index.htm>

⁶² Articles 3(a) and 3(c) of the UN Protocol to Prevent, Suppress, and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime.

⁶³ UNICEF (2009). 'South Asia in Action: Preventing and Responding to child trafficking.' Kathmandu, Nepal. p.4.

also contribute to trafficking. When children are trafficked they often do not have birth registration or identity proof so tracing them becomes extremely difficult.⁶⁴ Additionally many children may be hesitant to be referred to as a victim of trafficking for fear of retaliation from traffickers or the social stigma and legal consequences attached. Also children may worry that they cannot pay off their debts or live up to family expectations.⁶⁵

Though it is generally perceived that girls are more susceptible to sexual abuse than boys, country studies from Pakistan show boys are equally susceptible to sexual abuse in specific settings. A study conducted on prostitution of boys found them highly vulnerable to commercial sexual exploitation, due to its social acceptance in some parts of the country. For example, in North West Frontier Province and a few other pockets of the country, there is a practice of *Bachabazji*, where young boys are kept by rich and influential adults for sexual purposes.⁶⁶

Trafficking and migration are two entirely different but related phenomena. Many girls and boys choose to migrate from rural areas to seek new opportunities in the cities. The majority of these girls are unskilled and uneducated and many find work in the entertainment and restaurant industry. This industry has mushroomed around cities, with greater concentration at tourist sites and hotels, bus parks and truck stops. These girls may be both sexually and psychologically exploited by customers, restaurant owners and the law-enforcing agents. Sex work is common and, in addition, work environments present various health risks. Women and young girls can become pregnant as a result of sex work or sexual exploitation. Their children experience great stigmatization and discrimination and are sometimes sold for adoption or further commercial and sexual profit. Therefore, trafficking programmes must also address the broader context of unsafe migration and

⁶⁴ ILO Subregional Information System on Child Labour. *Child Labour and Responses in South Asia*. <http://www.ilo.org/public/english/region/asro/newdelhi/ipcc/responses/index.htm>

⁶⁵ UNICEF (2009). *South Asia in Action: Preventing and Responding to child trafficking*. p.4.

⁶⁶ PPA-ECPAT (August 2005). *International Study on Boys' Prostitution*.

governments must safeguard children against violence in these settings.⁶⁷

It has been found that closing or restricting legal channels of emigration from the home country, or strict enforcement of border controls and visas by the receiving country, fail to address trafficking and may lead to increased vulnerability and exploitation.⁶⁸

The UN Convention on the Rights of the Child protects children from violence in all settings regardless of their country of origin. The governments of South Asia have committed through ratification to implement the SAARC Convention on Preventing and Combating Trafficking in Women and Children for Prostitution (2002). As part of a coordinated regional response, the governments have also committed to implement SOP (Standard Operating Procedures) for effectively implementing the SAARC Convention.

Child labour

In South Asia, 44 million or 13% of all children are involved in child labour.⁶⁹ In India there are 2 million children working in hazardous industries.⁷⁰ Studies in Bangladesh revealed that over 40 types of economic activities done by children were hazardous.⁷¹ In Bhutan nearly 70% of child labourers in the service industry were females and a number of them reported being physically and sexually exploited. They were also neglected and punished by not being given food, denied access to leisure and rest and often being locked up.⁷² In Nepal, an estimate of over 55,000 children work as domestic labourers; almost two-thirds are aged 10 to 14 years with a preponderance of boys (57 per cent).⁷³ They work for long hours with little or no pay.

⁶⁷ UNICEF (2009). *South Asia in Action: Preventing and Responding to child trafficking*. Kathmandu, Nepal p.5.

⁶⁸ *Ibid.* p.8.

⁶⁹ UNICEF (2009). *A report card on child protection*. p.26.

⁷⁰ <http://www2.ilo.org/legacy/english/regions/asro/newdelhi/ipcc/responses/index.htm>

⁷¹ Note 16 – W. Rahman (1996): *Hazardous child labour in Bangladesh*. Department of Labour in collaboration with the ILO, Dhaka.

⁷² National Commission for Women and Children, Royal Government of Bhutan (March 2009). *Situation of child labour in Bhutan*. p.55.

⁷³ Sharma et al. (2001). *Situation of Domestic Child Laborers in Kathmandu: A Rapid Assessment*. IPEC, ILO, Geneva.

Economic exploitation is seen as one of the most common forms of violence in the region. There is a great deal of commonality across the South Asian countries in the forms of child labour, most notably in the areas of children in hazardous child labour, child domestic labour, children in export-oriented industries, child bonded labour particularly in agriculture, and child labour in the informal economy, particularly in urban areas.⁷⁴ Children not only face occupational hazards like handling heavy machinery or chemicals in their workplaces, but are also vulnerable and subjected to physical and sexual abuse. Additionally, these children are usually denied educational opportunities, which leads to a cycle of poverty and vulnerability.

Despite legislation in place to abolish bonded labour in all South Asian countries, this practice still affects millions of the poorest and most vulnerable workers in the sub-region and often these workers do not benefit from development activities.⁷⁵

Harmful traditional practices

Harmful traditional practices are not necessarily part of religious doctrine but rather traditions that have gained popularity throughout the years, often under the misunderstanding of being a religious practice. Many of the countries in South Asia, although having laws in place to prohibit most of these forms of violence, still continue to practise such traditional harmful practices. These practices are harmful to a child's development and health yet are socially sanctioned by communities. However, over the past few years it has been found that through community awareness, strong legislation and enforcement and community-based programming misconceptions about harmful practices can be broken down and eventually eradicated. This was seen with the practice of *sati* (or widow burning) which was eradicated in India in the late 1880s.

In South Asia current harmful practices include honour killing, cleansing and initiation abuse, sex slaves for priests and pilgrims, and dowry-related abuse. However, the most prevalent and

⁷⁴ ILO Subregional Information System on Child Labour. *Child Labour and Responses in South Asia*. <http://www.ilo.org/public/english/region/asro/newdelhi/ipcc/responses/index.htm>

⁷⁵ *Ibid.*

common harmful practice throughout the region is early and forced marriage with 46% of child marriage in the world taking place in South Asia.⁷⁶

Early and forced marriages

Early marriage is rampant in South Asia with half of all women reporting being married before the age of 18.⁷⁷ Although boys are occasionally married underage in a few countries, most children who experience child marriage are girls. National statistics on child marriage show that the percentage of women aged 20–24 years who were married or in union before 18 was 43% in Afghanistan, 64% in Bangladesh, 47% in India, 51% in Nepal, 24% in Pakistan and 12% in Sri Lanka.⁷⁸ Although the median age for marriage is increasing in some countries in the region, it is doing so at a very slow pace.

Early marriage often occurs because of poverty and the lack of economic opportunities for girls in rural areas. Girls are either seen as an economic burden or valued as capital for their exchange value in terms of goods, money or livestock. Concerns for girls' safety and lower dowry for younger brides are major reasons why parents, especially those from poor economic strata, marry their daughters off at an early age. Child marriage is also seen as a way of protecting young girls and ensuring their future security and status. Marriage of young girls is sometimes used to forge alliances between families. Early marriage in Afghanistan can be linked to a widespread practice of *baad*, where in order to settle disputes, girls irrespective of age are given to a victim's family as compensation.⁷⁹

Child brides are much more likely to experience domestic violence and less likely to take action against this abuse.⁸⁰ They attain lower schooling and have a lower social status in their husbands' families. Young girls also have less reproductive control, and suffer higher rates of maternal mortality as their bodies are too immature to give birth. They are also highly susceptible to sexual abuse, including non-consensual sex with their

⁷⁶ UNICEF (2009). *A report card on child protection*. p.10.

⁷⁷ *Ibid* p.10.

⁷⁸ *Ibid* p.43.

⁷⁹ www.wcbf.org.af. *Study on Bad Painful Sedative*.

⁸⁰ IPPF and the Forum on Marriage and the Rights of Women and Girls (2006). *Ending Child Marriage, A Guide for Global Policy Action*.

husbands.⁸¹ This can make them vulnerable to sexually transmitted infections.

Honour killing

In many countries in South Asia, women have been killed by their relatives because their behaviour is seen to be immoral and an affront to the family's honour.⁸² This can include rape victims, women suspected of engaging in premarital sex, women accused of adultery, women seeking a divorce, women not wanting to marry their intended husband, women marrying someone from a different caste or ethnic group, women receiving phone calls from men, women accused of flirting, or even women failing to serve a meal on time. The United Nations Population Fund has estimated that there are 5,000 victims of honour killings in the world annually. However, many cases are not reported, and many deaths are reported as suicides, so it is difficult to grasp actual numbers. Out of these 5,000 cases, 1,000 are reported to have taken place in Pakistan.⁸³

Dowry-related abuse

A dowry is money and other materials paid by the bride's family to the groom's family at the time of marriage or as a bride price. Dowries can exceed a family's annual income and often families begin saving for the dowry from a daughter's birth. If a family does not have enough money for a dowry they will marry off their daughter to a much older or illiterate man.⁸⁴ If a bride does not bring enough dowry, she may experience various forms of domestic abuse such as insults, beatings, denial of food and new clothing, being made to return to her natal family, divorce and even murder, sometimes by burning (termed 'bride burning'). Official crime statistics in India report that in 2002, 6,822 women were killed as a result of dowry violence.⁸⁵ This practice has become common in Muslim communities in Bangladesh, Sri Lanka

and Pakistan, even though it is not an aspect of Islamic religious law. Islamic law recognizes *mahar*, which is a gift by the bridegroom to the bride.⁸⁶ However, cultural practices of the bride's family providing the dowry have become more commonplace even among Muslim families in the region. This practice also reinforces the ideas of daughters as a burden to their families, son preference and early marriage.

Cleansing and initiation abuses

Cleansing and initiation abuses also occur throughout South Asia. Many of these practices centre around menstruation and focus on either first menstruation and coming of age, or practices which interpret girls as polluted during the menstruation period. These practices mostly continue in Nepal, while there are occasional examples from distinct parts of Pakistan and India. Although legislation prohibits the practice, many poor women in western Nepal are forced to stay in dirty cow-sheds outside the home for four days during their monthly period. These women are often not provided proper food and may suffer various forms of abuse.⁸⁷

Sex slaves for rich families and priests/pilgrims

In some communities in India and Nepal, young girls are dedicated to God by their families.

Denki is an age-old custom still practised in many districts of Sethi and Mahakali zones in the far western region of Nepal. *Denki* means to consecrate one's own or a poor family's newly born female child to God in order to gain a son, to cure a sickness, or to fulfil any other desires. It is estimated that around 2,000 such *denkis* exist in the various temples in Nepal.⁸⁸

Devadasi is a similar practice in India. Though the *Devadasi* system was banned in 1982, it still prevails in more than ten districts in Northern Karnataka in India⁸⁹ and parts of Andhra Pradesh.

⁸¹ UNICEF (2009). *A Report Card for Children*. p.11.

⁸² UNIFEM. *Facts and Figures on Violence against Women*. http://www.unifem.org/gender_issues/violence_against_women/facts_figures.php?page=4.

⁸³ *Ibid*.

⁸⁴ IPPF (2006). *Ending Child Marriage, A Guide for Global Policy Action*. London.

⁸⁵ UNIFEM. *Facts and Figures on Violence against Women*. http://www.unifem.org/gender_issues/violence_against_women/facts_figures.php?page=4.

⁸⁶ UNESCAP, "Harmful traditional practices in three South Asia countries" *Gender and Development. Discussion Paper Series No. 21*, 2007.

⁸⁷ British Broadcasting Corporation. http://news.bbc.co.uk/2/hi/south_asia/4250506.stm.

⁸⁸ http://english.obmynews.com/articleview/article_view.asp?menu=c10400&no=278344&rel_no=1.

⁸⁹ <http://www.hartford-hwp.com/archives/52a/013.html>.

Root causes of violence against children

There are several root causes of violence against children that are common throughout South Asia which are cross-cutting and interconnected. Children who are impacted by these root causes are more vulnerable to violence and face various forms of discrimination.

Poverty

Poverty continues as a challenge in South Asia. Forty per cent of the world's poor who survive on less than \$1 a day, live in the South Asia Region.⁹⁰ Children living in poverty with low levels of parental education and household overcrowding are vulnerable to violence, abuse, exploitation and neglect.⁹¹ Additionally, poor children have less access to basic social services including health, education and social protection. Poverty and lack of livelihood is seen as one of the factors which make children vulnerable to trafficking for sexual exploitation and early and forced marriages. Children from economically weak families are often forced to supplement family income by engaging in labour, often hazardous to their health and development.

Many poor families and children move from rural to urban areas in search of work. This migration sometimes leads to child abandonment or separation of children from their families.⁹² Women, children and youth experience greater vulnerability as community-based protection systems tend to be weakened or non-existent.

Gender inequality

Patriarchal systems are dominant throughout the region and reinforce women's inferiority and perpetuate gender-based violence. In many patriarchal societies, family 'honour' is valued above girls' well-being and an incident of rape or sexual violence can lead to ostracism of the victim, further violence and even death at the hands of her family.⁹³ Thus, in the event of sexual abuse, the girl tends to blame herself and

fears reporting the crime as it would bring shame or dishonour to the family and further harm to herself.

Girls are also taught to be obedient, quiet and modest, behaviour not expected from boys, which makes girls more vulnerable to abuse and exploitation. Also, society has traditional notions that girl children are more suitable to undertake domestic chores and look after her younger siblings. This also makes the girls vulnerable to domestic violence.

Son preference is strong in the region, which is detrimental to girls because boys are more privileged in relation to inheritance, nutrition, education and leisure time. Women are often not given a chance to voice their opinions or question male authority.

Such practices begin even before birth with female foeticide and immediately after birth with female infanticide. South Asia has one of the most distorted sex ratios in the world. For instance, in India, over a period of 10 years, the sex ratio declined from 945 girls (for every 1000 boys) in 1991 to 927 girls (for every 1000 boys) in 2001.⁹⁴ This shows that female foeticide is widely practised in the country, even by prosperous communities. Thus, economic status in such cases does not necessarily make children less vulnerable to violence as gender inequality cuts across all classes, castes and social status.

Domestic violence is commonplace throughout South Asia. In South Asia, 54% of girls and women aged 15–49 years believe a husband is justified in hitting or beating his wife under certain circumstances.⁹⁵ These circumstances include burning of food, with 20% of female respondents believing this is a justified reason for a husband to beat his wife.⁹⁶

As a region, South Asia has both the lowest literacy rates and the largest gap between the rates of male and female literacy. South Asian women make up 21 per cent of the world's female population and 44 per cent of the total number of illiterate women.⁹⁷ In South Asia women's economic participation is a mere

⁹⁰ <http://www.sardes.org/marketana.asp>.

⁹¹ Pinheiro, Paulo Sergio. *UN Study on Violence*. p.68.

⁹² UNICEF *Child Protection Information Sheet*.

[http://www.unicef.org/protection/files/Child_Protection_Information_Sheets_\(Booklet\).pdf](http://www.unicef.org/protection/files/Child_Protection_Information_Sheets_(Booklet).pdf)

⁹³ *Ibid.* p.10.

⁹⁴ Registrar General of India, *Government of India (2001). Census of India 2001*.

⁹⁵ UNICEF (2009). *A report card on child protection*.

⁹⁶ *Ibid.* p.21.

⁹⁷ http://www.unicef.org/rosa/education_3218.htm.

fraction of that of men. The majority of South Asian women work in the informal sector and as unpaid family helpers, which is unrecognized in national systems of accounting. Women's political representation is also very poor. Low status of women undermines a woman's ability to ensure proper educational and nutritional attainment for her children.

Discrimination and social exclusion

In countries such as India, caste and religion not only play a dominant role in people's lives but also position them in the social ladder. This social ladder creates wide disparity among people and the dynamics within the social structure have an impact on children. Lower-caste children have less access to resources and social welfare provisions and many Dalits and ethnic minority communities are resourceless and impoverished.⁹⁸ This leads to greater economic stress in communities and families, leading to increased vulnerability of children to violence.

In Western Nepal, Badi women are descendants of traditional women entertainers – singers and dancers – who performed during marriages and other ceremonies. They and their children still live outside mainstream society. The Badi tradition forces women into sex work just because they are Dalit. In Doti (Western Nepal), the Dalit community cannot access property and serve as bonded labour to the upper-castes.⁹⁹ Often Dalit children are made to sit at the back of the class or on the floor, and their homework is unchecked by teachers. They also are made to clean the yard, fill water buckets, and clean toilets – even though often Dalit girls are not permitted to use school toilets.¹⁰⁰

Disabled children are also the victims of severe discrimination. Children with disabilities are much less likely to be in school and much more likely to be victims of sexual, physical and verbal violence. While estimates vary, there is growing evidence that people with disabilities comprise between 4 and 8 per cent of the Indian

population (around 40–90 million individuals). In India 52 per cent of people with disability are illiterate compared with the 35 per cent average for the general population.¹⁰¹ In Afghanistan, according to a survey conducted by Handicap International in 2005, there are at least 200,000 children living with permanent disability (physical, sensory and/or mental impairment). Because of three decades of conflict, Afghanistan is scattered with landmines and other explosives which kill and/or maim about 60 people, mostly children, each month.¹⁰² Because of increased violence, it can be assumed that the 2005 estimate must have also increased significantly.

Emergency situations

Frequent natural disasters, political strife, civil unrest and armed insurgencies are common to many areas throughout the region. During conflicts or disasters, children experience increased vulnerability to violence, exploitation, abuse and neglect as social and legal order is broken down and local capacity to cope is exceeded or inadequate.

For instance, in Afghanistan, war has not only had an effect on the country's economy and social structures but children all over the country have also been victims of violence. Though the country is in different stages of development, children living in rural areas are more at risk of violence compared with the cities where access to services and facilities are comparatively higher. However, disaggregated data on the type of violence against children in rural and urban settings in Afghanistan does not exist.

Similarly, in Sri Lanka, in certain provinces which experienced ethnic conflict for many years, children account for one out of every five non-war-related homicide victims. More than half of them are under 6 years of age and the proportion of male children is slightly higher. 70% of the perpetrators are blood/other relatives.¹⁰³

⁹⁸ Action Aid (2007). *Nepal Violence Against Women and HIV Cause and Consequence, Case studies on Intersection of Twin Pandemics*. Kathmandu, Nepal.

⁹⁹ *Ibid.*

¹⁰⁰ *Times of India*.

<http://timesofindia.indiatimes.com/India/Dalit-kids-cannot-use-school-loo-but-have-to-clean-them/articleshow/4699387.cms>.

¹⁰¹ World Bank. *People With Disabilities In India: From Commitments To Outcomes*. p.12.

¹⁰² International Committee of the Red Cross.

¹⁰³ WHO, Centre for Health and Development (2008). *Sri Lanka National Report on Violence and Health*. Kobe, Japan. p.77.

Children without appropriate care

Often, because of the conditions mentioned above, including poverty, neglect, abuse, discrimination, abandonment, migration, conflict and disasters, children end up living without appropriate care or in institutional settings. Institutional settings may include learning institutions, residential homes, shelter homes, drop-in centres, detention centres, religious institutions, working hostels and long-term institutional upbringing. Children, often, do not receive appropriate care in these institutional settings and face many situations of violence and abuse.

There are millions of children in South Asia who live in the streets, unoccupied dwellings and wastelands and are inadequately protected. These children are vulnerable to rape, sexual exploitation, drug abuse and crime, and they struggle to survive amidst fear and violence. Children's lives on the streets are characterized by discrimination, stigma and harassment, including illegal detention or being detained on false charges, beaten and tortured.

7. Legal protection

The United Nations Convention on the Rights of the Child, 1989, its optional protocols (Optional Protocol on the involvement of children in armed conflict and Optional Protocol on the sale of children, child prostitution and child pornography) and other international instruments for human rights such as the Universal Declaration of Human Rights (UDHR) signed in 1948, the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), adopted in 1979, set high standards for protection of children against neglect, abuse, exploitation and violence.

A strong legislative framework is one of the first steps towards protecting children from violence and ensuring that their rights are enshrined within the country. Such laws should meet the standards as set out by various international instruments, in particular the UNCRC.

Achievements

Compliance with the UNCRC and other international standards

All the countries in the South Asian region have ratified the UNCRC and affirmed their commitment to protecting children's rights. Other than Pakistan, all countries in the region have ratified the Optional Protocols to the Convention on the involvement of children in armed conflict¹⁰⁴ and on the sale of children, child prostitution and child pornography.¹⁰⁵ Though Pakistan has signed the two Optional Protocols, it is yet to ratify them.

¹⁰⁴ 11. b) *Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict.*

Available at:

http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-11-b&chapter=4&lang=en.

¹⁰⁵ 11. c) *Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography.* Available at:

<http://treaties.un.org/doc/Publication/MTDSG/Volume%20I/Chapter%20IV/IV-11-c.en.pdf>.

Member States of the South Asia Association for Regional Cooperation (SAARC) have also ratified the SAARC Convention on Preventing and Combating Trafficking in Women and Children for Prostitution and the SAARC Convention on Regional Arrangements for the Promotion of Child Welfare in South Asia. Thus, the countries are obligated to ensure that their legislative framework conforms to the standards set by these human rights instruments. However, often national legal frameworks fall short of international commitments.

The Constitutions¹⁰⁶ of all countries in the region provide equal rights to citizens, including children, and protect them from all forms of discrimination and exploitation. There also exists a well-established legislative framework and system of justice in the region.

Prevention of violence

The national legal framework of a country should prevent violence and safeguard the rights of the child by taking action.

Birth registration

Birth registration is the first right of any child and children must be registered immediately after birth, subject to national regulations and in accordance with Article 7 of the UNCRC.

Except Bhutan, all countries in the region have enacted legislation making birth registration compulsory. Bhutan is proposing a Civil Registration Act, which when enacted will make registration of birth compulsory. Further, the Child Care and Protection Bill and the Adoption Bill, Bhutan, also talk about universal registration of birth.

Minimum age of marriage

The minimum age of marriage is not uniform throughout the region, and some countries have higher minimum age of marriage for boys than girls. The minimum age of marriage for girls is 16

¹⁰⁶ *The Nepal Constitution is presently being developed and is expected to be completed by May 2011.*

years (Afghanistan and Pakistan) and 18 years in the rest of the South Asia countries. For boys it is 18 years in all countries except India and Bangladesh where it is 21 years.

Setting a minimum age for sexual consent

Most countries in the region have set a minimum age of sexual consent. India, Nepal and Pakistan have set 16 years for girls, with no age prescribed for boys. In Bangladesh the minimum age of consent is 14 years for girls. Bhutan has not defined a minimum age of sexual consent. In Sri Lanka the age of consent to sexual acts for both girls and boys is 16 years¹⁰⁷ except for homosexual acts which are strictly prohibited for both sexes and irrespective of age.¹⁰⁸

Prohibition of violence

The State has an obligation to protect children from all forms of violence. Therefore, appropriate legislative, administrative, social and educational measures should be taken to prohibit all violence against children at all times and in all settings and to render protection to all children within the State's jurisdiction. Legal defences and authorizations for any form of violence, including for the purposes of correction, discipline or punishment, within or outside families, should be repealed.

Degrading practices

The countries in the region have legally prohibited degrading practices such as child slavery and torture. In almost all countries the death penalty for children is prohibited. In Bangladesh, the Children's Act 1974 prohibits the use of capital punishment against children under 16 years of age. In Maldives, capital punishment is prohibited for all persons under the age of 18 according to Article 37 (a) of the UNCRC. Even though Maldives recognized capital punishment and the death penalty as part of Sharia Law, the punishment has not been implemented since 1953.

Most of the countries in South Asia have also prohibited various forms of violence against children such as the sale and buying of children,

debt-bondage, serfdom, and forced or compulsory labour.

Minimum age of criminal responsibility

The minimum age of criminal responsibility is the lowest statutory age at which children may potentially be held criminally liable for infringements of the penal law in a given country.¹⁰⁹ All countries in the South Asia region have established a minimum age of criminal responsibility: 7 years in Pakistan and India, 8 years in Sri Lanka, 9 years in Bangladesh, 10 years in Bhutan, Maldives and Nepal and 12 years in Afghanistan.

Sexual abuse and exploitation

Legislation pertaining to sexual abuse and exploitation is more or less limited to rape and prostitution. Rape is seen as an act committed by a man and is a punishable crime throughout South Asia.

Currently only Bhutan provides protection against marital rape. In India, rape in marriage is recognized only if a girl is below 15 years, while in Bangladesh it is recognized only for girls less than 14 years of age. At present, laws in Pakistan do not recognize marital rape. The Prevention of Domestic Violence Act, 2005, Sri Lanka, may in certain cases extend to marital rape. Afghanistan and Maldives are proposing to include marital rape in newly undertaken legal reforms.

In Afghanistan, pornography is dealt under the law on Human Trafficking. The Penal Codes of Bangladesh, India, Pakistan and Sri Lanka, and the Children's Act, 1992, of Nepal, deal with provisions related to pornography. In addition, India has enacted the Young Persons (Harmful Publications) Act, 1956, which prohibits publishing of harmful publication. The Information Technology (Amendment) Act, 2008, India, criminalizes sexual abuse through the internet. Sri Lanka has enacted the Children and Young Persons (Harmful Publications) Act, 1956, to prevent the dissemination of certain pictorial publications harmful to children and young persons.¹¹⁰

¹⁰⁷ *Pen Council of Europe (2009), Policy Guidelines on Integrated National Strategies for the Protection of Children From Violence. Strasbourg Cedex: Council of Europe al Code Amendment, Act No. 29 of 1998*

¹⁰⁸ *sec. 365A Penal Code, Sri Lanka*

¹⁰⁹ UNICEF, ROSA. 'South Asia and the Minimum Age of Criminal Responsibility, Raising the Standard of Protection for Children's Rights.' Kathmandu; Nepal.

¹¹⁰ <http://www.lawnet.lk/process.php?st=1981Y3V32C&hword=&path=5>

Maldives through its legislation protects children from pornography and procuring children through the internet. The proposed Child Protection (Criminal Law Amendment) Bill, 2009, Pakistan, when enacted will contain a provision prohibiting pornography, both print and electronic.

Child labour

Child labour is a burgeoning problem in South Asia. All countries in the region through national legislation have prohibited child labour to a degree. However in some countries there is more than one legislation relating to child labour and there is inconsistency between them on the definition of child. Thus, all children do not get equal protection against child labour.

The child labour laws of Afghanistan, Bhutan and Sri Lanka prohibit employment of children below 18 years in hazardous industries. The Bangladesh Labour Act prohibits engagement of children (not exceeding fourteen years of age) and adolescents (over 14 years but not more than 18 years).

India and Pakistan prohibit employment of children below 14 years in hazardous industries, Nepal sets the age at 16 years, and Maldives does not allow employment of children of any age in hazardous industries while it establishes the minimum age of entry to employment as 16 years.

Under international commitments, except for India all countries in the region have ratified ILO Convention No 182 (ILO Convention on the Worst Forms of Child Labour, 1999), while ILO Convention No 138 (ILO Minimum Age Convention, 1973) has been ratified only by Nepal and Sri Lanka.

Trafficking

Trafficking of children takes place for various purposes including for prostitution, labour, organ trade and camel racing. Most countries in the region suffer from both in-country and cross-border trafficking.

India and Sri Lanka are the only countries in the region to have signed the UN Protocol to Prevent, Suppress and Punish Trafficking in

Persons, especially Women and Children.¹¹¹ As part of the regional cooperation, all countries in the region have ratified the SAARC Convention on Preventing and Combating Trafficking in Women and Children for Prostitution.

Afghanistan, India, Bangladesh, Nepal and Pakistan have enacted separate legislation to address trafficking; however, they do not necessarily address trafficking for all purposes. For instance, in India and Bangladesh, laws on trafficking are restricted to prostitution, while the Pakistan trafficking law addresses prostitution and camel racing, and trafficking law in Nepal looks at trafficking for prostitution and organ trade.

The Penal Code of Sri Lanka and the Law on Prevention of the Rights of the Child, Maldives, both prohibit trafficking of children.

Corporal punishment

The UN Committee on the Rights of the Child defines ‘corporal’ or ‘physical’ punishment as any punishment in which physical force is used and intended to cause some degree of pain or discomfort, however light. Most involves hitting (‘smacking’, ‘slapping’, ‘spanking’) children, with the hand or with an implement – whip, stick, belt, shoe, wooden spoon, etc. But it can also involve, for example, kicking, shaking or throwing children, scratching, pinching, burning, scalding or forced ingestion (for example, washing children’s mouths out with soap or forcing them to swallow hot spices).

In the view of the Committee, corporal punishment is invariably degrading. In addition, there are other non-physical forms of punishment which are also cruel and degrading and thus incompatible with the Convention. These include, for example, punishment which belittles, humiliates, denigrates, scapegoats, threatens, scares or ridicules the child.¹¹²

Corporal punishment is used as a method of discipline in South Asia. Though legislation in the region provides some protection against physical

¹¹¹ http://treaties.un.org/Pages/ViewDetails.aspx?src+TRE+ATY&msgidg_no+XVIII-12-a&chapter+18&lang=en

¹¹² *Committee on the Rights of the Child, CRC/C/GC/8, 2 March, 2007, General Comment No. 8 (2006), The right of the child to protection from corporal punishment and other cruel or degrading forms of punishment (arts. 19; 28; para 2 and 37, inter alia).*

punishment, it is not fully prohibited in all settings in the region. In Afghanistan corporal punishment is prohibited in schools under the Education Act (2008).¹¹³

India has recently enacted the Right to Free and Compulsory Education Act, 2010, and this prohibits corporal punishment in schools.¹¹⁴

In Pakistan, directives have been issued in North West Frontier, Punjab and Sindh Provinces stating that corporal punishment should not be used, but there is no prohibition in law. The Prohibition of Corporal Punishment Bill, 2010, currently under discussion, would prohibit corporal punishment in all education settings.¹¹⁵

No country in the region has full prohibition of corporal punishment at home, penal institutions or in alternative care settings.¹¹⁶ Afghanistan, Bhutan and Sri Lanka have committed to full prohibition of corporal punishment as a sentence for crime in the penal system.¹¹⁷ India, Nepal and Pakistan offer some protection from corporal punishment as a sentence for crime, but Bangladesh and Maldives offer little or no protection.¹¹⁸

Juvenile justice system

Some countries in the region have also developed a separate juvenile justice system for children in conflict with the law. The Juvenile Code, Afghanistan, is in line with the UNCRC and deals with procedures and protection for children in conflict with the law but also includes some procedures for children in need of care and

protection.¹¹⁹ The Code defines a child as a person below 18 years.¹²⁰

Bhutan has well laid out procedures to be followed when a juvenile is arrested, and includes the right to be represented by a legal counsel and presence of family members or guardian during trial.

The Juvenile Justice (Care and Protection of Children) Act, 2000, India, governs both children in conflict with the law and children in need of care and protection, and has introduced greater conceptual distinction between these two categories of children.¹²¹ It defines the age of a child as a person below the age of 18 years. The juvenile justice legislation has been amended twice to bring it in consonance with the principles of juvenile justice and the UNCRC.

The Juvenile Justice System in Maldives is currently governed by the Law on the Protection of the Rights of the Child. A new Act is currently being drafted.

The Children's Act, 1992, Nepal, stipulates special procedures and protections for children in conflict with the law.

Pakistan has introduced the Juvenile Justice System Ordinance (JSSO), 2000, thereby establishing a comprehensive juvenile justice system. It extends protection to all children in conflict with the law who were under 18 at the time the offence was committed.¹²²

The Children and Young Person's Ordinance, 1939, Sri Lanka, says that any child under the age of 16 years who is in conflict with law should be dealt under this Act; however, the law has never been fully implemented throughout the country. As yet there is no comprehensive justice system for children in conflict with the law, and children are not systematically separated from adults at all

¹¹³ *Global Initiative to End All Corporal Punishment of Children, Afghanistan-Country Report, Summary of necessary legal reform to achieve full prohibition.*

¹¹⁴ www.endcorporalpunishment.org. *Global Initiative Newsletter 12 (May 10).*

¹¹⁵ *Note No 61. Global progress towards prohibiting all corporal punishment. Prepared by the Global Initiative to End All Corporal Punishment of Children, May 2010. Available at: www.endcorporalpunishment.org.*

¹¹⁶ *Global progress towards prohibiting all corporal punishment. Prepared by the Global Initiative to End All Corporal Punishment of Children, May 2010, Available at: www.endcorporalpunishment.org.*

¹¹⁷ *Ibid.*

¹¹⁸ *Ibid.*

¹¹⁹ UNICEF, ROSA (2006). *Juvenile Justice in South Asia: Improving Protection for Children in Conflict with the Law.* Kathmandu, Nepal.

¹²⁰ *Civil Society Coalition on UNCRC Afghanistan. Civil Society Alternate Report on Afghanistan's Progress Towards CRC Realisation, Initial Report.*

¹²¹ UNICEF, ROSA (2006). *Juvenile Justice in South Asia: Improving Protection for Children in Conflict with the Law.* Kathmandu, Nepal.

¹²² *Ibid.*

stages of legal proceedings.¹²³ However, in 2009 a comprehensive Amendment Bill to this Ordinance was formulated after extensive consultations that also included children in contact with the law.

Child-friendly court procedures

At present, children in the region do not have direct access to courts and require a legal guardian to file a complaint. By and large, children and adults continue to go through the same judicial systems, which may not be child-friendly; however, there are some efforts to improve this situation. In Bhutan, all hearings involving children are held ‘in camera’ (hearing in private) to protect the identity or privacy of children. At every stage in a legal proceeding,¹²⁴ a child can testify only in the presence of his or her parent or guardian except when the court is satisfied that the child is mature enough to understand and answer the question or the parent or guardian is unavailable and there exists good cause for their absence.¹²⁵

In India, courts through their judgements and orders have given directions for child-friendly procedures, particularly in cases related to sexual abuse and exploitation. Similarly, in Nepal, Court Guideline, 2063 (2006), has laid down guidelines for child-friendly procedures.

Gaps and opportunities

Countries in South Asia have a number of laws to address various forms of violence. However, existing legislation may not be comprehensive, and so not address all forms of violence against all children in all settings. For example, Afghanistan is yet to establish a minimum age of sexual consent. Also, legislation in Afghanistan does not cover exploitation through the internet.

The minimum age of criminal responsibility continues to remain low in the region. Thus, with ambiguity in legislation, children continue to experience violence and are denied justice.

Despite legislation prescribing minimum age of marriage, early marriages continue to take place

in the region. Often such practices are considered socially acceptable and communities do not understand such acts as violence against children. An effective implementation of the law would help in preventing these early marriages. Moreover, young girls have trouble negotiating sexual intercourse with their partners and therefore legislation should address marital rape to protect young girls and their rights.

When it comes to sexual abuse and exploitation, present legislation addressing rape focuses on girls and women, and little protection is provided to boys. Moreover, by and large, provisions relating to rape consider only the ‘contact’ form of sexual abuse. Other forms of sexual abuse and exploitation, such as sexual harassment, pornography or exploitation through the internet, may not be currently covered by legislation, or present legislation may be insufficient to provide protection to children as desired by international standards. Often legislation covers internet crimes such as hacking, but does not cover child pornography or online exploitation.

Low birth registration is one of the challenges faced by countries in South Asia, which is the region which has the largest number of unregistered children.¹²⁶ In the absence of birth registration many children are vulnerable to child labour and trafficking.

Children in the region do not have direct access to courts and need a legal guardian to file a complaint. By and large, children and adults continue to go through the same judicial systems, which may not be child-friendly. Bangladesh and Nepal are yet to implement a fully comprehensive, separate system for children in conflict with the law.¹²⁷

Despite the gaps, the existing legal mechanisms offer tremendous opportunity to the South Asian countries to review their existing laws, and to expand and amend provisions to include all forms of violence in all settings. Efforts are being made in the region to bring in new legislation and amendments that meet international standards. For example, Afghanistan has developed a new

¹²³ *Ibid*

¹²⁴ Section 53 Evidence Act, Royal Government of Bhutan.

¹²⁵ This is in conformity with the UN guidelines on Justice on matters concerning child victims and witnesses of crime.

¹²⁶ http://www.unicef.org/protection/index_birthregistration.html

¹²⁷ UNICEF, ROSA (2006). ‘Juvenile Justice in South Asia: Improving Protection for Children in Conflict with the Law.’ Kathmandu, Nepal.

law on trafficking with particular focus on child trafficking. India is in the process of framing legislation dealing with offences against children, particularly sexual offences.

The Home Ministry, Government of India, has also taken a lead in amending the criminal law to broaden the existing provisions on rape to include various forms of sexual assault against women, children and other persons, both contact and non-contact. The proposed amendment to the Penal Code, Maldives, proposes to include marital rape.

In Nepal, the government is drafting a new Children's Act so as to increase the scope of law from welfare legislation to a right-based legislation. The proposed Act will be addressing Juvenile Justice System in a more comprehensive manner.

In Pakistan the Child Protection (Criminal Law Amendment) Bill, 2009, proposes to expand the term sexual abuse and punish persons who engage in acts such as fondling, stroking, caressing, exhibitionism, voyeurism or any obscene or sexually explicit conduct or simulation.

Over the years, there has been increased attention on legal reforms on corporal punishment. Almost all countries are in the process of reviewing their laws¹²⁸ on corporal punishment and this provides an opportunity to the countries to prohibit corporal punishment for all children in all settings.

An area which needs immediate attention is the minimum age of criminal responsibility and governments must examine legal provisions to ensure that children are not criminalized and end up in the criminal justice system. Governments must prohibit all forms of sexual violence and all harmful traditional practices. Governments must also review laws relating to extra-territorial jurisdiction.

There are many good practices worldwide on establishing child-friendly judicial systems which can be adapted in the region. Establishment of a juvenile justice system, setting up of juvenile courts and rehabilitation homes and services for

children in conflict with the law would strengthen legal protection of children in the countries. Governments must also adopt a multi-disciplinary approach whereby professionals such as lawyers, legal counsellors, police, psychologist and social worker work together and provide assistance to the child during court proceedings. Children should also have access to child-friendly material on legal matters such as legalisation and their legal rights during court proceedings.

Governments at all times must safeguard children's rights, their best interests and participation in relevant decisions and proceedings and ensure that child victims are provided appropriate assistance to recover, reintegrate and get compensation. Further, child victims and witnesses and their rights and interests must always be protected at all stages of the criminal justice process, including their privacy and safety.

Due weight should be given to child's view keeping in mind the child's age and maturity, and also ensure that the child is able to communicate without any difficulty during the proceedings.

Governments must ensure that people who perpetrate violence against children are not provided with impunity.

The governments must ensure that children are actively and continuously involved in the process to seek their views and advice. Governments must bring together legal professionals, lawyers and judges to get their expertise in developing child-friendly judicial systems which are easily accessible to children. Governments must strengthen capacities of professionals working to prevent and address violence against children. It is of utmost importance to train legal professionals on children's rights and how to be sensitive towards child victims and witnesses during court proceedings and hearings.

There is a need to exchange good practices and information on legal reforms for children between countries in the region. Governments must complement legal reform processes with awareness-raising programmes on violence against children and work towards bringing about behaviour change of people.

¹²⁸ *Global Initiative To End All Corporal Punishment of Children (2009), 'Ending legalized violence against children', Global Report, p.18.*

Legal protection in South Asian countries

Afghanistan

The legislation in Afghanistan covers some forms of violence. However, it does not cover all aspects of violence for all children in all settings.

Prevention of violence

Registration of birth

According to Article 31 of the Law of Birth Registration, all Afghans including those living abroad are required to register the birth of their children within one year in the nearest place to their residence. Accordingly, birth certificates are issued through the registration centres.¹²⁹

Minimum age of marriage

The Civil Code of Afghanistan sets the legal age of marriage as 16 years for girls and 18 years for boys.¹³⁰ Further, the law on Elimination of Violence against Women has provisions banning marriage below the legal age.

Minimum age for sexual consent

In Afghanistan, as an Islamic country, in accordance with the Constitution and other laws which are based on Shari'a, sexual relations between children are prohibited and sexual relations among adult individuals of the country are lawful only within wedlock.¹³¹ Thus, Afghanistan has not established a minimum age of sexual consent.

Prohibition of violence

Degrading punishment

The Constitution and legal framework prohibit slavery, forced labour, the death penalty¹³², life imprisonment and all other cruel and inhuman or

degrading sentences and punishments for persons under the age of 18.

Sexual abuse and exploitation

Laws related to sexual exploitation are not fully developed and do not cover different types. Pornography is dealt with under the law on Human Trafficking. Present legislation does not cover internet-related sexual crimes. Further, laws related to rape do not include marital rape.

Minimum age of criminal responsibility

The minimum age of criminal responsibility has been set at 12 years.

Corporal punishment

Though children are protected from severe violence by the Penal Code, corporal punishment continues to be practised in different settings. There is no explicit prohibition of corporal punishment as a sentence of crime. The Juvenile Code prohibits "contemptuous and harsh punishment" but does not prohibit all corporal punishment. Corporal punishment is prohibited in schools under the Education Act (2008).¹³³

The Juvenile Code applies to children in need of care and protection and prohibits harsh punishment, but it does not explicitly prohibit all corporal punishment in alternative care settings.¹³⁴

Corporal Punishment is lawful at home. The Penal Code confirms the "right" of "punishment" of son and student by father and teacher, provided the punishment is within the limits of religious and other laws.¹³⁵

Child labour

The legal age to enter into employment is 15 years, although persons below the age of 18 years are prohibited from employment in hazardous work.

Legislative reforms

Afghanistan is also developing new legislation that defines human trafficking, with particular focus on child trafficking. The new law on elimination of violence against women has

¹²⁹ Ministry of Foreign Affairs, Human Rights & Women's International Affairs, Islamic Republic of Afghanistan. *Initial Report of the Islamic Republic of Afghanistan*, UN Convention on the Rights of the Child.

¹³⁰ Civil Code of Afghanistan, first book, articles 70 and 71.

¹³¹ Ministry of Foreign Affairs, Human Rights & Women's International Affairs, Islamic Republic of Afghanistan. *Initial Report of the Islamic Republic of Afghanistan*, UN Convention on the Rights of the Child.

¹³² Article 76(1) Penal Code, Afghanistan and Article 39 law of investigation on children's violation

¹³³ Global initiative to End All Corporal Punishment of Children, (2010), 'Afghanistan-Country Report, Summary of necessary legal reform to achieve full prohibition.'

¹³⁴ Ibid.

¹³⁵ Ibid.

provisions on marital rape and other forms of sexual abuse.

Juvenile justice system

The Juvenile Code provides measures and procedures to children in conflict with the law, children at risk, and children in need of care and protection which safeguard their rights during investigation and trial.¹³⁶ It also calls for the establishment of a special juvenile prosecutor's office for the assessment, investigation and prosecution of juvenile crimes.¹³⁷ However, this system is currently available only in 5% of provinces of Afghanistan.¹³⁸

In provinces where a juvenile court does not exist, regular courts are obliged to implement the Juvenile Code in their procedures. The trial of all juvenile cases must be conducted by the Juvenile Courts, which will be established in provincial capitals.

In some provinces which are remote places, where a formal justice system does not exist, cases are reviewed through an informal justice system, based on customary and unofficial structures established by the community.

Bangladesh

There are more than thirty-five laws that seek to protect children from negligence, cruelty, exploitation and abuse and to promote their development. However, implementation of these laws is seen as a challenge.

The Children Act, 1974, currently under review, is the principal law that provides for care, protection and treatment for children.

Prevention of violence

Registration of birth

The Birth and Death Registration Act, 2004, deals with the registration of births. The Act requires the birth certificate as a proof of age for services that directly affect child rights, including

enrolment in educational institutes, marriage registration and transfer of property.¹³⁹

Minimum age of marriage

The legal age of marriage for girls is 18 years and for boys it is 21 years.¹⁴⁰ Despite the legislation, child marriage continues to take place.

Minimum age for sexual consent

Sex outside marriage, at any age, is treated as a legal violation. The minimum age of consent is 14 years for girls.

Prohibition of violence

Degrading practices

All forms of forced labour are prohibited under the Constitution. Further, the Constitution empowers the state to adopt effective measures to prevent prostitution, both for children and adults. The Children Act, 1974, prohibits the death penalty for children under the age of 16. The State Party has made significant progress in this regard in recent years and in practice the courts rarely sentence a child to death.¹⁴¹

The Bangladesh Penal Code, 1860, makes unlawful compulsory labour an offence. Furthermore, it offers special protection to children below the age of 14 years from harmful acts such as abduction, and a maximum sentence of 10 years can be awarded to persons involved in procuring a minor girl or dealing in 'slaves'. The Code also provides punishment for wrongfully concealing an abducted person, buying and selling minors for the purpose of prostitution and compelling a person into unlawful compulsory labour.

Corporal punishment

There is no prohibition against corporal punishment of children. The Penal Code allows a guardian or other person having legal charge of the child to use punishment which is done in

¹³⁶ Government of Afghanistan Article 1, Juvenile Code.

¹³⁷ UNICEF, ROSA (2006). 'Juvenile Justice in South Asia: Improving Protection for Children in Conflict with the Law', Kathmandu; Nepal.

¹³⁸ Interview with Judge Homa Alizoy, Head of Juvenile Court, Kabul, Afghanistan, 2009. .

¹³⁹ Government of Bangladesh (23 October 2008). Third and fourth periodic reports, Bangladesh. Committee on the Rights of the Child, CRC/C/BGD/4.

¹⁴⁰ Government of Bangladesh, Child Marriage Restraint Act 1929.

¹⁴¹ Government of Bangladesh (23 October 2008). Third and fourth periodic reports, Bangladesh. Committee on the Rights of the Child, CRC/C/BGD/4.

good faith for the benefit of the child.¹⁴² Corporal punishment is also lawful in schools, in alternative care settings, as a sentence for crime and as a disciplinary measure.¹⁴³

However, the draft National Child Policy proposes to prohibit corporal punishment in schools.¹⁴⁴

In July, 2010, the High Court of Bangladesh has ordered the government to stop corporal punishment in schools. The Court has ordered the government to immediately instruct all primary and secondary schools to stop carrying out corporal punishment.¹⁴⁵

Sexual abuse and exploitation

The rape law looks at rape as a crime solely committed by a man.¹⁴⁶ Rape of any woman or child (under 16) has been made punishable with life imprisonment and a fine. If any woman or child dies as a result of being raped, the offender would be punished by death or imprisonment for life with a financial penalty of 100,000 taka. Causing the death of a woman or child by gang rape is also punishable by death or imprisonment for life with a financial penalty of 100,000 taka. Rape within marriage is not considered a crime unless the wife is less than 13 years of age. The law also contains no provision against incest.¹⁴⁷

The aspect of rape of boys is covered under the Women and Children Repression Prevention Act, 2000.

The Bangladesh Penal Code, 1860, addresses sexual harassment. The Suppression of Violence against Women and Children Act, 2000, also includes punishment for forms of sexual violence which are not considered as rape but rather are considered to be molestation/harassment.

¹⁴² Article 89, Bangladesh Penal Code.

¹⁴³ <http://www.endcorporalpunishment.org/pages/progress/reports/bangladesh.html>

¹⁴⁴ www.endcorporalpunishment.org. Global Initiative Newsletter 12 (May 2010).

¹⁴⁵ <http://www.crin.org/resources/infoDetails.asp?ID=22896&flag=news>, CRIN, Violence: Bangladesh orders corporal punishment to be stopped

¹⁴⁶ Bangladesh Penal Code.

¹⁴⁷ Bangladesh National Women Lawyers Association (BNWLA). Study on analysis of the laws related to trafficking and sexual exploitation against women and children.

The Suppression of Violence against Women and Children Act, 2000, provides for penalties for violence against women and children, including kidnapping and trafficking. Further, it stipulates the death penalty or life imprisonment to a person who illegally imports, exports, buys or sells a child, keeps a child or transfers a child to another person.

Relating to pornography, the Penal Code prohibits sale, rent, distribution, exhibition and/or circulation of materials that are 'obscene'. The Suppression of Violence against Women and Children Act, 2000, criminalizes the intent of 'immoral' use of a child, under which pornography can also be an offence. However, there are no specific legal provisions against child pornography or to protect children from injurious information and material transmitted through the media, internet, videos, electronic games, etc.

However, the social stigma, non-disclosure of sexual abuse by the children, lack of witness protection, insensitive (specifically for the girls) legal and medical testing procedures, improper collection and maintenance of evidence and lengthy legal process lead to either non-filing of court cases or acquittal of the accused.¹⁴⁸

In cases of child sexual abuse, often the families are unwilling to press charges out of shame and concern of stigmatization. Even when charges are filed, in most of the cases the verdict does not go in favour of the victim. Often perpetrators put pressure on the victim to withdraw the case or to 'compromise'. Absence of a witness protection programme also poses a challenge to ensuring justice to the perpetrator.

Trafficking

The Suppression of Immoral Traffic Act, 1933, relates to trafficking for commercial sexual exploitation and prohibits prostitution of women below the age of 18 years.

Further, the Women and Children Repression Prevention (Special Provisions) Act, 2000 (amended in 2003), provides for the death penalty or imprisonment for up to life and a cash fine for persons involved in child trafficking.

At present, there are no laws or procedures addressing the recovery and rehabilitation of

¹⁴⁸ BNWLA (1999). Rape and Burden of Proof. Dhaka.

child survivors of commercial sexual exploitation. Law enforcement agencies do not usually assist child victims or children at risk of commercial sexual exploitation, even though they are empowered by statutory authority.

Child labour

Bangladesh Labour Act, 2006, prohibits hazardous work by a person below 18. This law has replaced the Employment of Children Act, 1938, Factories Act, 1965, and the Children (Pledging of Labour) Act, 1933.

The Act prohibits engagement of children (not exceeding 14 years of age) and adolescents (over 14 years of age but not exceeding 18 years) in any profession or institution.¹⁴⁹ Further, the Act says that adolescents can be engaged in a profession or institution subject to certification by a registered practitioner regarding his or her capability to carry out the particular work.

Although Bangladesh has ratified the Convention on the Rights of the Child and the ILO Convention 182 concerning the elimination of the worst forms of child labour, there is no legal framework for children who work in informal sectors, such as street vending or domestic labour.

Evidence suggests that there is weak implementation of child labour laws and a large number of children in the age group 5–14 years continue to be employed as child labourers.¹⁵⁰

Criminal responsibility

The Penal Code (Amendment) Act, 2004, raised the minimum age of criminal responsibility from 7 to 9 years.¹⁵¹ This is seen as a barrier to ensuring protection for children who come in conflict or contact with the law as the age of bearing criminal responsibility is so low.

Acid crimes against women and children

To combat the menace of acid attacks, particularly on women and children, the government has enacted the Acid Control Act, 2002, to control production and sale of corrosive

chemicals. Further, the Acid Crimes Prevention Act, 2002, has been enacted to address the acid-related crimes more sternly. This law provides tougher punishment including the death sentence for splashing acid on people.¹⁵²

The Women and Children Repression Prevention (Special Provisions) Act, 2000, amended in 2003, also provides punishment (death penalty, life imprisonment with rigorous imprisonment and cash fine) for a person causing harm by any corrosive substance.

Juvenile justice system

The justice system for both children in conflict with the law and children in need of protection is governed by the Children Act, 1974, and the Children Rules, 1976. Although this legislation has been in place for almost 30 years, Bangladesh has yet to implement a fully comprehensive, separate system for children in conflict with the law.¹⁵³

The Children Act calls for the designation of specialized Juvenile Courts, and requires courts of all levels to follow the special Juvenile Court procedures when hearing cases involving an alleged offender under the age of 16.¹⁵⁴ In practice, however, there are few Juvenile Courts in existence and few law enforcement officials, lawyers or judges are familiar with the Juvenile Court system or special laws for children.

The Children Act, 1974, prohibits children from being charged with or tried for any offence together with an adult.

Child-friendly court procedures

There is no consistent practice of allowing children to provide testimony ‘in camera’, or in any other child-friendly ways, making it particularly difficult for child survivors to describe their sensitive experiences in open court. Children, especially girls, may also face embarrassing questioning from defence lawyers. Courts do not protect child witnesses; therefore often they face threats and intimidation from the perpetrators and as a result may not appear in the court. Also, courts do not pay travel expenses,

¹⁴⁹ Section 34 of the Bangladesh Labour Act, 2006.

¹⁵⁰ Ali; AKM Masud (2009). *Mapping of Policies and legislations and analysis of child labour programmes in Bangladesh*. UNICEF, UCW.

¹⁵¹ UNICEF, ROSA. *South Asia and the minimum age of criminal responsibility, Raising the Standard of Protection for Children's Rights*.

¹⁵² Government of Bangladesh (23 October 2008). *Third and fourth periodic reports, Bangladesh. Committee on the Rights of the Child, CRC/C/BGD/4*.

¹⁵³ UNICEF, ROSA (2006). *Juvenile Justice in South Asia: Improving Protection for Children in Conflict with the Law*.
¹⁵⁴ *Ibid*.

and some children cannot afford to travel long distances to appear. Many cases also get resolved through ‘compromise’, under threat or on offer of payment, between the perpetrator and child survivors.

In general, the judiciary is not always child sensitive and children are harassed in the investigation process. There is no victim and witness protection to enable a child and her/his family to seek justice against organized criminal networks or influential offenders.

Bhutan

Over the years, and especially with ratification of the UNCRC, Bhutan has come to address all the issues related to children and their rights. The establishment of the National Commission for Women and Children has helped to spearhead the rights of children and to accord adequate protection. Through its initiative a number of laws have been drafted and are currently in the process of being enacted. The Constitution of the Kingdom of Bhutan, the Penal Code of Bhutan and a number of Acts has included child protection sections which are slowly being enforced.

The Constitution has mandated the State to take appropriate measures to ensure that children are protected against all forms of discrimination and exploitation including trafficking, prostitution, abuse, violence, degrading treatment and economic exploitation.

Prevention of violence

Registration of birth

Bhutan is proposing to develop a Civil Registration Act under the Ministry of Home and Cultural Affairs.

Minimum age of marriage

The Child Care and Protection Bill, currently undergoing deliberations in the Parliament, propose to establish the legal age of marriage for both boys and girls as 18 years.¹⁵⁵

Presently, the age of sexual consent is not defined in the legislation. However, the Legislation Committee of the National Council is in the process of amending the Penal Code of

¹⁵⁵ *Royal Government of Bhutan Marriage Act.*

Bhutan, 2004 where there are suggestions to incorporate a provision on age of sexual consent.

Prohibition of violence

Degrading practices

The high court of Bhutan has extra-territorial jurisdiction for any person perpetrating violence against children in another jurisdiction. All forms of slavery have been abolished and, therefore, there are no provisions under criminal legislations on slavery. Further, the death penalty has been completely abolished by a Royal Decree.

The Penal Code prohibits various forms of violence including selling, buying or transporting of children for any illegal purpose, debt-bondage, serfdom, forced or compulsory labour, soliciting of the services of a child for sex, pornography, molestation of a child, and economic exploitation including hazardous employment.¹⁵⁶ Further, no person is allowed to be subjected to torture, cruelty, inhumane or degrading treatment or punishment.¹⁵⁷ Use of children in all illicit activities and exploitation of all kinds is a felony of third degree if the child is below 12 years and a felony of fourth degree if the child is between 12 and 18 years.

Sexual abuse and exploitation

The Penal Code prohibits soliciting of the services of a child for sex, pornography and molestation of a child.¹⁵⁸

Marital rape is criminalized under the Penal Code and engagement in sexual intercourse with one’s own spouse against their will is prohibited.¹⁵⁹ Traditionally, however, sex without spousal consent is rarely tried and prosecuted as rape.

Child labour

The minimum age of employment has been established at 18 years.¹⁶⁰ Children between the ages of 13 and 17 years are allowed to be employed in certain areas of work which are not

¹⁵⁶ *Royal Government of Bhutan Penal Code of Bhutan.*

¹⁵⁷ *Royal Government of Bhutan Section 160, Civil and Criminal Procedure Code of Bhutan.*

¹⁵⁸ *Royal Government of Bhutan Penal Code of Bhutan.*

¹⁵⁹ *Royal Government of Bhutan Section 199, Penal Code of Bhutan.*

¹⁶⁰ *Royal Government of Bhutan, Labour and Employment Act, Bhutan*

considered hazardous, provided the child is the only wage earner for the family.

Corporal punishment

Corporal punishment in the community is traditionally accepted. Since 1997, the government has through the Teacher's Code of Conduct prohibited the practise of corporal punishment. However, there is no explicit prohibition in law.¹⁶¹

Corporal punishment is lawful in the home and as a disciplinary measure in penal institutions under the Penal Code. It is unlawful as a sentence for crime.¹⁶²

With the Child Care and Protection Bill which is under review by the Parliament, Bhutan will outlaw the practice.

Juvenile justice system

Bhutan's juvenile crime rates remain comparatively very low. The majority of crimes committed by children are non-violent in nature, the most common offences committed being theft, followed by burglary and drug abuse.

The adoption of the "Child Care and Protection Bill" (under consideration by the Parliament) will also include provisions relating to Juvenile Justice System. A proposal to establish Family and Children's Bench in the Judiciary is underway.

Presently, the Civil and Criminal Procedure Code prohibits arbitrary arrest and detention. In practice, the Royal Bhutan Police reportedly use their powers of arrest sparingly when dealing with children, and wherever feasible they resolve the matter without arresting the child or taking him/her to the police station. In general, for a first offence the child is simply warned or counselled by the police. If a second offence is committed, the police will generally warn the child again and discuss the situation with the parents. If the child persists in committing offences or commits a serious offence, he/she will be arrested.¹⁶³

¹⁶¹ Report prepared by Global initiative to End All Corporal Punishment of Children, July, 2010,, Bhutan-Country Report, Summary of necessary legal reform to achieve full prohibition

¹⁶² Ibid.

¹⁶³ UNICEF, ROSA (2006). 'Juvenile Justice in South Asia: Improving Protection for Children in Conflict with the Law.' Kathmandu: Nepal.

Further, if a juvenile is arrested on criminal charges, there are well laid out procedures including the child being informed of the charge through a parent, family member or legal guardian,¹⁶⁴ represented by a *Jabmi* (legal counsel) and accompanied by a parent, family member or legal guardian during the trial. Depending on the case, the court may allow a juvenile to return home after advice/admonition or release on probation.¹⁶⁵ The best interest of the child, his/her age, physical and mental health condition and other factors are taken into account when making rulings.

The judicial system is child-friendly and the procedural codes are also child-friendly.¹⁶⁶ All hearings involving children are held 'in camera' to protect their identity or privacy. At every stage in a legal proceeding,¹⁶⁷ a child can testify only in the presence of his or her parent or guardian except when the court is satisfied that the child is mature enough to understand and answer the question or the parent or guardian is unavailable and there exists good cause for their absence.¹⁶⁸

Different procedures and protective mechanisms have been established for children in conflict with the law or those who are victims of violence. If a child is a perpetrator of a crime then he/she is not considered liable if he/she is below the age of 10 years. Otherwise the child is given half the sentence as provided for an adult, and further may be liable for abatement if he/she assists in the commission of a crime. However, no juvenile has been sentenced to life imprisonment without the possibility of release.

All cases relating to children are prioritized and there is no delay in the disposition of cases and in the execution of orders granting compensation to child victims. Moreover, when dealing with children, the National Commission for Women and Children/Women and Child Protection Unit or sometimes NGOs work with child victims to assist them in legal procedures. The professionals

¹⁶⁴ Royal Government of Bhutan, Section 213, Penal Code of Bhutan.

¹⁶⁵ Royal Government of Bhutan, Section 213.1, Penal Code of Bhutan.

¹⁶⁶ Royal Government of Bhutan, Chapter 44, Civil and Criminal Procedure Code.

¹⁶⁷ Royal Government of Bhutan, Section 53, Evidence Act of Bhutan.

¹⁶⁸ This is in conformity with the UN guidelines on Justice on matters concerning child victims and witnesses of crime.

from these organizations are trained in legal and psychological counselling.

India

The Indian Constitution, various national policies and laws concerning children and international legal instruments ratified by India, particularly the UNCRC, 1989, provide the legal framework for ensuring children's rights to survival, development, protection and participation.¹⁶⁹

Prevention of violence

Registration of birth

The registration of births and deaths has been made compulsory throughout the country under the Registration of Births and Deaths Act, 1969. At the national level, the Office of the Registrar General, India, coordinates the birth and death registration activities in the country and also compiles data relating to birth and death registration.¹⁷⁰

Minimum age of marriage

Even though early marriage is still highly prevalent, the legal age of marriage is 21 years for boys and 18 years for girls.¹⁷¹ The government has enacted the Prohibition of Child Marriage Act, 2006, to overcome the constraints of former legislation (Child Marriage Restraint Act, 2006) and to put in place a comprehensive mechanism. The law seeks to prevent child marriages by making certain actions punishable and by appointing certain authorities such as a Child Marriage Prohibition Officer.¹⁷²

Minimum age for sexual consent

The legal age of sexual consent for girls is defined as 16 years, while there is no defined age for boys.¹⁷³

¹⁶⁹ Bharti Ali, Co-Director. *Child Rights in India: The Legal Framework*. HAQ: Centre for Child Rights, Delhi, India.

¹⁷⁰ Government of India (16 July 2003). *Second Periodic Report, India. Committee on the Rights of the Child, CRC/C/93/Add.5*.

¹⁷¹ Government of India, *Prohibition of Child Marriage Act, 2006*.

¹⁷² Ministry of Women and Child Development, Government of India (2006). *Handbook on Prohibition of the Child Marriage Act*.

¹⁷³ Government of India (16 July 2003). *Second Periodic Report, India. Committee on the Rights of the Child, CRC/C/93/Add.5*.

Prohibition of violence

Degrading practices

The Indian Penal Code prohibits imposition of the death penalty on children. The Indian Penal Code and Juvenile Justice (Care and Protection of Children) Act, 2000, prohibits any kind of torture or other cruel, inhuman or degrading treatment or punishment of children.¹⁷⁴ Children under the Juvenile Justice legislation are defined as persons below the age of 18 years, thus conforming to the UNCRC.

Acts such as kidnapping, abducting or inducing a woman to compel her for marriage or illicit intercourse, procuring minor girls, importing girls from foreign countries, selling minor girls for the purposes of prostitution and buying minor girls for the purposes of prostitution are punishable under the Indian Penal Code¹⁷⁵. However, these provisions are restricted to girls.

Sexual abuse and exploitation

Currently there are no comprehensive laws that look into all forms of sexual abuse. Acts such as 'grooming' for sexual activities are not covered under any law. Sexual abuse of boys is not specifically addressed. The only form of sexual abuse of boys covered by law is sodomy, which is covered under the Indian Penal Code. However, there is a move towards framing a separate law on sexual offences against children widening the scope of law to include both contact and non-contact forms of sexual abuse. This law could be part of the draft Bill on Prevention of Offences against the Child, 2009, which is under discussion at present. Alternatively, if the demands of child rights activists are taken into account, it may become part of the main criminal law, i.e. the Indian Penal Code, the Code of Criminal Procedure and the Indian Evidence Act, each of which contains a separate section on sexual offences against children.

The Indian Penal Code recognizes rape in marriage only if a girl is below 15 years. Acts such as assault or criminal force used on women (including girls) with intent to outrage their modesty, cohabitation caused by a man deceitfully inducing a belief of lawful marriage, words, gestures or acts intended to insult the

¹⁷⁴ *Ibid.*

¹⁷⁵ HAQ: Centre for Child Rights, Delhi. *India Child Trafficking. Paper by CACT for the India Report on UN Study on Violence Against Children*.

modesty of a woman, and unnatural sex, i.e. carnal intercourse with a woman, are punishable under the Indian Penal Code. As for boys, there is no corresponding law except Section 377 of the Indian Penal Code that deals with unnatural sexual offences against both girls and boys.

Sexual exploitation such as forced prostitution, socially and religiously sanctified forms of prostitution and pornography are prohibited under various laws.¹⁷⁶ The Indian Penal Code has several provisions related to obscenity (Sections 292, 293 and 294), which could be used to prosecute cases of child pornography.¹⁷⁷

Further, the Young Persons (Harmful Publications) Act, 1956, lays down provisions to prevent dissemination of certain publications (with or without the aid of pictures) harmful to young persons (under the age of 20 years).¹⁷⁸ The Information Technology (Amendment) Act, 2008, which came into force from February 2009, prohibits publishing or transmitting of material depicting children in sexually explicit acts, in electronic form.¹⁷⁹ This provision covers inducing or enticing children to online relationships for sexually explicit acts. The Indecent Representation of Women (Prohibition) Act, 1956, prohibits indecent representation of women (including girls) through advertisements, books, pamphlets, etc. or references which have the effect of denigrating women and are derogatory to them.¹⁸⁰

Trafficking

The Immoral Traffic (Prevention) Act, 1956, covers sexual exploitation of both girls and boys for commercial purposes and provides enhanced penalties for offences involving children and minors. It prescribes stringent punishment

against perpetrators inducing children (below 16 years) and minors (16 to 18 years) in the offences of procuring, inducing or taking such a person for the sake of prostitution.

Certain amendments have been proposed to this Act, including raising the age of a child to 18 years, defining 'trafficking', deletion of provisions which criminalize and re-victimize the victims, enhanced punishment for traffickers, pimps, etc., punishment for persons who visit brothels for commercial sexual exploitation, provision for 'in camera' trial to safeguard privacy of victims, and setting up of nodal authorities at the Centre and States.¹⁸¹ These amendments are yet to be passed by the Parliament.

The Juvenile Justice (Care and Protection of Children) Act, 2000, has defined a trafficked child as a child in need of care and protection and provides for their basic needs and protection of their human rights.

Child labour

For all children below 14 years, the Constitution prohibits trafficking, *begar* (bonded labour) and other forms of forced labour. The Child Labour (Prohibition and Regulation) Act, 1986, prohibits employment of children below 14 years in certain hazardous occupations (65 occupations and 16 processes), including domestic work and work in the hotel and entertainment sectors, and regulates it in certain other non-hazardous occupations. The Factories Act, 1948, prohibits the employment of children below the age of 14 years, the Mines Act, 1952, prohibits employment below 18 years of age in a mine and the Apprentices Act, 1961, allows a child to be an apprentice only if he or she is not less than 14 years of age.

All forms of slavery, including child slavery, are prohibited under the Indian Penal Code and any person indulging in such acts is liable for punishment. The Bonded Labour System (Abolition) Act, 1976, prohibits forcing a person into bonded labour for debt repayment. This includes punishment for parents who pledge their child or other family member to work as a

¹⁷⁶ *Ibid.*

¹⁷⁷ ECPAT-International (2004). *Report on Laws and Legal Procedures Concerning the Commercial Sexual Exploitation of Children in India.*

¹⁷⁸ Government of India (16 July 2003). *Second Periodic Report, India. Committee on the Rights of the Child, CRC/C/93/Add.5.*

¹⁷⁹ Ministry of Law and Justice, Government of India. Section 67 B, *The Information Technology (Amendment) Act, 2008. Gazette of India Notification dated 5 February, 2009. No. 13. Available at:*

http://www.mit.gov.in/download/it_amendment_act2008.pdf

¹⁸⁰ Government of India, *The Indecent Representation of Women (Prohibition) Act, 1986, Bare Act. Statement of Objects and Reasons. p.1.*

¹⁸¹ Ministry of Women and Child Development, Government of India (2008). *India Country Report to Prevent and Combat Trafficking and Commercial Sexual Exploitation of Children and Women. World Congress III against Sexual Exploitation of Children and Adolescents (Rio de Janeiro, Brazil, November 2008).*

bonded labourer.¹⁸² The Act provides for imprisonment up to 3 years and fine up to Rs. 2,000 for whoever compels any person to render any bonded labour and whoever advances any bonded debt.¹⁸³

Domestic violence

The government has enacted the Protection of Women from Domestic Violence Act, 2005; however, it does not have any specific provisions for children who are victims of domestic violence.

Harmful traditional practices

Early marriage is a harmful traditional practice and legislations have been put in place for its prohibition.

The *Devadasi* system (dedication of girls to gods and goddesses) is still prevalent in the States of Andhra Pradesh and Karnataka although it is prohibited under the Andhra Pradesh Devadasis (Prohibition of Dedication) Act, 1988, and the Karnataka Devadasi (Prohibition of Dedication) Act, 1982.¹⁸⁴

Corporal punishment

Corporal Punishment is lawful in the home. It is unlawful as a sentence of crime under the Juvenile Justice (Care and Protection) of Children Act, 2000. Also, the Act prohibits disciplinary measure in penal institutions. Corporal Punishment is prohibited in care institutions; however, it is lawful in non-institutional form of care.¹⁸⁵

India has recently enacted the Right to Free and Compulsory Education Act, 2010, which prohibits corporal punishment in school and holding back or expelling a child from school till he/she completes elementary education. Formulation of Rules under the Act is under way and various State laws are being reviewed.¹⁸⁶

¹⁸² *Ibid.*

¹⁸³ <http://labour.nic.in/annrep/files2k1/lab9.pdf>

¹⁸⁴ *HAQ: Centre for Child Rights, Delhi. India Child Trafficking. Paper by CACT for the India Report on UN Study on Violence Against Children.*

¹⁸⁵ *Report prepared by Global initiative to End All Corporal Punishment of Children, July, 2010, India-Country Report, Summary of necessary legal reform to achieve full prohibition.*

¹⁸⁶ www.endcorporalpunishment.org. *Global Initiative Newsletter 12 (May 10).*

The proposed Prevention of Offences against the Child Bill, 2009, seeks to ban corporal punishment.

Minimum age of criminal responsibility

The Indian Penal Code, 1860, defines the minimum age for criminal responsibility as 7 years, and *doli incapax* (the final age categories relevant to the minimum age of criminal responsibility) provides for children between 7 and 12 years of age.¹⁸⁷

Juvenile justice system

The Juvenile Justice (Care and Protection of Children) Act, 2000, clearly states that a child cannot be tried under any other law. Further, the child has to be produced before the Juvenile Justice Board and placed in an Observation Home for care and support. The Act as amended in 2006 prohibits sentencing of a juvenile to death or life imprisonment or committing them to an adult prison.¹⁸⁸

While the Juvenile Justice law provides for a separate legal mechanism to deal with children, both those in conflict with the law and those in need of care and protection, this mechanism does not exist in every district. In many States, bodies such as Juvenile Justice Boards are chaired by the Chief Judicial Magistrate of a district, which contravenes the law and its spirit.

Child-friendly court procedures

In general, the courts in India are not child-friendly and the environment can be quite intimidating for a child. In the recent past, the courts through their judgments and orders have been giving directions for child-friendly procedures, particularly in cases related to sexual abuse and exploitation. However, these directions are yet to be implemented uniformly by all courts across the country. Children are given the opportunity to express their views in all judicial proceedings but a lot also depends on the public prosecutors and lawyers representing them. Also, it is difficult to say whether children's views are taken in all processes of child protection.

¹⁸⁷ UNICEF, ROSA. *South Asia and the minimum age of criminal responsibility, Raising the Standard of Protection for Children's Rights.*

¹⁸⁸ *Government of India (16 July 2003). Second Periodic Report, India. Committee on the Rights of the Child, CRC/C/93/Add.5.*

Maldives

The Maldives has recently undergone significant legislative reform with the adoption and enactment of a new Constitution in August 2008. The legislative sources are the Constitution of the Republic of Maldives, laws enacted by the People's Majlis, and statutory instruments such as rules and regulations of the government authorities.

The new Constitution is directly relevant for child protection and recognizes children as rights holders, granting them constitutional rights to be free from all forms of discrimination and exploitation. It also stipulates special protection for children in the event of family breakdown and crisis.

Prevention of violence

Registration of Births

The Registration of Births and Deaths in Maldives requires application for birth registration to be made within 7 days of the birth of the child. The responsibility of registering a child within the required time period lies with (in descending order): the father, the mother, the guardian, or the closest relative. Births can be registered in all the island offices of the Maldives.¹⁸⁹

Minimum Age of Marriage

The minimum age of marriage is established at 18 years;¹⁹⁰ however, marriages of children under the age of 18 years do occasionally take place.¹⁹¹

Prohibition of violence

Degrading practices

The Constitution prohibits all forms of slavery, torture and other cruel, inhuman and degrading treatment. Even though the Maldives recognizes the death penalty as part of Shari'a law, the punishment has not been implemented since 1953. In addition, because of the UNCRC, Maldives are not implementing the death penalty for persons under 18 years.

¹⁸⁹ *Government of Maldives (10 April 2006). Second and Third Periodic Reports. UN Convention on the Rights of the Child, CRC/C/MDV/3.*

¹⁹⁰ *Government of Maldives, Family Law.*

¹⁹¹ *Interview with Former Chief Judge of the family court, Maldives, 2009.*

Sexual abuse and exploitation

The Child Sexual Abuse (Special Provision) Act, 2009, specifies special provisions to deal with sexual offences committed against children and covers stages of investigation, trial and sentence. It provides broad definitions of sexual abuse and a range of sexually exploitative acts against children including child prostitution, child pornography, production, dissemination and possession of pornography, and forced child prostitution.

The Law on the Protection of the Rights of the Child prohibits all acts detrimental to the integrity of the child and includes sexual abuse.

Marital rape is not considered by many people as rape, and since it is seen as a very private matter, such incidences are rarely reported. There is a proposal to amend the Penal Code to criminalize marital rape but lawmakers are much divided on the issue.¹⁹²

Criminal responsibility

The age of criminal responsibility is established at 10 years.¹⁹³

Children from 10 years and under 15 years are not to be held criminally liable for any offence committed by them except offences stipulated as serious crimes in the regulations. These children are to be treated as minors in accordance with the relevant rules for minors. Where an offence committed by any such person is considered a serious offence, the Juvenile Court may order the person to the rehabilitation center. Children between 15 and less than 18 years shall bear criminal liability with respect to offences committed by them; however they should be sentenced under a special scheme for juveniles.¹⁹⁴

Child labour

The Constitution of Maldives prohibits forced labour. The Employment Act explicitly prohibits the employment of children in all forms of hazardous labour, while setting the minimum age of employment of children at 16 years and

¹⁹² *Proposed Penal Code, Maldives.*

¹⁹³ *Government of Maldives, Rules on Investigation, Adjudication and Sentencing of Juveniles.*

¹⁹⁴ *Government of Maldives (2006). Combined first and second Periodic Report to the United Nations Committee on the Rights of the Child, pp 100*

stipulating criteria for the employment of children between 16 and 18 years.

Corporal punishment

Corporal Punishment is lawful at home. The Law on the Protection of the Rights of the Child and the Family Law prohibits only severe punishment which may harm the child. There is no legal defence for use of corporal punishment by parents in the existing Penal Code, however, the draft Penal Code (2006) introduces a legal defence for the for the use of corporal punishment in the home and other settings.¹⁹⁵

There is no explicit prohibition of corporal punishment in schools. The Law on Protection and Rights of the Child says that punishment in schools should be appropriate to the child age and should not affect them physically or psychologically. The Ministry of Education has stated that corporal punishment should not be used but the new draft Penal Code introduces a legal defence for the use of corporal punishment by teachers.¹⁹⁶

Corporal Punishment is lawful as a sentence of crime. The Law on Protection and Rights of the Child prohibits cruel and degrading punishment on children and the Penal Code does not include judicial corporal punishment for crimes that fall outside of *Shari'a* law.¹⁹⁷

There is no explicit prohibition of corporal punishment as a disciplinary measure in penal institutions. It is also lawful in alternative care settings¹⁹⁸

Domestic violence

Domestic violence is not usually reported to the authorities, however, when reported and charges are pressed. However, the offence is dealt as “common assault” under the Penal Code and not as domestic violence *per se*.

¹⁹⁵ Report prepared by Global initiative to End All Corporal Punishment of Children, July, 2010, Maldives-Country Report, Summary of necessary legal reform to achieve full prohibition

¹⁹⁶ Report prepared by Global initiative to End All Corporal Punishment of Children, July, 2010, Maldives-Country Report, Summary of necessary legal reform to achieve full prohibition

¹⁹⁷ *Ibid.*

¹⁹⁸ *Ibid.*

It is very often seen that such charges end up with one party, mostly women, withdrawing the complaint or both parties being told to reconcile.

Juvenile justice system

The juvenile justice system is currently governed by the Law on the Protection of the Rights of the Child. A new Act is currently being drafted.

The juvenile justice component presently under the Child and Family Protection Services is in the process of being transferred to the Juvenile Justice Unit under the Ministry of Home.

In practice, police reportedly refer all juvenile offenders in the first instance to the Family and Child Protection Department. If the child is between the ages of 7 and 14, an investigation may only be initiated in relation to an offence prescribed under Islamic law or other specified serious offences.

In all other cases, the child (under the age of 18) is referred to the Child and Family Protection Services under the Department of Gender and Family Protection Services, which provides social work and advocacy services. Crimes committed by children between the ages of 14 and under 18 should only be investigated ‘in cases where such a necessity arises’ and they too may be referred instead to the Child and Family Protection Services.

Nepal

The Interim Constitution of Nepal, 2007, has encompassed fundamental rights of children, including protection rights. It provides protection rights to a child from physical, mental or other forms of exploitation. The right to special privileges has been provided to helpless, orphaned or mentally retarded children, children who are victims of conflict or displaced, and street children. It also prohibits minors from being employed in factories, mines or in any other hazardous work including use by the army or police during a conflict situation. There is no death penalty in Nepal.

There are several laws which cover various forms of violence. There are also regulations and guidelines from the government calling for ending exploitation of children and for restriction of certain harmful traditional practices. The important legislation pertaining to protection

rights of children are the Children's Act, 1992, Child Labour Act, 1999, the Country Code 11th amendment and the Human Trafficking Act, 2064 (2007).

Prevention of violence

Minimum age of marriage

The minimum age for marriage for both boys and girls has been established as 18 years of age with the consent of parents or guardians and 20 years without consent.

Despite the legal provisions, the practice of child marriage is widely prevalent in Nepal, especially in the Terai region, where the median age for girls' marriage is 16.2 years.¹⁹⁹

Prohibition of violence

Sexual abuse and exploitation

In the Civil Code, child sexual abuse is dealt with as an attempted rape. A sexual relationship with a girl below 16 years of age, or without consent with a woman above 16 years of age, is considered as forced rape and is punishable by law. Unnatural sexual relationships with a child amount to forced rape. In such cases, a child victim has right to compensation. The rape laws do not mention the sexual abuse of boys in any legislation. Also, legislation does not cover other forms of sexual abuse including non-contact forms.

Further, the Civil Code states that if a brother rapes his own sister or if a father rapes his own daughter or adopted daughter, son or step-daughter, he will serve a prison sentence. If the sister or daughter was promiscuous, the sentence will be reduced by half;²⁰⁰ however, this provision is discriminatory against girls and women. Use of children in pornography is prohibited.²⁰¹

Corporal punishment

¹⁹⁹ Family Health Division, Department of Health Services, Ministry of Health, Government of Nepal (2002), *Nepal Demographic and Health Survey, 2001*, pp 106

²⁰⁰ Save the Children Sweden (2005). 'Mapping Save the Children Response to Violence against Children in South Asia.' Kathmandu, Nepal.

²⁰¹ Government of Nepal, *Children's Act 1992*.

Corporal punishment is yet to be banned in schools, home, alternative care settings and as a disciplinary measure in the penal system.²⁰²

The Children's Act, 1992, prohibits a child from being subjected to torture or cruel treatment, yet no specific legislation prohibits corporal punishment.²⁰³

The Supreme Court of Nepal in 2004 ruled that the restrictive clause in Article 7²⁰⁴ of the Children's Act, 1992 was unconstitutional and declared the portion "or give him/her minor beating" null and void. It also issued a directive to the government "to pursue appropriate and effective measures to prevent physical punishment as well as other cruel, inhuman or degrading treatment or punishment or abuse being imposed or inflicted on and likely to be imposed or inflicted on children".²⁰⁵

The Government is in the process of drafting a new Children's Act which would look at corporal punishment in all settings.

Criminal responsibility

The age of criminal responsibility of a child has been established at 10 years and children below this age are not liable for any type of punishment.²⁰⁶ A child between 10 and 14 years can be given a simple warning, but if the offence is punishable with imprisonment, he/she can be kept in a corrective home for up to six months. A child between 14 and 16 years old can be

²⁰² *Global progress towards prohibiting all corporal punishment. Prepared by the Global Initiative to End All Corporal Punishment of Children, May 2010. Available at:*

www.endcorporalpunishment.org

²⁰³ <http://www.endcorporalpunishment.org/pages/pdfs/charts/Chart-SouthAsia.pdf>. *Progress towards prohibiting all corporal punishment in South Asia. Prepared by the Global Initiative to End All Corporal Punishment of Children, November 2009.*

²⁰⁴ Article 7 of the Children Act, 1992 states "No child shall be subjected to torture or cruel treatment. Provided that the act of scolding and minor beating to the child by his father, mother, member of the family, guardian or teacher for the interests of the child shall himself not be deemed to violate the provision of this section".

²⁰⁵ Report prepared by Global initiative to End All Corporal Punishment of Children, July, 2010, *Nepal-Country Report, Summary of necessary legal reform to achieve full prohibition.*

²⁰⁶ <http://www.endcorporalpunishment.org/pages/pdfs/charts/Chart-SouthAsia.pdf>. *Progress towards prohibiting all corporal punishment in South Asia. Prepared by the Global Initiative to End All Corporal Punishment of Children, November 2009.*

punished with half the penalty of that of an adult offender.

Child labour

The Child Labour (Prohibition and Regularization) Act, 1999, lists different types of work as hazardous for children below 16 years of age and imposes harsh penalties if children are found employed in such work. Employment of children below the age of 14 years in manufacturing industries is prohibited and employment of children between the age of 14 and 18 years is regulated.²⁰⁷

Employment of a child in work that is likely to be harmful to the child's health or hazardous to the child's life is prohibited.²⁰⁸ However, provisions relating to the employment of children in the informal sectors, such as domestic service, do not exist.

The Labour Act of 1992 prohibits bonded labour. The National Master Plan of Action on Child Labour has termed slavery, use of children in armed conflict, prostitution and drug trafficking as illegal.

Trafficking

The Human Trafficking Act, 2007, defines various forms of trafficking besides for sexual exploitation and includes acts of selling or buying, enticing or forcing any person into prostitution with or without seeking profit, and illegal dismembering of human organs. The law also provides victim-friendly trial, confidentiality and privacy and makes provision for rescue, repatriation, rehabilitation and reintegration of the victims. It also establishes extra-territorial jurisdiction of offences committed outside Nepal.

Use of children in immoral professions, including the sale and distribution of and trafficking of alcoholic drinks, and narcotic and other drugs, is prohibited.²⁰⁹

Harmful traditional practices

A number of harmful traditional practices such as *denki* (offering girl children to a god) and *chhaupadi* (segregation of women and girls during menstruation) are practised in Nepal. The Children's Act, 1992, prohibits the use of

children for sexual purposes and offering of children in the name of gods and goddesses. This seems to have helped greatly reduce the instances of *denki* in the Mid-west and Far-west regions of the country. Nepal has declared *chhaupadi* as a harmful traditional practice.

In the upper belt of Nepal, *jhuma*, is practised, where the middle daughter of a family is offered to Gods.

Domestic violence

The government has enacted the Domestic Violence (Offence and Punishment) Act, 2066 (2009), to prevent and control violence occurring within the family. According to the Act, domestic violence includes any form of physical, mental, sexual and economic harm as defined in the Act. It lays down procedures for filing complaints, provision of medical treatment for the victim and provision of protection to the victim if found necessary. Further, it says that on request of the victim, the court can conduct the proceedings 'in camera'.

Juvenile justice system

Nepal does not currently have a comprehensive juvenile justice system. Although a Children's Act was introduced in 1992 to govern procedures for dealing with children in conflict with the law and children in need of protection, the implementation of the law has been fragmented. Children are not systematically separated from adults at all stages of the criminal proceedings, and juvenile justice is not yet treated as a fully separate and independent system.²¹⁰

The Children's Act, 1992, stipulates special procedures and protections for children in conflict with the law. However, the law defines a child as a person under the age of 16. Children between the ages of 16 and 18 are considered as adults. Furthermore, where a child is co-accused with an adult, he or she is subject to the regular adult procedures.²¹¹

The Children's Act, 1992, calls for the creation of specialized Juvenile Courts, or the designation of a Juvenile Bench, in each district to hear all cases involving children in conflict with the law. The Juvenile Bench is comprised of a judge, and may

²⁰⁷ Government of Nepal, *Children's Act 1992*.

²⁰⁸ *Ibid*.

²⁰⁹ Government of Nepal, *Children's Act 1992*.

²¹⁰ UNICEF, ROSA (2006). *Juvenile Justice in South Asia: Improving Protection for Children in Conflict with the Law*. Kathmandu: Nepal.

²¹¹ *Ibid*.

also include a social worker, child specialist or child psychologist.²¹²

Presently, Juvenile Bench at 28 District Courts are functional to hear matters related to children in conflict with the law.

Further, the capacity of the Correctional Home in Sanothimi, Bhaktapur has been increased. A new Correctional Home will be in operation in Pokhara, Kaski, in the near future. A Correctional Home is under construction in Biratnagar, Morang. The Ministry of Women, Children and Social Welfare is in the process of setting up a Correctional Home in Nepalgunj, Banke.

The Government of Nepal is drafting a new Children's Act which will be addressing Juvenile Justice System in a more comprehensive manner.

Child-friendly court procedures

Recently a Court Guideline 2063 (2006) has been issued on the juvenile justice system which gives space to a child in court proceedings, recommends that the court listens to his or her opinions, deals with the child in a friendly way, and establishes a provision to use CCTV to maintain confidentiality. It also talks about child-sensitive procedures to ensure that the best interests of child victims are taken into account and make sure that they are not re-victimized. However, the guidelines are yet to be fully implemented.

In addition, the Supreme Court of Nepal has made several decisions relating to child protection which include the prohibition of physical punishment of children, keeping children in child correction homes during judicial custody and while serving sentences, and keeping children separately from adults in the same prison, not handcuffed.²¹³

Overall, there is inadequate training for those who work with child victims, especially those in law professions dealing with children's cases, child psychologists and social councillors. A Juvenile Justice Coordination Committee has been formed for providing necessary legal and policy advice to the government on

²¹² *Ibid.*

²¹³ *National Human Rights Commission, (2008) 'Status of Child Rights in Nepal', Annual Report, Kathmandu, Nepal.*

strengthening juvenile justice system in the country.

Pakistan

In Pakistan's legal system, protection of the child is anchored on the Constitution and family codes pertaining to the welfare and protection of children and women inside the family. Pakistan has a number of federal as well as provincial laws on children. As a general rule, federal laws override provincial laws pertaining to the same issue. There also exist personal laws based on religion, particularly in the area of family law. However, there is no uniformity on the application of these laws. This legal pluralism invariably results in confusion as well as inequity and discrimination against disadvantaged groups in society, particularly women and children.

The Constitution of Pakistan declares that all citizens are equal before the law and are entitled to equal protection.

Prevention of violence

Registration of birth

The Births, Deaths and Marriages Registration Act, 1886, the Cantonments Act, 1924, and the National Registration Act, 1973, provide for birth registration in each province and region of the country.²¹⁴

Minimum age of marriage

The legal age of marriage is 18 years for boys and 16 years for girls.²¹⁵ Despite legislation, the traditional practice of early marriage continues to take place, especially in rural areas, including among the Afghan refugee population. Moreover, despite legal provisions, many marriages are not registered.²¹⁶

Though under the Dissolution of Muslim Marriages Act (1939), a girl whose marriage was arranged by her guardian can repudiate the marriage upon attaining puberty, in practice

²¹⁴ *Government of Pakistan (11 April 2003). Second Periodic Report, Pakistan. UN Convention on the Rights of the Child, CRC/C/65/Add.21.*

²¹⁵ *Government of Pakistan, Child Marriages Restraint Act, 1929.*

²¹⁶ *Government of Pakistan, Death, Birth and Marriage Registration Act, 1890.*

societal norms and legal complications make it virtually impossible for minors to do so. Recently, governor of Khyber-Pakhtunkhwa has promulgated the Child Protection and Welfare Ordinance, 2010 which seeks to provide children against child marriage and discriminatory custom practices in accordance with federal laws.²¹⁷

Prohibition of violence

Degrading practices

The Constitution provides legal protection to the child from discrimination and exploitation and prohibits slavery and forced labour as fundamental rights. The Juvenile Justice System Ordinance (JJSO) prohibits the death penalty for individuals below 18 years of age.

The Pakistan Penal Code contains a number of provisions which criminalize acts including kidnapping, abduction, inducing a woman to forced marriage, procuring a minor girl less than 18 years, and importing a girl under the age of 21 years from abroad with the intent of forcing her to have illicit intercourse with another person. However, these provisions do not apply to boys. Also, kidnapping of a child under 10 is punishable with death under the Penal Code. It also criminalizes buying or disposing of any person as a slave or dealing in slaves, wrongful confinement and restraint.²¹⁸

Sexual abuse and exploitation

Sexual abuse and exploitation of children is mostly covered by the Penal Code, or the comparatively recent *Hadood* Ordinance. Brothels and public soliciting for prostitution are illegal. Also, acts such as procuring or enticing women, regardless of age, to engage in prostitution as well as profiting from the prostitution, abduction, trafficking and procuring children under the age of 18 are categorized as criminal offences under the Penal Code.

The Child Protection (Criminal Law Amendment) Bill, 2009, proposes to expand the term sexual abuse and punish persons who engage in acts such as fondling, stroking, caressing, exhibitionism, voyeurism or any

obscene or sexually explicit conduct or simulation.²¹⁹

The Provincial Suppression of Prostitution Ordinance, 1961, prohibits the attraction, attention by words, gestures, wilful and indecent exposure of the body for the purpose of prostitution of girls below the age of 16 years.²²⁰ However, these laws mainly apply to girls and women and do not cover boys. Additionally, sodomy is considered a criminal act.²²¹

Child pornography is insufficiently covered by the national legal system and currently there is no specific legislation to protect children from harm. The Child Protection (Criminal Law Amendment) Bill, 2009, proposes to protect children by making it illegal to expose children to pornography or use children for producing pornographic materials, both print and electronic.²²² Further, any person found engaging in such acts shall be liable for imprisonment up to seven years or a fine of up to five hundred thousand rupees or both.

Trafficking

The law relating to trafficking includes acts of smuggling women abroad for prostitution and children for camel racing and sexual abuse.²²³ It stipulates that purchasing, selling, harbouring, transporting, providing, detaining or obtaining a child or woman through coercion, kidnapping, abduction or by giving or receiving benefit for trafficking for exploitative entertainment (sports, sex), is punishable with 10–14 years' imprisonment and a fine.

The draft Child Protection Bill proposes to amend the Pakistan Penal Code by introduction of a new section wherein any person involved in trafficking in Pakistan would be liable to be punished with imprisonment up to 10 years and also fined.

²¹⁷ *The Express Tribune with the International Herald Tribune, July 24, 2010, Child Marriage*

²¹⁸ *Government of Pakistan, Penal Code of Pakistan.*

²¹⁹ *Government of Pakistan, Child Protection (Criminal Law Amendment) Bill, 2009.*

²²⁰ *Government of Pakistan, Provincial Suppression of Prostitution Ordinance (1961).*

²²¹ *Government of Pakistan, Penal Code Pakistan.*

²²² *Government of Pakistan, Section 292 B, Child Protection (Criminal Law Amendment) Bill, 2009.*

²²³ *Government of Pakistan, Prevention and Control of Human Trafficking Ordinance, 2002.*

Age of criminal responsibility

The Pakistan Penal Code sets the age of criminal responsibility for most offences at 7 years, while lays out *doli incapax* provisions for most offences for children between 7 and 12 years of age.²²⁴ However, the proposed Child Protection Bill intends to raise the minimum age of criminal responsibility to 12 years.

Corporal punishment

Socio-cultural values and the legal system in Pakistan reinforce and perpetuate corporal punishment.

Parents, teachers and other guardians are allowed to use corporal punishment as a means of disciplining and correcting the behaviour of children under 12 (Section 89 of the Penal Code).²²⁵

Directives issued in North West Frontier, Punjab and Sindh Provinces state that corporal punishment should not be used, but there is no prohibition in law. The Prohibition of Corporal Punishment Bill, 2010, currently under discussion would apply to all education settings.²²⁶ The draft Child Protection Bill also attempts to abolish corporal punishment and prohibit its practice in any form.²²⁷

The Juvenile Justice System Ordinance, 2000, provides some protection from corporal punishment as a sentence for crime.²²⁸ There is no prohibition to corporal punishment in alternative care settings and as a disciplinary measure in the penal system.²²⁹

Domestic violence

The proposed legislation on domestic violence gives a broad definition of domestic violence and includes emotional abuse, stalking and wrongful

confinement. Depriving a spouse of financial and other resources for living is also considered as a violation. The proposed Bill provides protection to every person in a household including elderly parents, children and husbands. It also envisages setting up local-level Committees. Though the Bill has been receiving support from rights advocates and victims of domestic violence, some lawmakers are of the view that such a law would disturb the social fabric and increase the incidence of divorce.²³⁰

Harmful traditional practices

Selling of a woman, forced marriage and the custom of *Vani* (giving a woman in marriage to settle a feud) have been made an offence.²³¹

Child labour

The Employment of Children Act, 1991, prohibits children below 14 years from being employed in hazardous industry but permits them to be employed in government training institutes and non-hazardous work.²³²

Juvenile justice system

The Juvenile Justice System Ordinance (JJSO), 2000, defines the age of the child as below 18 years and abolishes the death sentence for children. The Act also provides for the establishment of Juvenile Courts. However, at present there is only one Juvenile Court, established in Karachi. In the absence of Juvenile Courts, High Courts have been conferred with the necessary powers.

In collaboration with the Ministry of Human Rights, the Police Department and civil society partners, have establish a model Juvenile Justice System in the North West Frontier Province. This includes an effective mechanism to monitor cases of children coming in contact with the law. A database has been established within the Police Department to record and track cases of violence against children. An agreement has been signed to incorporate child rights in the police training curriculum. A Child Protection Centre has been

²²⁴ UNICEF, ROSA (2005). 'South Asia and the minimum age of criminal responsibility, Raising the Standard of Protection for Children's Rights'. Kathmandu: Nepal.

²²⁵ Government of Pakistan, Section 89, Pakistan Penal Code.

²²⁶ Note No 61, Global progress towards prohibiting all corporal punishment. Prepared by the Global Initiative to End All Corporal Punishment of Children, May 2010. Available at: www.endcorporalpunishment.org

²²⁷ Government of Pakistan, Child Protection Bill.

²²⁸ Note No 62, Global progress towards prohibiting all corporal punishment. Prepared by the Global Initiative to End All Corporal Punishment of Children, May 2010. Available at: www.endcorporalpunishment.org

²²⁹ Ibid.

²³⁰ Nabal Toosi, The Associated Press, Rawalpindi, Pakistan, April 8, 2010. Pakistan – Proposed Domestic Violence Law Divisive. <http://abcnews.go.com/International/WireStory>.

²³¹ Government of Pakistan. Amendments have been made in the Haddood Ordinance through the Prevention of Anti-Women Practices (Criminal Law) Amendment Act, 2006; Penal Code, Pakistan.

²³² Save the Children Sweden (2005). Save the Children Response to Violence against Children in South Asia.

set up within the Police Department to divert children from criminal justice proceedings and provide necessary legal, psychological and protection support. Regular support to improve the environment and rehabilitation services for children in jail is provided.

This model has proved to be successful and measures are being taken in Balochistan Province to replicate the model. The National Police Foundation will replicate the database on children in contact with the law nationally.

Legal framework at federal level

Since Pakistan has a federal government structure, the provinces have also taken initiatives on protection rights of children. For instance, the Province of Sindh has enacted the Sindh Children Act, 1955, but no major steps have been taken to implement it. Similarly, the Government of Punjab has enacted the Punjab Destitute and Neglected Children Act, 2004, and subsequently a Child Protection and Welfare Bureau has been established in the Province.

National laws do not apply in the Federally Administered Tribal Areas (FATA), where the Frontier Crimes Regulation (FCR), 1901, overrides all other laws and does not conform to the Constitution of Pakistan. It comprises substantive and procedural laws relating to criminal and civil matters and does not treat children differently from adults.

Sri Lanka

The Penal Code of Sri Lanka and other legislation covers many forms of violence against children. Extra-territorial jurisdiction is available to prosecute nationals, including diplomats, who commit offences under the Penal Code abroad.

Prevention of violence

Registration of birth

Registration of the birth of a child is mandatory under the law, but implementation of the provisions still needs to be strengthened to reach 100% coverage. The International Covenant on Civil and Political Rights Act, 2007, too, provides that every child has the right to have his or her

birth registered and to have a name from his or her date of birth, and to acquire nationality.²³³

Minimum age of marriage

Though the legal age of marriage for both boys and girls is 18 years, Muslim personal laws define the age of marriage, for both males and females, as the age of puberty.²³⁴ Kidnapping (below 16 years) or abducting (above 16 years) a girl for forced marriage is an offence.²³⁵

Minimum age of sexual consent

In Sri Lanka the age of consent to sexual acts for both girls and boys is 16 years²³⁶ except for homosexual acts which are strictly prohibited for both sexes and irrespective of age.²³⁷

Prohibition of violence

Degrading practices

The Penal Code extensively covers harm against children and includes slavery, trafficking, sexual exploitation, grave sexual abuse and sexual harassment, hiring or employing children to act as procurers for purposes of sexual intercourse or to traffic restricted articles such as drugs, debt-bondage, serfdom, forced or compulsory labour, procurement, causing or procuring children to beg, soliciting a child, obscene publication, exhibition, possession of child pornography and cruelty to children and children cannot be sentenced to death.²³⁸

Child labour

The Employment of Women, Young Persons and Children (EWYPC) Act prohibits employment of children below 18 years of age in any hazardous occupation as prescribed under the Act.²³⁹ Further, it stipulates the minimum age for employment in industrial undertakings as 14 years, employment at sea as 15 years and for every other type of employment as 14 years.

²³³ *Government of Sri Lanka (October 2008). Third and fourth combined periodic reports. UN Convention on the Rights of the Child. p.26.*

²³⁴ *Government of Sri Lanka, Section 16 of the Muslim Marriage and Divorce Act No. 13 of 1951.*

²³⁵ *Government of Sri Lanka, Penal Code, Sri Lanka.*

²³⁶ *Penal Code Amendment Act No. 29 of 1998*

²³⁷ *sec. 365A Penal Code, Government of Sri Lanka*

²³⁸ *Government of Sri Lanka, Section 53 of the Penal Code, Sri Lanka and Section 24 of Children and Young Persons Ordinance.*

²³⁹ *Government of Sri Lanka, The EWYPC Amendment Act No.24 of 2006.*

Also, a child below the age of 14 years cannot be employed so as to prevent schooling.

Corporal punishment

Corporal punishment is not prohibited in schools, homes and in alternative care settings. It is banned as a sentence for crime in the penal system, however, and some prohibition exists against using corporal punishment as a disciplinary measure in the penal system.²⁴⁰

Domestic violence

Violence in the domestic sphere was until recently considered as a private matter but this perception is slowly changing and Sri Lanka has enacted the Prevention of Domestic Violence Act, 2005, to address domestic violence. This legislation serves to protect victims from all forms of emotional abuse – which may in certain cases extend to marital rape – by issuing protection orders against the offender. If the conduct of the offender amounts to emotional abuse it is not necessary that it should also amount to a punishable offence.

Sexual abuse and exploitation

The Penal Code covers crimes relating to sexual abuse and exploitation and includes trafficking, sexual exploitation, grave sexual abuse and sexual harassment, child pornography and cruelty to children. In addition, the Children and Young Persons (Harmful Publications) Act, 1956, prohibits dissemination of pictorial publications harmful to children and young persons. The Act defines a child as a person below 14 years and a young person as aged 14–16 years.

Criminal responsibility

The Penal Code establishes the minimum age for criminal responsibility as 8 years, while it lays out *doli incapax* guidelines for a child between the ages of 8 and 12 years.²⁴¹

Juvenile justice system

Sri Lanka has had separate legislation governing the administration of juvenile justice since 1939. Children under the age of 16 who are in conflict with the law should be dealt with under the

Children and Young Person's Ordinance, 1939, (which also deals with children in need of protection); however, the law has never been fully implemented throughout the country. As yet, there is no comprehensive justice system for children in conflict with the law, and children are not systematically separated from adults at all stages of the legal proceedings²⁴²

However in 2009 a comprehensive Amendment Bill to this Ordinance was formulated by the Ministries of Child Development and Justice and the Department of Probation and Child Care Services after extensive consultations that also included children in contact with the law.

The CYPO defines a child as a person under 14 years, and a young person as a person between 14 and less than 16 years of age.²⁴³

At present, Sri Lanka does not have a specialized juvenile police unit to deal with children in conflict with the law. Although Children and Women's Desks have been established in the majority of police stations throughout the country, they deal only with child victims of crime, not child offenders. There are special procedures governing how police should handle child offenders, but these are not fully implemented and children are sometimes treated the same as adults.²⁴⁴

The CPYO requires the establishment of specialized Juvenile Courts, or the appointment of specialized Children's Magistrates at each Magistrates Court to hear all juvenile cases that come before that court.²⁴⁵

The Ministry of Justice with support from an INGO is relocating the existing Juvenile Court to a more child-friendly location and it will function as a Children's Magistrate's Court. This is part of a pilot exercise, based on the learning's the Ministry intends to establish Children's Magistrate's Courts in other parts of the country as well. The layout of the Court has been designed keeping in mind the needs of children in contact with the law and includes facilities

²⁴⁰ *Global progress towards prohibiting all corporal punishment. Prepared by the Global Initiative to End All Corporal Punishment of Children, May 2010. Available at:*

www.endcorporalpunishment.org

²⁴¹ UNICEF, ROSA. (2005) 'South Asia and the minimum age of criminal responsibility, Raising the Standard of Protection for Children's Rights' Kathmandu: Nepal.

²⁴² UNICEF ROSA, (2006) 'Juvenile Justice in South Asia: Improving Protection for Children in Conflict with the Law.' Kathmandu, Nepal. page 105

²⁴³ *Ibid.*

²⁴⁴ UNICEF ROSA, (2006) 'Juvenile Justice in South Asia: Improving Protection for Children in Conflict with the Law.' Kathmandu, Nepal. page 106

²⁴⁵ *Ibid*, page 109

such as a separate space for children in custody, separate entrances for children and the adult accused, a children's rest room and play area, access for children with special needs and counsellor's room. Two Court rooms have also

been created at this location - one to hear the care and protection cases of children and the other to hear the cases involving an adult accused.

8. National child protection systems

The UN Study on Violence against Children (2006) recommends effective national and community-based child protection systems to prevent, and protect girls and boys against, violence. The challenge is to build the capacity of ministries and professionals so that they can integrate child protection into all of their work. Naturally, one ministry needs to hold responsibility for child protection and most often this falls under the Ministry of Women and Children's Affairs and sometimes under the Ministry of Social Affairs.

However, the degree to which child protection is understood as a comprehensive and coordinated effort to prevent and respond to violence against boys and girls varies greatly from country to country.

The UN Study on Violence against Children therefore called for a national strategy and plan of action to support the systematic protection of children, to be handled by a focal point at ministerial level with sufficient resources and high level responsibility and mandate to coordinate the implementation of the strategy. Governments would also need to prioritize funding to the child protection system through allocating adequate financial resources and seeking assistance from external actors.

A child protection system constitutes a systematic approach to coordinating and integrating different sectors and actors. It requires a multi-disciplinary and multi-sectoral approach and involves working with a wide range of formal and informal organizations including government, multilateral agencies, donors, civil society, communities, families and children.

For a child protection system to operate efficiently there is a need for a comprehensive National Plan of Action for protecting children against violence. The Plan of Action should provide set of measures to prevent and respond to incidences of violence against children; establish a coordination and monitoring mechanism at the national, regional and local

level. Adequate resources, financial, human and technical should be allocated for implementation of the Plan of Action. Care should be taken that during the process of developing the Plan of Action all agencies such as relevant Ministries/Departments, civil society organisations, experts and children are meaningfully involved in the process. Further, on development of the national plan of action, efforts must be made to build capacities and train caregivers, government officials and others for effective implementation of the plan of action.

For child protection systems, the development of specialized child protection departments or bodies, child protection manuals, standards and code of conduct is necessary. Professionals working with or for children at all levels such as police, teachers, government staff, caregivers, health, judicial officers, health professionals and social workers must be trained to identify violence against children and provide necessary referrals for the child, ensuring care and confidentiality at all times.

Referral mechanisms should include clear procedures for the referral of child victims of violence and modalities for interagency cooperation (between police, health, education, judiciary, voluntary and private agencies) should be defined.²⁴⁶ Also they should be available at national, district and local level.

Prevention, recovery, rehabilitation and reintegration of child victims into the society are essential components of child protection systems. Prevention is of utmost importance, through having a protection system in place that can reduce risk situations and identify victims of violence. Such a system will have trained people such as teachers, police and health staff who can identify children at risk and child victims and support their care and follow-up. The system will also have many ways for a child to report abuse

²⁴⁶ Council of Europe (2009), *Policy Guidelines on Integrated National Strategies for the Protection of Children From Violence*. Strasbourg Cedex: Council of Europe

either through known institutions in the schools, workplace and community or through trusted people and Helplines.

Child victims have to be rescued as early as possible from the place of exploitation and provided immediate relief, including legal and medical aid and psychosocial counselling. Every child is an individual and as far as possible a recovery programme should be tailor-made for each child. The recovery programme should include provision of short- or long-term shelter, medical check-ups and psychosocial counselling, formal and non-formal education, and skill training. It should be supported by qualified and trained staff and adequately resourced. Reintegration of child victims to a community may be a long-drawn-out process and require involvement of families and community members so that the victim is easily accepted upon their return.

In addition, all children should have access to quality services adapted to their needs. The use of multi-disciplinary models of services, comprising welfare, legal, health, education and psychosocial assistance and family guidance, should be widely promoted.²⁴⁷ Also, families, particularly those from weaker economic strata, should have access to social protection programmes to enable them to meet their children's need.

Achievements

Child protection globally is a recent phenomenon and this is true for the South Asia region also. Only recently have governments started looking at child protection in a more holistic manner, and there is still an inclination to address it from an issue-based perspective. National child protection systems are still an emerging area and requisite processes are only slowly being put in place. The existing national child protection systems in the region have been summarized as follows.

²⁴⁷ *Council of Europe (2009), Policy Guidelines on Integrated National Strategies for the Protection of Children From Violence. Strasbourg Cedex: Council of Europe*

Institutional framework

Nodal agency for child protection

All countries in the region have a ministry/agency in charge of children which also acts as a nodal agency for child protection and coordinates its efforts with other relevant ministries. In Afghanistan, the Departments of Social Affairs and Women Affairs deal with major issues of child protection at the provincial level and cases of child protection at district level. In Bangladesh, it is the Ministry of Women and Children Affairs. In India, the Child Welfare and Child Protection Bureau under the Ministry of Women and Child Development is the nodal agency responsible for child protection. In Maldives, it is the Child and Family Protection Services Section under the Department of Gender and Family Protection Services. In Nepal, the Ministry of Women, Children and Social Welfare deal with child rights and child protection. In Pakistan, the Ministry of Special Education and Social Welfare is the nodal agency for child protection. In Sri Lanka, the Ministry of Child Development and Women's Empowerment (MoCDWE) is in charge of child protection issues.

Bhutan does not have a dedicated Ministry of Women and Children and so the National Commission for Women and Children is the nodal agency for child protection.

Human Rights Commission or independent Ombudsman for children

Except for Bangladesh, all other countries have set up a Human Rights Commission or Children's Commission. The Afghanistan Independent Human Rights Commission has an extensive monitoring programme which covers different aspects of children's life. In Bhutan, the National Commission for Women and Children has been given the mandate to protect the rights of children.

The National Commission for Protection of Child Rights, India, is an independent body to monitor implementation of the rights of the child. The mandate of the Human Rights Commission, Maldives, includes implementation and enforcement of the basic provisions of the Constitution and the relevant international human rights treaties. In Nepal, the National

Human Rights Commission monitors the human rights situation in the country, including violations of children's rights. While the National Commission for Woman is responsible for upholding rights of the girl child.

The Human Rights Commission of Pakistan is an independent organization which looks into violation of human rights. The Human Rights Commission, Sri Lanka, is involved in investigations and conflict resolution as well as proactive educative and capacity building. In Pakistan, under a new draft law (yet to be passed), a Commission for the Welfare and Protection of the Rights of the Child is proposed to be established. A new law has been drafted in Bangladesh to appoint an Ombudsman for child rights.

Registration of institutions

Afghanistan, Bhutan, India, Nepal, Pakistan and Sri Lanka have enacted relevant legislation for mandatory registration of all care institutions. In Bangladesh, NGOs running care institutions need to register under relevant legislation such as the Company Act. Maldives is yet to make registration of institutions compulsory.

Policy framework

Almost all countries have developed a Plan of Action or strategy to protect children from abuse, exploitation and violence and which calls for coordination between different ministries at State and local level, international organizations and NGOs.

In 2004, the Ministry of Labour and Social Affairs, Afghanistan, developed a strategy for children at risk. Bangladesh, India, Nepal, Pakistan and Sri Lanka have developed National Plans of Action for Children which also encompass child protection issues. In Maldives, the Strategic Action Plan 2009–13 envisions decentralization of child protection activities and services to provincial level through the local government system, and the establishment of a child-friendly website.

In addition to National Plans of Action for children, some countries have also developed action plans to address specific child protection issues. For instance, India and Nepal have developed Plans of Action to Combat Trafficking. In Nepal, the Central Child Welfare

Board has recently drafted a National Child Protection Policy and a National Plan of Action for 'Year Against Gender Based Violence, 2010'. In Pakistan, the National Policy on Empowerment and Development of Women, 2002, deals with the issue of girl and gender discrimination. Bangladesh and India have also developed policies to address child labour.

At present, Bhutan does not have a Plan of Action or strategy on child protection.

Child and social protection services

Birth registration has been made compulsory in almost all countries in the region. Children in the region also have access to a number of social welfare programmes. In addition, there are social protection programmes to address the needs of families. All countries have programmes on education and health. Many countries also provide stipends, scholarships or vouchers to enable children, especially girl children, to continue their education.

A number of social protection programmes are being implemented in the region to address poverty and improve the livelihoods, food and asset security of the poor. In addition, conditional cash transfer programmes are increasingly becoming popular in the region and are present in some countries.

For instance, in Afghanistan children have access to social welfare programmes including birth registration, education and health services. Afghanistan is also implementing several workfare programmes as part of its social protection programme.

In Bangladesh, social welfare programmes include health and education. The primary and secondary school stipends given to girl students have proved successful in addressing girls' education and protection. The government also provides soft credit to the microcredit NGOs and skill training to promote livelihood options at community level.

In Bhutan, free education and health services are seen as part of the social security mechanism. Its microcredit finance programmes reach significant proportions of the poor but there are no specific anti-poverty programmes.

India has a number of child protection services in the form of schemes or programmes to provide care and support to vulnerable children and those affected by violence. India has a vast health infrastructure with health personnel at primary, secondary and tertiary care levels in the public, voluntary and private sectors. The Rashtriya Mahila Kosh (National Women's Saving) set up by the Government of India provides microcredit to poor women in the informal sector. India has a comprehensive system of social protection programmes for vulnerable groups of population including the elderly, widows and people with disability. The Mahatma Gandhi National Rural Employment Guarantee Act is the largest social protection scheme in India.

Maldives has a number of sectoral programmes, such as providing textbooks and school uniforms to all school children. The National Social Protection Agency also provides a wide range of social security benefits and cash transfers to poor families.

Nepal's social protection programme includes stipends for Dalits and girls. Pakistan's social protection programmes include social assistance guarantees for individuals and households. Further, a Child Support Programme is being implemented as a conditional cash transfer programme for the poorest households.

Sri Lanka has a well established preventative public health system. The social protection programme provides fixed income transfer which includes microcredit and micro-insurance components. Also, income support is provided for disabled soldiers and families of service personnel who have died in the conflict, assistance for persons displaced by the conflict and emergency relief for people affected by natural disasters like droughts and floods.

Childcare standards

All countries in the region have shelter homes for child victims of violence, though they may not be uniformly spread throughout the country. Countries have also established Minimum Standards of Care and Protection. Most countries also have established mandatory registration of shelter homes and other childcare institutions. All countries except Afghanistan and Maldives offer higher level education courses in social work.

Reporting violence

Police continue to be the main agency for reporting and investigation in the region, though there exist some informal alternate reporting mechanisms like *Gups* (head of the sub district in Bhutan) and *Salish* (Bangladesh). The Suppression of Violence against Women Act and Children Act, 2000, in Bangladesh provides procedures for lodging complaints of violence against children.

Children throughout the region do not require parental consent to report violence; however, they may need an adult to register a complaint. To ensure that children report violence against them, Child Helplines have been established in some countries.

Referral mechanisms

There exist some referral mechanisms in the region. Often, NGOs provide referral services such as shelter, legal aid and medical aid to child victims, and also help them in registering and pursuing cases against perpetrators.

However, some countries have made attempts to establish referral systems. In Maldives, referrals can be made to Child and Family Protection Services (CFPS) under the Department of Gender and Family Protection Services, or to the Family and Child Protection Department (FCPD) under the Maldives Police Services. In India, the Juvenile Justice (Care and Protection of Children) Act, 2000, provides guidelines for referrals and includes shelter, legal aid, medical aid and other support. The Children and Young Persons Ordinance, Sri Lanka, contains a legal framework that covers the process of reporting, assessment, investigation and referral. The Department of Probation and Child Care Services in Sri Lanka provides referrals to child victims of violence.

Research and data collection

Research has been undertaken on child protection across the region by government, UN agencies, INGOs and NGOs. Also, some data is available on child protection issues in the region.

Budget allocation

Budget analysis is slowly being undertaken in the region. In this regard, civil society organizations in India have been actively undertaking child budgeting, and analysis of the Union Budget has become an annual activity.

Gaps and opportunities

There are national child protection systems in the region, though there is often weak coordination within and between ministries and departments, and between national, district and local levels. There is a tendency for countries in the region to look at child protection as thematic issues rather than as a system-based approach.

In general, lack of trained staff, technical expertise and financial resources are seen as challenges in implementing a national child protection system effectively. Effective delivery of child protection services calls for qualified and experienced social workers. Many countries in the region offer courses on social work in higher education but few on completion go on to work on child protection. Similarly, there is a dearth of psychosocial counsellors who are qualified and have expertise to deal with children who are victims of abuse, exploitation and violence.

In most countries, public independent inquiries into child deaths or serious injuries due to violence are not held unless there is an order from the courts or police. Mandatory reporting on incidences of violence against children for professionals such as doctors, teachers or social workers is yet to be established by the countries in the region. Referral systems for child victims in most of the countries are not fully established or require further strengthening. Victims of violence do not have adequate access to shelter, legal aid or medical aid including psychosocial support. In many instances, it is NGOs who provide shelter, legal aid, medical aid and other support to the child victims of violence.

Research and data collection are very important parts of national child protection systems as they provide important insights into the extent of the problem of violence against children. The findings assist policy makers in developing policies and programmes to protect children from violence. There are examples of research on child protection being carried out by

governments, UN agencies, INGOs and NGOs but often these are on an ad hoc basis, and countries in the region are yet to establish a national agenda on research on child protection. Similarly, there is no comprehensive data collection system which covers all forms of violence against all children in all settings. There is also lack of information across the region on budget allocated by governments for child protection.

Recently there has been a growing awareness on child protection and commitment from governments to end violence against children. Planning processes, including the annual process of governments at national, district and local level, provide opportunities for nodal ministries, departments and agencies at the local level to engage and advocate with their counterparts to identify priority areas on child protection, including enhancement of financial resources. National training institutions, including administrative training colleges, could help nodal ministries to devise need-based curricula on child protection for specific target groups such as newly recruited administrative officers, police officers, judicial officers, caregivers and social workers and include them in their ongoing training programmes. This would help in building capacities of existing staff and their delivery of child protection services. Throughout the region, UN agencies, INGOs and NGOs work closely with governments and can provide expertise and support in developing, implementing and strengthening child-friendly systems for reporting and referrals.

National child protection systems in South Asian countries

Afghanistan

Institutional framework

Nodal agency for child protection

The Departments of Social Affairs and Women Affairs are the nodal agencies for child protection. Other relevant ministries including Education, Health and Interior also have special mandates to respond to violence against children.

However, in general there is lack of human and financial resources to respond to violence against

children. In addition, government staff lacks training and skills to deal with such cases. Lack of proper and well designed strategy, corruption, unskilled personnel and lack of proper vision in the leadership of the government are seen as challenges for protection of children against violence.²⁴⁸

Child protection work at the community level is mostly carried out by NGOs and civil society organizations. Though links between systems have been established at national and provincial level, linkage from national level to the village level is yet to be established.

Independent Ombudsman or commission

The Afghanistan Independent Human Rights Commission (AIHRC) has an extensive monitoring programme which covers different aspects of children's life. The commission reports on a regular basis to parliament, government and the public on the situation of children and provides recommendations to address the challenges. It also takes up individual cases of child rights violation. In addition, the Commission has established a system of documentation and research on child rights.

AIHRC has also set up a specific unit which monitors, protects and promotes children's rights in the country.²⁴⁹ The Child Protection Action Network (CPAN) established by the Ministry of Labour and Social Affairs also monitors and documents child abuse and neglect.

In addition, a special Commission to address the problems of children and juveniles was established by the government in 2008.²⁵⁰

Registration of institutions

It is mandatory for all care institutions to be registered under the relevant legislation.

Policy framework

To respond to violence against children, in 2004 the Departments of Social Affairs and Women

Affairs developed a strategy for children at risk. The strategy has identified 23 categories of children at risk, with actions to improve the protection of these children.²⁵¹

The Child Protection Action Network (CPAN), established to review the implementation of the strategy, has been able to reach out to a large number of children. Between the years 2006 to 2008, the network was able to reach 2,366,177 children, and provided referrals to hospitals, shelters and other services where necessary. At present, the network is active in 28 provinces and has 51 national and international member organizations.²⁵²

The strategy also calls for different ministries and departments to share the responsibility and to develop their own plans of action to combat violence against children. So far, a national plan of action to combat child trafficking and a strategy to protect the rights of children with disability has been developed. However, lack of resources is seen as an obstacle in the implementation of the strategy.²⁵³

Child and social protection services

Children have access to social welfare programmes including birth registration, education and health services. In addition, Afghanistan is implementing several welfare programmes as part of the social protection programme. Existing cash transfer schemes target orphans, the disabled, martyrs' families and retired civil servants, and channel assistance through pensions, public works, skills development and microfinance. However, social protection arrangements are patchy and have reached only a minority of those in need.²⁵⁴

Childcare standards

Higher studies on social work are not available, and there is a dearth of social workers to work in the field of child protection. To address this gap, the Departments of Social Affairs and Women Affairs have initiated a programme to train and build capacities of social workers who could engage more professionally in child protection.

²⁴⁸ Interview with Mr Parvaiz Abang, Child Right Officer, AIHRC., 2009

²⁴⁹ http://www.aihrc.org.af/law_of_aibrc.pdf, article 5 .

²⁵⁰ Government of Afghanistan, Ministry of Foreign Affairs, Human Rights & Women's International Affairs. Initial report of the Islamic Republic of Afghanistan. Ministry of Foreign Affairs, Human Rights & Women's International Affairs.

²⁵¹ Interview with Mr Mobd Alem Aimaq, Head of Social Security Department of Ministry of Social Affairs, 2009

²⁵² Ibid.

²⁵³ Interview with Mr.Parvaiz Abang, Child Right Officer, AIHRC, 2009

²⁵⁴ UNICEF ROSA (2009). 'Social Protection in South Asia: a Review.' Kathmandu, Nepal.

Such training programmes have enabled them to provide support to children in conflict with the law as well as children living with mothers in prison. However, the demand for the services of social workers in the provinces and rural communities is high and remains unaddressed.

Reporting violence

In cases of violence, the police are the only reporting mechanism available. Reporting and complaint mechanisms at the community level are yet to be established.

Referral mechanisms

Response services for child victims of violence are not fully available. Girl victims of violence are usually placed in women's homes, which do not adequately meet standards of care and protection, and lack psychosocial support and adequate staff.²⁵⁵ Official state orphanages are regulated and currently a new regulation is under preparation that will have a set of minimum standards and rules.²⁵⁶

Research and data collection

Reporting and documentation on child abuse continues to be weak and there exist no regular mechanisms for collecting disaggregated data on issues related to child protection. The government is yet to adopt a systematic approach to research and documentation of child rights violations. UN agencies, INGOs and NGOs conduct research on child protection.

Budget allocation

Implementation of child protection programmes, both at the level of government and civil society, lacks proper and sustainable funding. Relevant ministries such as Education, Health and Justice use their allocated budget for children as well,²⁵⁷

²⁵⁵ Interview with Mr Parvaiz Abang, Child Right Officer, AIHRC, 2009.

²⁵⁶ Save the Children Sweden. (2006) *Mapping Save the Children's response to violence against children in South Asia*. p.22. Kathmandu, Nepal.

²⁵⁷ Interview with Mr Aziz Shams, Spokesperson, Ministry of Finance, 2009.

Bangladesh

Institutional framework

Nodal agency for child protection

The Ministry of Women and Children Affairs, the nodal agency for child protection in Bangladesh, has presence up to sub-district level. However, inadequate staff and resources are challenges for addressing protection concerns of children. Moreover, effective coordination and referral system need be strengthened between relevant government and non-government actors on child protection.

Though training programmes on children's rights are available to officials of the ministry, law enforcement agencies and legal practitioners, holistic capacity building programmes on child protection are yet to be carried out. Moreover, doctors and school teachers are to be more trained to identify child victims of violence effectively.

Various committees have been formed at the national, district and local level for addressing the issue of violence against children and women. For example, a Committee for Prevention of Violence against Women and Children Cell has been formed at the national level and a District Child Right Committee at the district level.

Independent Ombudsman or commission

Bangladesh is yet to establish an Ombudsman or human rights commission. A law on Children's Commissioner (Ombudsperson) has been drafted and is awaiting final approval of the Cabinet.²⁵⁸

Registration of institutions

NGOs running care institutions are supposed to register under relevant legislation such as the Company Act.

Policy framework

Currently the government is moving towards establishing a child protection system. There are also efforts by INGOs and child-focused NGO networks to develop child protection policies and mechanisms at micro- and macro-level and a code of conduct for the informal sectors. These efforts by various stakeholders, however, need to

²⁵⁸ Government of Bangladesh (23 October 2008). *Third and fourth periodic reports of States parties, Bangladesh, 2007*. Committee on the Rights of the Child, CRC/C/BGD/4.

be coordinated and linked with the evolving process of the national child protection system.

The Government of Bangladesh has developed a number of policies such as National Policy on Children, 1994 (reviewed in 2010 and yet to be approved by Government), National Policy on Disability, 1995, and National Social Welfare Policy, 2005, for care and protection of children.

Recently, the Government of Bangladesh has approved the National Child Labour Eradication Policy, 2010. The main objective of the policy is to exclude children from all kinds of hazardous and worst forms of child labour. The policy includes a Code of Conduct for the employers of the child labourers. The Code of Conduct among other things specifies the working hours, wage, education arrangements, health and nutrition aspects, working environment and treatment.²⁵⁹

Further, the National Plan of Action for Children (2005–10) has specific objectives to protect children from abuse, violence, discrimination and sexual exploitation, including trafficking.²⁶⁰ It has proposed institutional set-ups to implement, coordinate and monitor the planned activities. It also identifies the roles of different ministries in relation to child protection. The National Plan of Action further identifies the National Children's Council as the highest policy level council on children. The plan also proposes to set up a Directorate of Children Affairs. One of its mandates would be to review the expected outcomes of the National Plan of Action for Children and develop a plan to measure its performance and impact. However, the proposed structure is yet to be put into practice.²⁶¹

The Government of Bangladesh, in order to operationalize policy implementation the budget globally for child protection, has formulated a National Strategy for Accelerated Poverty Reduction (NSAPR) which has devolved the roles of different ministries in relation to child

protection.²⁶² Further, it proposes to conduct in-depth research on child abuse, exploitation, violence and discrimination and develop indicators and a systematic and formal data collection system on child protection by age, sex and rural/urban location.²⁶³

Lack of resources, financial and human, are seen as major challenges in implementation of the Plans.

Child and social protection services

Birth registration is carried out by the local government with support from NGOs and child-led organizations. Other social welfare programmes include health and education. The government provides soft credit to the microcredit NGOs through PKSF (a government foundation). Skill training to promote livelihood options at community level, however, is often limited to traditional vocations such as cattle rearing, poultry rearing and sewing/tailoring.

A number of social protection programmes seek to decrease poverty and increase human capital, such as the Challenging the Frontiers of Poverty Reduction programme and the Chars Livelihoods Programme. These programmes are designed to improve the livelihoods, food and asset security of the poor, although coverage levels remain low. Some of its sector-based cash transfers have been regarded as pioneering efforts in the region. The primary and secondary school stipends given to girl students have proved successful in addressing girls' education and protection, by contributing to delaying the age of marriage and reducing violence against girls.²⁶⁴

Childcare standards

Though staff working in shelters run by government organizations and NGOs is trained, there are no prescribed curricula or requirements for such training. At present, there are no government-set standards on services in relation to child protection. Similarly, there is lack of standard ethical guidelines and policies regarding child protection. Also, community level organizations lack skilled human resource, especially in the field of psychosocial counselling.

²⁵⁹ http://www.thedailystar.net/pf_story.php?nid+128497
Child Labour Eradication Policy Hailed. *The Daily Star*, 3 March, 2010

²⁶⁰ Ministry of Women and Children Affairs, Government of Bangladesh. *National Plan of Action for Children (2005–10)*. Ministry of Women and Children Affairs, Government of the People's Republic of Bangladesh.

²⁶¹ Ali; AKM Masud (2009). *Mapping of Policies and Legislation & Analysis of Child Labour Programs in Bangladesh*. UNICEF, UCW.

²⁶² Government of Bangladesh. *Moving Ahead: National Strategy for Accelerated Poverty Reduction II; policy matrix*.

²⁶³ Government of Bangladesh. *Moving Ahead: National Strategy for Accelerated Poverty Reduction II; Chapter IV*.

²⁶⁴ UNICEF ROSA (2009). 'Social Protection in South Asia: a Review.' Kathmandu: Nepal.

The Ministry of Women and Children Affairs has set up One-stop Crisis Centres (OCC) at divisional Medical Hospital (the administrative tier just below the national level) for women and child victims of violence. The idea behind the One-stop Crisis Centres is to provide all required services for women and child victims at one place. The Centre provides services such as health care, police assistance, DNA test, social service, legal assistance, psychological counselling and shelter. The Government proposes to expand the One-stop Crisis Centres services at district level.

Moreover, the Ministry of Women and Children Affairs has established a National Trauma Counselling Centre to provide mental health support to women and child victims of violence.

Besides, the Ministry has established the National Forensic DNA Profiling Laboratory at Dhaka Medical College in order to ensure speedy and fair trial of victims of violence against women and children. Further, DNA Screening Laboratories have been established in five divisional medical college hospitals in order to make the DNA Screening service available across the country.

The Department of Social Services runs 74 orphanages but a child without a father's name cannot get admitted. This has serious implications for a child who has his/her 'mother' as the only identity. Such children are also not entitled to a birth certificate.

The Ministry of Social Welfare has issued guidelines for management of State orphanages which outline the process of assigning government legal counsel to children who are placed in shelter homes and correctional facilities, but unfortunately these are not followed by government lawyers.

Reporting violence

The Suppression of Violence against Women Act and Children Act, 2000, provide a procedure for lodging complaints of violence against children. Forty-two special tribunals have been established in 33 districts of the country and a special judge has been appointed to each tribunal for trying cases related to violence against women and children. In addition, 42 special prosecutors/public prosecutors have been assigned to the tribunals. The Act also stipulates the time period by which investigation should be

completed. Further, an Inter-Ministerial Organization Case Monitoring Committee has been set up with representatives from the Ministries of Home Affairs, Law and Women and Children's Affairs, a representative of the Attorney General's Office, Special Public Prosecutors/Special Prosecutors of the Special Tribunal, a representative of the prosecution office and a medical officer from the Ministry of Health. One of the main tasks of the Committee is to select a few trafficking cases under trial and give special attention for their quick disposal. There is, however, lack of information on what criteria are applied in the selection of these cases. District Monitoring Committees have also been formed whose main objective is to select at least five pending cases and monitor them regularly for quick disposal.²⁶⁵

The government is yet to establish a child Helpline; however, the service is being offered by a civil society organization.

Referral mechanisms

Referrals facilities often do not include legal support and psychosocial counselling. At sub-regional level, health facilities do not have trained mental health professionals. In general, community-level organizations lack skilled human resources, especially in the field of psychosocial counselling.

To assist the victims in judicial procedures, NGOs provide legal aid to the victim.²⁶⁶ They also work to sensitize and build capacity of the judiciary and law enforcers, and work with the survivors and their families to ensure charges are filed in the court and not withdrawn at any point of time. During this period, children may be forced to remain in safe custody or at NGO shelters for a long period of time as trials usually progress at a slow pace. This, however, may not serve the purpose of justice as far as the child survivors are concerned.

Research and data collection

The National Strategy for Accelerated Poverty Reduction (NSAPR) proposes to conduct in-depth research on child abuse, exploitation, violence and discrimination and develop

²⁶⁵ Ministry of Home Affairs, Government of People's Republic of Bangladesh (2008). *Country Report on Combating Trafficking in Women and Children*.

²⁶⁶ BNWLA (2004). *Violence against women in Bangladesh 2003*. Dhaka, BNWLA.

indicators and a systematic and formal data collection system on child protection by age, sex and rural/urban location.²⁶⁷ UN agencies, INGOs and NGOs also carry out research on child protection issues.

Budget allocation

Although, the exact financial data on child protection is not available, in the current budget (2010–11), allocations for key areas such as education, women empowerment, children's welfare and welfare for street children and orphans are available. For example, allocation for education is proposed at Tk. 17,959 crores for the Ministry of Education and Ministry of Primary and Mass Education combined. The proposed allocation for launching different development programmes for welfare is Tk. 73.13 crores.²⁶⁸

Bhutan

Institutional framework

Nodal agency for child protection

In the absence of a dedicated Ministry for Children and Women, the National Commission for Women and Children is the nodal agency for child protection. It comprises representatives from government, law enforcement agencies, the judiciary, the social sector, civil society, the media and the business sector. It has a national mechanism for coordinating and monitoring activities related to women and child rights, reports to treaty bodies, monitors the implementation of the various conventions and provides a complaint mechanism for children.

Independent Ombudsman or commission

Currently, Bhutan does not have an Ombudsman or human rights commission. The National Commission for Women and Children, an autonomous commission, is mandated with this role and has in place a mechanism to receive complaints and take action on violations against women and children. It has begun to receive, monitor and address complaints regarding abuses

of and discrimination against children.²⁶⁹

However, lack of trained personnel and adequate resources limits its function.

Registration of institutions

With the adoption of the Civil Society Organizations Act in 2007 and the drafting of civil society organizations' rules and regulations, CSOs now have to register. These civil society organizations are expected to further the cause of child rights by supporting children's groups, creating awareness, acting as watchdogs and also implementing programmes on shelter, education, counselling and protection.

Institutions and formal alternative care placement centres are required by law to register under the Civil Society Organizations Act or under an authority responsible for such care or services.

Policy framework

There is no specific strategy, policy or plan of action to protect children from violence. However, the Child Care and Protection Bill aims to address various aspects of childcare needs and sets out programmes and services. It mandates and outlines steps for the community, central and local government, education institutions and the media to operate in a comprehensive child protection system.

Child and social protection services

All births and deaths are registered on an ad hoc basis and, in the majority of cases, on a yearly basis by the *Gups*. However, hospitals and local administrators are now becoming aware of the need to register births more quickly and are being assisted by international agencies to strengthen and establish a proper system of birth registration.

Bhutan's widely available free education and health services are seen as part of the social security mechanism. Its microcredit finance programmes reach significant proportions of the poor, but there are no specific social assistance interventions such as anti-poverty programmes or social safety nets. In the absence of a formal social protection system, the Bhutanese rely on traditional strategies such as inter-household transfers in cash or kind, family support, migration and borrowing, with the government

²⁶⁷ *Government of Bangladesh. Moving Ahead: National Strategy for Accelerated Poverty Reduction II; Chapter IV.*

²⁶⁸ *Budget 2010-1; Ministry of Finance; Budget Speech; Abul Maal Abdul Muhith; Minister; Ministry of Finance; Government of People's Republic of Bangladesh Dhaka; 10 June 2010*

²⁶⁹ *Ibid.*

stepping in where there are cases of sudden disasters such as floods.²⁷⁰

Childcare standards

The draft Child Care and Protection Bill recommends procedures and the establishment of specific institutions for the protection and care of children, such as setting up various categories of homes for children to provide care and protection.

Minimum standards for institutions providing care and protection have been established and procedures streamlined to help women and children. However, these face challenges from individuals and organizations as they are recent introductions.

The Woman and Child Protection Unit established within the police works very closely with the National Commission for Women and Children, and have established a Complaint and Response Mechanism (CRM). At present the Unit is located in Thimpu and has limited staff.

The National Commission for Women and Children in collaboration with the Royal Bhutan Police has started a 24-hour Helpline which has facilitated lodging of complaints by the general public and helped the police to respond effectively to the needs of children and women.

To address the emerging problems of youth, the Royal Bhutan Police has set up a rehabilitation centre in Chhukha Dzongkhag specifically for children in conflict with the law. However, there are no such centres for victims of abuse or violence.

Efforts are being made to set up protective mechanisms, which traditional systems have failed to provide. For instance, the Draft Child Care and Protection Bill mandate the institutionalization of certain procedures and establishment of specific institutions for the protection and care of children.

Reporting violence

The police continue to remain the main agents for enforcing law and order, although every individual does have a civic duty to report to the nearest lawful authority if they suspect any abuse,

violence or criminal activity.²⁷¹ However, police stations are located mainly in the urban areas and are almost absent in rural outposts. A practice has been established whereby a concerned person can report any incidence of violence to the nearest authority. For instance, in the village the authority is the *Gup*, in the community it is the *tsbokpa*, in the family it is the family members, and in an institution it is the head of that institute.

In the case of a minor, either a guardian or a parent can approach the court on the child's behalf. Complaints can also be filed without seeking parents' permission. Redress and compensation for child victims are provided by the court.

There is no legal requirement or obligation of recording, or centrally reporting, all incidents of violence against children.

There is no obligation under law to hold public, independent inquiries into child deaths or serious injuries due to violence. However, depending on situations and willingness of parents such an inquiry can be made. No professional agency has the explicit authority to investigate incidents of violence unless it is ordered by the courts or police.

Referral mechanisms

There is lack of information on referral mechanisms available in Bhutan.

Research and data collection

In recent years, a number of research studies have been conducted by various agencies to understand childcare practices, to assess the risks and review protection mechanisms. Such studies have helped in enacting legislation, raising awareness, abolishing corporal punishment and providing services for children. However, it is felt that specific research on violence needs to be conducted, focusing on mapping exercises for vulnerable groups and strengthening existing services.

In the last few years, the government has collected statistics on child protection issues through various agencies, including the judiciary, hospitals, education institutions and international agencies. The National Statistical Bureau,

²⁷⁰ UNICEF ROSA, (2009). 'Social Protection in South Asia: a Review.' Kathmandu: Nepal.

²⁷¹ Section 430 of the Penal Code of Bhutan.

upgraded by the government in 2004, is developing a disaggregated database.²⁷²

Budget allocation

There is lack of information on budgetary allocation by government on child protection programmes.

India

Institutional framework

Nodal agency for child protection

The Child Welfare and Child Protection Bureau under the Ministry of Women and Child Development is the nodal agency responsible for formulating plans, policies and programmes, enacting and amending legislation, and guiding and coordinating the efforts of both governmental and non-governmental organizations on child protection. However, a separate Bureau in the Ministry handles the issue of trafficking and the girl child. Each of the Bureaus is headed by a Joint Secretary who is supported by a Director and other personnel.²⁷³ At the state level, the Department of Women and Child Development (in some states, the Department of Social Welfare also handles issues of women and children) looks after the issue of child protection. There is a dearth of technical staff and resources for implementing child protection programmes at all levels.

Other Ministries such as Home, Labour, Health, and Social Welfare also deal with issues of child protection. For example, the issue of child labour falls under the Ministry of Labour and Employment.

The Women and Child Development Division of the Planning Commission works in close collaboration with the Ministry of Women and Child Development and provides guidance and advice to both central and state governments in the area of Women and Child Rights.²⁷⁴

Independent Ombudsman or commission

²⁷² Royal Government of Bhutan (16 July 2007). *Second Periodic Reports of States, Bhutan, 1997. Committee on the Rights of the Child, CRC/C/BTN/2.*

²⁷³ Government of India, Ministry of Women and Child Development. <http://www.wcd.nic.in>

²⁷⁴ Government of India, Planning Commission. <http://planningcommission.nic.in/sectors/wcd.html>

The National Commission for Protection of Child Rights is an independent body to monitor the implementation of the rights of the child. The Commission's mandate is to ensure that all laws, policies, programmes and administrative mechanisms are in consonance with the Child Rights perspective as enshrined in the Constitution of India and also the UNCRC. One of the core mandates of the Commission is to inquire into complaints of violations of child rights.

The Commission is also required to take *suo moto* ('on its own motion') cognizance of serious cases of violation of child rights and to examine factors that inhibit children's enjoyment of their rights. The Commission has established expert working groups to formulate its views on policy and legal frameworks. Engaging with a group of multi-sectoral experts in a systematic fashion from across the country has given the Commission knowledge of ground realities and of the status of official programmes.²⁷⁵

Registration of institutions

It is mandatory for all institutions and formal alternative care placements to register under relevant laws. Most institutions are registered under the Orphanages and other Charitable Homes (Supervision and Control) Act, 1967 or the Women's and Children's Institution (Licensing) Act, 1956.

In addition, in order to function as an institution fit for children in need of care and protection, they have to be registered under the Juvenile Justice (Care and Protection of Children) Act, 2000, as amended in 2006. Failure to do so means the institution is liable for closure and management are liable for punishment. Institutions are also subject to regulation and inspections from concerned authorities, although this process is not diligently followed nor is there a statutory duty for inspectors to hear directly from children.

Policy framework

India has a number of plans and policies on issues related to child protection. The Sub-group on Child Protection formed during the formulation of the Eleventh Plan (2007–12) has viewed child protection as an essential

²⁷⁵ Government of India, National Commission for Protection of Child's Rights. <http://ncpcr.gov.in>

component of the country's strategy. The strategy further states that the main endeavour of the Ministry of Women and Child Development will be to carve out a broad and comprehensive framework for child protection and set the foundation for creating and strengthening a robust protective environment for children.²⁷⁶ The Eleventh Plan also states that provision of child protection will be a key intervention.²⁷⁷

The National Policy for Children, 1974, provides a framework for policy and planning for children, and recommends special consideration for the children of weaker sections of the population including scheduled castes and the scheduled tribes, prevention of exploitation of children and special facilities for children with handicaps.²⁷⁸ The policy is outdated and therefore currently under revision to bring it fully in consensus with the UNCRC and India's other commitments to its children.

The National Child Labour Policy, 1987, contains an action plan for tackling the problem of child labour, and includes a legislative action plan, focusing on convergence of general development programmes for benefiting children wherever possible, and a project-based plan of action for launching of projects such as the National Child Labour Project for the welfare of working children in areas of high concentration of child labour.²⁷⁹

The National Plan of Action for Children, 2005, ensures collective commitment and action for the survival, development, protection and participation of children, by all sectors and levels of government and civil society.²⁸⁰ With regard to child protection, it sets goals and strategies to address the issues of children in difficult circumstances, children in conflict with the law, child sexual exploitation and pornography, child trafficking, combating child labour and children affected by HIV. The responsibility for

implementation of the Plan rests with states and it provides roles to the panchayats (local body of governance) in its implementation. The Plan envisages regular monitoring at the national, state and district levels to assess progress towards the goals and targets.²⁸¹ However, no separate budget is allocated for the implementation of the plan nor does it give the specific roles and responsibilities of other ministries and departments.

To specifically address the issues of trafficking, the Ministry has developed a Plan of Action to Combat Trafficking and the Commercial Sexual Exploitation of Women and Children, 1998. Further, an Integrated Plan of Action to Prevent and Combat Human Trafficking with Special Focus on Children and Women is being developed to holistically address trafficking for all purposes.²⁸²

The above plans recognize the need for training and capacity building of various professionals such as teachers, police officers, doctors and others dealing with children. One of the action areas listed in the 1998 Plan of Action was to set up village-level watchdog bodies. So far Tamil Nadu is the only state to have done this, with the village panchayat president as the Chairman and the village Administrative Officer as the Convenor. This committee includes NGOs who are active in the village/area and are members of the self-help group active in the village.²⁸³ Such provisions of the Plan of Action need to be implemented across the country.

Child and social protection services

India has a number of child protection services in the form of schemes or programmes to provide care and support to children vulnerable to or affected by violence. However, an analysis of existing child protection schemes has revealed major shortcomings and gaps in existing child protection institutions, policies, programmes and

²⁷⁶ Ministry of Women and Child Development, Government of India. Sub Group Report, Child Protection in the Eleventh Five Year Plan (2007–12). Ministry of Women and Child Development, Government of India.

²⁷⁷ Planning Commission, Government of India. Eleventh Five Year Plan (2007–12), Volume 2: Social Sector.

²⁷⁸ http://www.unicef.org/india/children_3220.htm

²⁷⁹ Ministry of Labour, Government of India.

<http://labour.nic.in/cvl/ChildLabour.htm>

²⁸⁰ Ministry of Women and Child Development, Government of India. Sub Group Report, Child Protection in the Eleventh Five Year Plan (2007–12).

²⁸¹ Ministry of Women and Child Development, Government of India. National Plan of Action for Children, 2005.

²⁸² Ministry of Women and Child Development, Government of India. India Country Report to Prevent and Combat Trafficking and Commercial Sexual Exploitation of Women and Children. World Congress III Against Sexual Exploitation of Children and Adolescents (Rio de Janeiro, Brazil, November 2008).

²⁸³ Nair, P.M. and Sen, S. (2005). *Trafficking in Women and Children in India*. Institute of Social Science, National Human Rights Commission, UNIFEM. New Delhi, Orient Longman.

their implementation at all levels. For instance, it was seen that most of the children in need of care and protection, as well as their families, do not get any support and services. Poor infrastructure, inadequate human resources, serious service gaps, weak accountability, and monitoring and evaluation are other limitations that hinder the provision of effective child protection services.²⁸⁴ The Integrated Child Protection Scheme (ICPS) is one of the recent flagship schemes of the Ministry of Women and Child Development aiming at addressing these areas of concern.

In addition, there are interventions by the government that assist in good parenting, such as day-care centres, crèches, play-houses, early childhood care, family counselling, maternity benefits, parental education programmes and awareness campaigns.

The Office of the Registrar General of India is responsible for the Civil Registration System and a system of birth registration exists at national, state, district and village level.

The *Rashtriya Mahila Kosb* (National Women's Saving) has been set up by the government to provide microcredit to poor women in the informal sector with low transition cost through the mediation of NGOs.²⁸⁵ In addition, there are also a number of poverty alleviation programmes.

India has a vast health infrastructure and health personnel for primary, secondary and tertiary care in the public, voluntary and private sectors. However, due to the huge geographical area, very large population and inequity of resources, ensuring good health for all, particularly the poor, is a complex issue. The health system in India is a mix of the public and private sectors, with the NGOs and civil society still playing a very small though important role in service delivery. The challenge of quality health services in remote rural regions needs to be urgently met.²⁸⁶

²⁸⁴ Ministry of Women and Child Development, Government of India. *Sub Group Report, Child Protection in the Eleventh Five Year Plan (2007–12)*.

²⁸⁵ Government of India (16 July 2003). *Second periodic reports, India. Committee on the Rights of the Child, CRC/C/93/Add.5*.

²⁸⁶ Planning Commission, Government of India. *Eleventh Five Year Plan, 2007–12, Volume II: Social Sector*.

India has a comprehensive social protection programme targeting vulnerable groups. The Mahatma Gandhi National Rural Employment Guarantee Act, the first ever such law internationally, guarantees wage employment on an unprecedented scale. The Act aims at enhancing livelihood security of households in rural areas of the country by providing at least one hundred days of guaranteed wage employment in a financial year to every household whose adult members volunteer to do unskilled manual work. The Act also mandates 33 per cent participation for women.²⁸⁷ It is the largest social protection scheme in India.

In addition, a system of reservations for scheduled castes, scheduled tribes, freed bonded labourers, and women's representation is in place.

Several social assistance schemes specifically target socially excluded groups. The country has one of the largest public food distribution systems in South Asia. However, coverage remains low.²⁸⁸

Childcare standards

The law pertaining to juvenile justice sets certain standards for running shelter homes and for medical care and legal assistance. To ensure that stakeholders working on the issue of trafficking have required knowledge, the Ministry in collaboration with NGOs and others has developed guidelines, protocols, handbooks and manuals on issues relating to immediate handling of cases, including psychosocial assistance and legal aid.

A large number of shelter homes have been set up and are being run by both government and civil society organizations. These shelter homes provide all facilities for children, including psychosocial support and skills training. However, the quality of services provided differs from home to home and at times is below standard. The Juvenile Justice (Care and Protection of Children) Act, 2000, lays down certain guidelines for homes, with shelter homes supported by government to be monitored regularly in accordance with the guidelines.

²⁸⁷ Ministry of Women and Child Development, Government of India, *Annual Report, 2009-10*

²⁸⁸ UNICEF ROSA (2009). *Social Protection in South Asia: a Review*.

However, effective monitoring is not carried out on a regular basis.

Generally most universities offer courses on social work, with many having separate Departments or Schools of Social Work. Over the years, the need for qualified personnel such as social workers and counsellors has been recognized. Trained professionals are essential for implementing child protection work, especially in the rehabilitation of victims of violence. Slowly efforts are being made by the government and NGOs to recruit social workers. However, the gap between demand and supply is vast.

Reporting violence

By law, all incidents of violence, whether within the community/family, schools or other institutions and alternative care facilities, have to be reported to the police. In practice this does not happen due to lack of awareness, stigma, particularly in case of sexual abuse, fear of retribution by the perpetrator and unnecessary harassment from police and courts.

In general it is the police who investigate child deaths or serious injuries in which violence may be implicated. However, the government, National and State Commissions for Protection of Child Rights, the National and State Human Rights Commission and the Child Welfare Committees can conduct independent inquiries if they find it necessary. Also, if approached, courts can order independent inquiries.

At present it is not obligatory for professional groups to report suspected abuse and/or neglect of children. The issue of mandatory reporting of incidents of violence against children has been debated for quite some time and civil society groups are divided on the issue. The argument is that professionals could face unnecessary harassment from the police and courts by way of being called to the court to provide evidence or for other procedural matters.

The Juvenile Justice (Prevention of Care and Support of Children) Act, 2000, and also various court judgments, including that of the Supreme Court of India, have laid down provisions and precedence on confidentiality. However, there have been many instances, especially in media reporting, where the rights to confidentiality have been violated.

Childline, a 24-hour toll-free telephone service (1098), can be accessed by children in distress as well as by adults on behalf of children to seek emergency assistance and for referring the child to an appropriate organization for long-term follow-up.

Childline is presently functional in 55 cities. However, in the Eleventh Plan (2007–12), it is proposed to expand its operation to all districts and major cities throughout the country. In addition, the police can be approached for reporting incidences of violence against children.²⁸⁹ Under the Juvenile Justice Act, Special Juvenile Police units are meant to be set up in every district and these units can also take assistance from NGOs in their functioning and in ensuring child friendly treatment of children.

Referral mechanisms

The Juvenile Justice System clearly lays down provisions relating to referrals. It states that children in conflict with the law and children in need of care and protection will be produced to the appropriate authority within 24 hours, will be provided medical aid and legal aid and will be placed in care institutions for rehabilitation and reintegration.

Research and data collection

The Ministry of Women and Child Development provides grants to NGOs and other institutions to undertake research in areas of women and children. However, the research topic is based on the proposals received from the institutions and need not necessarily be on child protection issues.

The Ministry in close collaboration with UN agencies and NGOs also undertakes studies in important areas of child protection. For example, in 2007, the Ministry of Women and Child Development led a major study on child abuse. Its findings led to wide consultations and greater awareness on the subject. Universities, Commissions, such as children, women and human rights commissions, UN agencies, INGOs, NGOs and civil society also independently undertake research on child protection issues. However, generally it is seen that these studies are undertaken based on need, and are sometimes led by donor agendas.

²⁸⁹ Ministry of Women and Child Development, Government of India. Sub Group Report, Child Protection in the Eleventh Five Year Plan (2007–12).

Though the Registrar General of India and the National Crime Records Bureau collect and publish some data on child protection issues, it is not comprehensive.

As part of the new Integrated Child Protection Scheme, the government proposes to invest in child impact monitoring and strengthening the knowledge base by developing a system of data collection and indicators consistent with the UNCRC. The data will be disaggregated by gender, age, social status (Scheduled Castes and Tribes), marginalized groups and urban/rural areas and will be publicly available.²⁹⁰ This is an immediate area of investment to ensure better planning based on a systematic assessment of the vast numbers of children who are vulnerable.

Budget allocation

Child budget analysis shows that India is investing far too little on child protection. This can be assessed by the low level of budget allocation for any measures affecting children, with resources for child protection the lowest of all. Analysis of the Union Budget (2010–11) shows that child protection receives only 0.04 per cent of the budget.²⁹¹ Analysis of child budgets in some states also highlights the need for higher investment on child protection.²⁹²

Maldives

Institutional framework

Nodal agency for child protection

The main responsibility for implementation of child protection services lies with the Child and Family Protection Services Section, Department of Gender and Family Protection Services. Its mandate includes provision of social work, basic counselling, institution for children who are placed in state care due to abuse, management of atoll and island level protection services, data collection and analysis, multi-sectoral networking

²⁹⁰ Ministry of Women and Child Development, Government of India. *Sub Group Report, Child Protection in the Eleventh Five Year Plan (2007–12)*.

²⁹¹ HAQ Centre for Child Rights India. *Children not included in “Inclusive” Budget: Where is the “Aam Baccha” in the budget, Mr. FM? Budget for Children in the Union Budget, 2010–11*.

²⁹² Ministry of Women and Child Development, Government of India. *Sub Group Report, Child Protection in the Eleventh Five Year Plan (2007–12)*.

and coordination of training and awareness programmes.

Lack of sufficient capacity among child protection agencies is stated as a constraint in implementing a national child protection system. The Department of Gender and Family Protection Services has conducted its first case audit and is in the process of establishing a comprehensive supervisory mechanism.

Due to lack of investment in the past, well trained cadre of social workers could not be built. At the national level, there are only few trained staff with knowledge and skills to work with victims of child abuse. In June 2010, a review of the Family and Children Service Centre Managers indicates that close supervision could bridge this gap until social workers receive long term training.

The government is currently reviewing the existing child protection mechanisms and strengthening the policy and legal framework to enhance coordination and collaboration among line ministries and agencies in the government, to address the gaps in the juvenile justice system and build the capacity of the child protection agencies.

Independent Ombudsman or commission

The mandate of the Human Rights Commission includes implementation and enforcement of the basic provisions of the Constitution and the relevant international human rights Conventions and Treaties, signed and ratified by the Maldives, including the UNCRC. The three main areas of intervention of the Commission are raising awareness of human and child rights, promotion and protection of human and child rights and investigation and monitoring of human rights violations.²⁹³

Registration of institutions

There are no legal requirements for registration, regulation and periodic independent inspection/review of institutions and formal alternative care arrangements and there is no statutory duty to hear directly from children. The Human Rights Commission does conduct independent inspections, but children are not systematically consulted during the process.

²⁹³ Government of Maldives (10 April 2006). *Second and Third Periodic Reports, Maldives. UN Committee on the Rights of the Child, CRC/C/MDV/3*.

The Minimum Standards for children's home and institutions was developed in 2007; however, they are yet to be approved as a legally binding document for all institutions. Institutions under the Department of Gender and Family Protection Services for children (namely villingili children's home) are obliged to follow these minimum standards.

Policy framework

The Strategic Action Plan 2009–13 recognizes a multi-sectoral approach on child protection and specifically tries to identify partnerships with the private sector and external agencies, also describes the roles and responsibilities of each ministry, related professionals and civil society and child participation.

The strategy envisions decentralization of child protection activities and services to provincial level through the local government system, and the establishment of a child-friendly website. However, it is felt that child protection agencies need to have detailed joint Child Protection Action Plans and sector-specific standards relating to different groups of children needing protection. An inter-sectoral working group for developing a child protection document, alongside the drafting of the Children's Act is planned.

Further, the operational plan of the Department of Gender and Family Protection Services have specific activities for involving children in the decision making process.

Child and social protection services

There are a number of sectoral programmes, such as providing textbooks, school uniforms for all school children. There are also schemes or subsidies for foster families and children and single mothers.

Further, the National and Social Protection Agency established in 2008, provides a wide range of social security benefits and cash transfers to families in need.

Childcare standards

In Maldives, taking children into State care is used as a last resort. In this regard, there are two children's institutions in the country. The Kuda Kudhinge Hiya caters to children from 0–9 years and is monitored by the Department of Gender and Family Support Services. The Education and

Training Centre for Children, a boarding school type institution, is for boys between the ages of 9 and 18 years. Children in both these institutions are provided pastoral care and schooling, psychosocial support and skills training.

However, there is a lack of adequately trained professionals to cater for the rehabilitation needs of children in these institutions. The institutions also accommodate children with disabilities and special educational needs, but their needs are not adequately addressed.

The Human Rights Commission of the Maldives independently monitors the two institutions and publishes reports with recommendations on improving the care and services. However, often due to financial and human resource constraints, the institutions are not able to properly implement the recommendations. It is seen that the involvement of the Human Rights Commission in inspection and monitoring allows open discussions about children in institutions and generates interest among the public for volunteering their services.

The Child and Family Protection Services, Department of Gender and Family Protection Services, has formulated and implemented Standard Operation Procedures. These contain directions for case management, including psychosocial assistance, information collection formats and rules regarding confidentiality. A Code of Ethics for Social workers is being formulated and when implemented, any member of staff found in violation of this code will be subjected to disciplinary action. There has been some scepticism among the public, however, about the maintenance of confidentiality within the child protection agencies. Minimum Standards on Institutional Care has been developed by the Department of Gender and Family Protection Services, however, it is awaiting approval as a legally binding document for all institutions.

Currently, the Maldives College for Higher Education does not offer a social work programme. However, since 2007, with assistance from University of Newcastle, Australia, the Faculty of Health Sciences under the Maldives College of Higher Education is running a course "Advanced Certificate in Social Services work" recognised by the Maldives Accreditation Board. The Police Training School conducts specialist training for police; however,

this is need-based and subject to the availability of funds. The Department of Family and Child Protection Services together with the Faculty of Health Sciences is seeking to link-up with International Universities to strengthen this programme and details are being worked out with the universities.

Transfers or departure of trained personnel and retraining of new recruits are seen as challenges in the child protection system.

Reporting violence

There is no mandatory reporting of violence against children and it is also not obligatory to hold public and independent inquiries into child death and serious injuries of children. However, the Department of Gender and Family Protection Services has recently launched internal inquiries into child deaths both in social work team and those under State care.

When violence against children occurs, the child and their representatives can submit their complaints to the Family and Child Protection Department at the Police, the Department of Gender and Family, hospitals and with the Human Rights Commission. Children can also file complaints without parental consent. However, children and their representatives do not have direct access to the court, which can be accessed only through the criminal justice system, as acts of violence can be prosecuted only by the State.

Referral mechanisms

Referrals can be made to Child and Family Protection Services (CFPS) under the Department of Gender and Family Protection Services or to the Family and Child Protection Department (FCPD) set up under Maldives Police Services who conduct a home visit to assess the situation of the child. In cases of neglect and abuse, an investigation is conducted by the FCPD along with a social worker to consider both behaviour modification and permanency planning.

Research and data collection

There is no coordination mechanism in place to collect national data and to feed into national planning. The Department of Gender and Family Protection Services, however, it collects periodic statistics on cases reported to Child and Family Protection Services and the Family and Children Service Centres in the atolls in Male'.

A National Child Protection Database has been established in May 2010 and is being piloted by the Department of Gender and Family Protection Services and the Police before rolling it out to other child protection agencies.

Budget allocation

The child protection sector is very much dependent on international assistance, particularly from UN agencies. Information on government budgetary expenditure on programmes for children and human resource development through government funds is not available.

Nepal

Institutional framework

Nodal agency for child protection

The Ministry of Women, Children and Social Welfare deals with child rights and child protection. The Ministry is the focal agency for policy, planning and programming for overall development and coordination of all activities related to women, children and social welfare. The Ministry has two divisions: Women and Social Welfare, and Child Development, which has a Child Development and Child Rights Section. The Ministry has outreach to the district level through the Women Development Office and District Child Welfare Boards. The Ministry, however, lacks qualified staff to deal with child protection issues.

The Central Child Welfare Board under the Ministry works on child rights, including child protection. District Child Welfare Boards have been set up in the districts. The Central Child Welfare Board has a broader mandate to formulate plans and policies relating to children, coordinate with various governmental and non-governmental organizations, facilitate the implementation of activities and monitor the child rights situation in the country. It plays an advisory role to the Ministry on children's issues. All development activities at the district level are conducted through the Women Development Office and District Child Welfare Boards, mostly functional in districts where there is donor support. District Child Welfare Boards comprise mostly volunteers who are not necessarily people trained in children's issues or rights. Moreover, the budget of these Boards is limited.

Independent Ombudsman or commission

The National Human Rights Commission, established in 2000 for monitoring the human rights situation in the country, plays an active role in the prevention of human rights violations, including violations of children's rights.

The National Commission for Women is mandated to work towards realising the rights of the girl child.

Children Desk has been established at the National Human Rights Commission and National Dalit (Oppressed Caste) Commission for promoting child rights.

Registration of institutions

The Children Act makes it compulsory for all care institutions run by NGOs to be registered and meet the standards set by the government. However, not all care institutions meet these standards.

Policy framework

Nepal recently became a republic and is in the process of formulating its Constitution. During this time, a three-year interim plan (2007–10) is in operation. It has strategies to provide immediate relief to children affected by conflict, children from marginalized communities, children with disability and children at risk, and includes rehabilitation and psychosocial counselling. It also seeks to develop minimum standards for children's homes, develop programmes for various categories of children, strengthen the juvenile justice system, promote a child-friendly environment in schools and communities and establish a children's fund for emergency help.

The National Plan of Action for Children (2004/05–2014/15) aims to protect children from all forms of discrimination, exploitation and abuse. The coordinating agencies for implementation of the Plan are the Ministry of Women, Children and Social Welfare and Central Social Welfare Board and District Social Welfare Board. The National Plan of Action identifies programmes, implementing agencies, development indicators and risk factors.²⁹⁴

²⁹⁴ Ministry of Women, Children and Social Welfare, Government of Nepal. *National Plan of Action for Children (2004/05 – 2014/15)*.

The Central Child Welfare Board has recently drafted a National Child Protection Policy which is in the process of being approved by the Cabinet. Amongst other things, the policy envisages mobilization of existing structures, bringing in partnership and convergence between the relevant ministries and semi-governmental partners such as different committees formed by the government, NGOs and different professional groups. It also talks about devolution to the district and village level, but does not specifically delegate the roles and responsibilities of various actors. It further includes mechanisms for coordination and human resource training and capacity building.

Also a National Plan of Action for a 'Year Against Gender Based Violence, 2010' has been formulated with special focus on the prevention and protection of women and girls from GBV. Some of the objectives of the Plan include to ensure legal and institutional reform and implementation for improved access to justice for survivors of gender-based violence, establish/strengthen community-based and outreach services for protection of survivors of GBV, facilitate economic and social empowerment of women and girls to fight GBV, and ensure coordination, communication and monitoring among those involved in the implementation of the Plan.

The government has formulated a national plan of action to combat trafficking in girls.²⁹⁵ An Inter-ministerial National Task Force has been established on anti-trafficking and is comprised of representatives from various ministries, the police, UN agencies and NGOs. A District Task Force also exists in 26 trafficking-prone districts and acts as a watchdog on child trafficking incidences. Limited budget, lack of coordination between national and district level task forces and also between NGOs and the government are seen as challenges.

An inter-ministerial coordination committee has been formed to coordinate efforts to combat worst forms of child labour. There also exists a national steering committee for the elimination of child labour.

²⁹⁵ Government of Nepal (3 December 2004). *Second periodic report, Nepal. CRC/C/65/Add.30*.

Child and social protection services

Nepal is expanding its social protection interventions and considering developing a systemic approach to social protection. It has schemes for the disadvantaged including old-age pension, widow allowance, disability allowance, Dalit stipends and girl stipends programmes.²⁹⁶

Childcare standards

The government, in partnership with NGOs, is running joint rehabilitation homes for trafficked victims. So far, eight rehabilitation centres have been established.

Programmes on social work are being offered by four or five colleges in Kathmandu, and NGOs provide students with opportunities for internships.

The Child Rights desk at the National Human Rights Commission independently investigates complaints of child rights violations and gives directions to the government. Annually, it also brings out a status report on children.

Reporting violence

Women and Children Service Directorate has been formed at Police Headquarters for immediate rescue, investigation and rehabilitation of family and community of women and children at risk. Further, Women and Children Service Centres have been established in all 75 District Police Offices and play an important role in the investigation of child sexual abuse, trafficking and child marriage. The Centres assist in gathering evidence, interviewing and, if necessary, raiding the house where abuse is thought to have occurred. Later, the case is handed over to the government lawyer for necessary judicial procedures. However, the functioning of the Centres needs further strengthening.

In rural areas, violence of a severe nature is reported to the police. Otherwise, the matter is referred to the Village Child Protection Committees for resolution.

There is no system of holding independent public inquiries into child deaths or serious injuries in which violence may be implicated. However, the National Human Rights Commission can hold an independent inquiry upon receiving a complaint. Anyone on behalf of

a child can file a complaint without seeking the parents' permission.

National Centre for Children at Risk has been established to provide immediate support to missing and children at risk. A child Helpline has been established, but the implementation mechanism is yet to be worked out.

Referral mechanisms

The government is yet to establish a formal referral mechanism. At present, it is the NGOs who provide shelter, legal aid, medical and other facilities to the child victims of violence, though the quality of service may not meet international standards. They also help the victims to file a complaint with the police and support them through the process. Police also refer child victims of violence to NGOs.

Research and data collection

Research studies are being carried out by government, UN agencies, INGOs and NGOs, but these tend to be ad hoc. At present there is no national agenda for research into child protection. There is also lack of systematic data collection, and data which is available is not comprehensive.

Budget allocation

Child protection is a new area of work in Nepal and is mainly funded by donor agencies. Though there is no specific budget allocated for child protection *per se*, however, budget are allocated for implementing programmes addressing protection issues.

Pakistan

Institutional framework

Nodal agency for child protection

The Ministry of Special Education and Social Welfare is the nodal agency for child protection. At provincial levels, commissions for child welfare and development have also been set up with government and non-government representation for the promotion of child welfare activities. In addition, NGOs play a significant

²⁹⁶ UNICEF ROSA (2009). *Social Protection in South Asia: a Review*.

role in providing welfare services to children in the country.²⁹⁷

Independent Ombudsman or commission

The Human Rights Commission of Pakistan is an independent organization. Its main mandate includes recording and reporting of human rights violations at all levels, including violence against children. It also publishes a comprehensive Annual Report. The Commission enjoys immense credibility amongst the general public.

Under a new draft law (yet to be passed), a Pakistan Commission for the Welfare and Protection of the Rights of the Child will be established. This body will be instrumental in improving the state of child rights in Pakistan. It will focus on monitoring and implementation of the UNCRC and will also address individual complaints of child rights violations.

Registration of institutions

It is mandatory for all care institutions in Pakistan to be registered under relevant legislation.

Policy framework

The country has developed a National Plan of Action for Children which outlines broad and holistic measures to ensure child protection. A budgetary allocation of Rs. 15 million has been made and a cell has been established in the National Commission for Child Welfare and Development to coordinate the implementation of the National Plan of Action at various levels and with relevant ministries and agencies.²⁹⁸

In addition, the National Policy on Empowerment and Development of Women, 2002, deals with issues of girls and gender discrimination.

A Draft National Child Protection Policy is also being developed to address and prevent violence, abuse and neglect, exploitation and discrimination affecting children and to create a protective environment for children. The policy

²⁹⁷ *Government of Pakistan (28 May 1993). Initial Report, 1993, Pakistan. Committee on the Rights of the Child, CRC/C/#/Add.13.*

²⁹⁸ *Government of Pakistan (19 March 2004). Third and Fourth Periodic Reports, 2009. Committee on the Rights of the Child, CRC/C/PAK/3-4.*

is seen as the first step towards establishing a child protection system.²⁹⁹

Child and social protection services

There is a general lack of awareness in society regarding the importance of children being registered at birth and the increased legal protection they receive from registration.³⁰⁰ In the health sector, the provincial governments have established Health Sector Reform Units. However, low expenditure, inequity in services and inadequate primary healthcare services remain problems.

Pakistan has a broad approach to social protection. It includes social security programmes for the government and formal sector, along with large social assistance guarantees for individuals and households. A Child Support Programme is being implemented as a conditional cash transfer programme for the poorest households. Social protection expenditures are traditionally low and programmes tend to be fragmented and inadequate in coverage and reach.³⁰¹

Childcare standards

There is lack of shelter homes for child victims of violence. The Ministry of Social Welfare and Special Education has developed National Minimum Quality Care Standards for Child Care Institutions, but they are yet to be implemented. Development of Standard Operating Procedures for shelters and drop-in centres as mandated under the National Plan of Action against Child Sexual Abuse and Exploitation has been supported by NGOs and UN agencies, but they are yet to be finalized and approved by the government.

Although some NGOs are providing services to abused children, they are inadequate and of low quality. However, Pakistan Paediatric Association has established Hospital Child Protection Committees (HCPCs) in some of the major hospitals in the country. These Committees aim to promote the health and wellbeing of children in distress through the optimal management of abused children by using a multidisciplinary approach. A curriculum has also been developed for training of healthcare practitioners. Standard

²⁹⁹ *Ibid.*

³⁰⁰ *Ibid.*

³⁰¹ *UNICEF ROSA (2009). 'Social Protection in South Asia: a Review.' Kathmandu: Nepal.*

Operating Procedures have been formulated for the smooth management of cases and ensuring inter-disciplinary coordination.

There is a lack of trained professionals to organize and manage an efficient response system. The majority of child healthcare providers are not trained in the detection and reporting of abuse cases. Educational institutions also lack structures and procedures through which child abuse can be detected and reported. Similarly, social workers are few and lack expertise in the detection and management of cases of violence against children.

The National Commission for Child Welfare and Development has developed training manuals for judiciary, prison and police officials on the UNCRC and child-related laws in the country.

Reporting violence

The reporting of violence against children is not mandatory and thus the majority of cases go unreported. Police remain the main agency for reporting violence against children.

Civil society organizations have established Helplines and are providing services to deal with the legal and psychological needs of children, including victims of CSA. The Helplines have received a tremendous response from the general public. Three new Helplines have been established in Peshawar, Quetta and Lahore based on the model developed in Karachi.³⁰²

Referral mechanisms

The legal and social components of the response to violence against children are extremely weak. Moreover, the police and court system is not very sensitive to the needs of children and the victims are always in danger of further victimization because there is no system for follow-up and preventing the recurrence of abuse.

UN agencies, through various interventions, have reached out to more than 15,000 child victims of violence, abuse and exploitation, with 6,227 girls and 8,800 boys being provided with protective services including counselling, legal aid, referral to specialized services, shelter and reintegration into their families.

³⁰² Government of Pakistan. (19 March 2009). *Third and fourth periodic reports, 3rd and 4th Combined Report*. UN Convention on the Rights of the Child, CRC/C/PAK/3-4.

All hospitals at district and sub-district levels have emergency and medico-legal sections to manage cases of child abuse. Moreover, hospitals can also report suspected or diagnosed cases of abuse or violence. Typically, after the registration of a case, the victim is examined by a doctor trained in medico-legal examination who also provides immediate medical services. After a complete medical examination, the nature of any harm is recorded and forensic tests are also performed if necessary. The hospital also counsels the parents or care providers. In some cases, the victim is provided with psychological counselling and free legal aid. The police officers investigate the case and arrest the perpetrator under the relevant law. However, the current system is inconsistent, unstructured and the workforce has limited capacity. Also, different professionals follow different approaches, based on the availability of resources, and most of them provide only medical services and refer the victim to NGOs for further support.

At the federal level, the Child Protection and Welfare Bureau, Government of Punjab, has established some Child Protection Units (CPUs) for the rescue, recovery, custody, rehabilitation and reintegration of destitute and neglected children. Child Protection Units have professionally trained teams of child protection officers, child psychologists, medical doctors and legal experts. A Helpline has also been established at the Bureau. The Police Department of North West Frontier Province has established a Police Child Protection Centre, offering services to children in distress. A similar structure is working in the province of Balochistan.

Research and data collection

Though some research has been carried out by INGOs and NGOs, there is no national agenda on research. There is therefore lack of data to construct a comprehensive picture of child rights and protection situation in the country.

The National Commission for Child Welfare and Development (NCCWD) has plans to develop a Child Protection Monitoring and Data Collection System. This will help in shaping a better child protection system through creating coordination among the concerned ministries and provincial governments.

Budget allocation

There is lack of information on the budget allocated by the government for child protection programmes.

Sri Lanka

Institutional framework

Nodal agency for child protection

The Ministry of Child Development and Women's Empowerment (MoCDWE) is in charge of child protection issues and its mandate is implemented through the National Child Protection Authority (NCPA) and the Department of Probation and Child Care Services (PCCS). A separate Provincial Department of Probation and Child Care Services have been established in each of the nine provinces.

Other line ministries such as Health, Education, Social Welfare, Labour and Foreign Employment Promotion and Welfare have mandates to provide services to support families in need and these services exist at provincial level. For example, poverty alleviation services are provided by the Samurdhi Authority. However, it is the provincial ministries and authorities who have direct responsibility for the organization and delivery of services.

Often, lack of adequate staff, resources and serious attention are major challenges in strengthening child protection systems at all levels. For example, even ten years after its establishment, the National Child Protection Authority is yet to establish internal structures and recruit mid-level professionals to provide leadership to the child protection sector.

Independent Ombudsman or commission

The Human Rights Commission (HRC) was established in 1996 and is involved in investigations and has a conflict resolution role as well as having a proactive educative and capacity building function. Over the years, the Commission has played a significant role in responding to human rights concerns during the armed conflict in the North East.

Registration of institutions

All State institutions for alternative care and voluntary and non-State institutions have to be registered under relevant laws such as the Children and Young Persons Ordinance, Houses

of Detention Ordinance and Orphanages Ordinance to undergo regular inspection. However, a research study conducted in 2005 shows that mechanisms established to regulate and monitor children's institutions have been found ineffective. There are no guidelines for common standards for State institutions, though standards exist to regulate voluntary institutions.

Policy framework

The government has developed a National Plan of Action for Children (2004–08) which encompasses child protection. It sets out the responsibilities of different ministries in regard to implementing projects and activities, but it does not set out responsibilities of professionals, civil society, children and young people. This Plan is currently being reviewed and it is felt that civil society organizations should advocate for a National Plan of Action which strongly focuses on child protection and violence against children.

In addition, an Action Plan to Combat Trafficking in Children for Sexual and Labour Exploitation was adopted in 2001 and an Action Plan to Combat Child Sex Tourism in Sri Lanka was adopted in 2006.³⁰³

Child and social protection services

Sri Lanka has a well established preventative public health system but there is wide disparity in the regional distribution of health personnel.³⁰⁴ The Family Health Bureau of the Ministry of Health has incorporated adolescent health into its training programmes so that the public health sector staff would be able to provide necessary advice and counselling during routine work. There is a move to strengthen family life education and sex education throughout the education system, but there is not an organized programme to provide Adolescent Reproductive Health counselling and information services to vulnerable groups.³⁰⁵ Due to unstable conditions in the country since the late 1990s there have been high rates of late and non-registered births.³⁰⁶

³⁰³ CRC Supplementary Report, Sri Lanka, 2009. p.76.

³⁰⁴ http://www.searo.who.int/LinkFiles/Sri_lanka_Country_HealthSystemProfile-SriLanka.pdf Jan 2005

³⁰⁵ http://www.policyproject.com/pubs/countryreports/ARH_Sri_Lanka.pdf

³⁰⁶ http://unstats.un.org/unsd/Demographic/meetings/egm/DYB_1103/docs/no_09.pdf

The Ministry of Samurdhi and Poverty Alleviation provides a fixed income transfer which includes microcredit and micro-insurance components as well as a small infrastructure development component. The Ministry of Social Welfare provides income support for disabled soldiers and families of service personnel who died in the conflict, assistance for persons displaced by the conflict and emergency relief for people affected by natural disasters such as droughts and floods.

Childcare standards

The Department of Probation and Childcare Services provides institutional care as a temporary measure to unprotected children who cannot otherwise be provided with care and protection within the family. Such children are placed in State-managed homes and homes registered with the government. Children who need temporary institutional care are placed in homes usually run by voluntary organizations (Voluntary Children's Homes). Initially, such placements are for a period of three years.

During this period children are given formal education and their family situation is periodically monitored to assess the possibility of reintegrating them. The government has also provided improved institutional care facilities for those placed in remand homes, detention homes and correctional institutions. Children in the institutions are provided with both formal education and vocational training.³⁰⁷

However, these facilities do not always have social workers and psychosocial counsellors. Police stations and probation units access both government and NGO counsellors for psychosocial support on an ad hoc basis.

Social workers are recruited for child protection projects and activities where donor agencies partner with government services, but otherwise are often not hired by the government.

The Child Helpline of the Ministry of Child Development and Women Empowerment, established in February 2008, is solely a complaint receiving mechanism. Once a complaint is received, it is referred to the relevant women and children's desk, the National Child

Protection Authority or the Child Rights Promotion Officer. Referrals are also made to the Legal Aid Commission, Human Rights Commission, counsellors and other specialist organizations, as and when required. Currently, there is no mechanism to ascertain from the side of the complainant whether the issue has been redressed unless the victim calls with feedback. However, the Child Helpline receives a report from the referral point within 1½ weeks of it receiving the complaint.³⁰⁸ Also, the Helpline is not available 24 hours and has inadequate staff.³⁰⁹

Social work education is offered in Sri Lanka and the non-governmental sector provides openings in social work-related jobs, but generally both education facilities and employment prospects are limited.

Reporting violence

At present, the legislative framework does not require recording and central reporting of all incidents of violence in the community/family, schools, other institutions and alternative care. Also, there is no legal system of mandatory reporting for cases of child abuse and neglect.

It is not obligatory to hold public or independent inquiries into child deaths or serious injuries due to violence.

Children and Women's Desks have been set up at all major police stations for complaints to be recorded by women officers, and this service has grown in experience. Cases can also be made to the Probation and Child Care Unit, the Labour Office or Judicial Medical Officer at a government hospital. In the case of domestic violence, a child can be assisted by a parent, guardian or any person with whom the child resides when making a complaint.

The Children and Young Persons Ordinance and the Penal Code Amendment of 1995 provide for confidentiality. However, these provisions have been violated by the media and violations have not been prosecuted by the government.

Children's access to courts is through police or an attorney at law. However, in cases of domestic

³⁰⁷ *Government of Sri Lanka (19 November 2002). Second Periodic Reports, Sri Lanka. UN Convention on the Rights of the Child, CRC/C/70/Add.17.*

³⁰⁸ *CRC Supplementary Report, Sri Lanka, 2009. pp.39–40.*

³⁰⁹ *Ibid.*

violence, a child can be assisted by a parent, guardian or any person when making a complaint. Parental permission is not a condition for making a complaint.

Referral mechanisms

The Children and Young Persons Ordinance contains a legal framework that covers the process of reporting, assessment, investigation and referral. However, it needs to be used more vigorously by police and courts which have been by-passing Department of Probation and Child Care Services in some criminal cases. The primary responsibility for responding to the social care needs of child victims falls upon the Provincial Departments of Probation and Child Care Services.

The Probation and Child Care Officers provide primary child protection response to children and are available in every Divisional Secretariat in the country. Case identification is done through direct request by the child/family/legal representative, referral by another public or private service/institution or by written or telephone notification by another individual. Once the case is reported to the Probation Officer, an initial enquiry is made and a report is submitted to the court. The victim is provided with legal aid. If necessary, emergency care and referral to hospital for treatment is provided. An assessment of the child's home situation is also conducted, and the child is provided with a temporary place of safety if required. Depending upon the case, the probation officer or Child Rights Promotion Officer is appointed as the case manager.³¹⁰

Research and data collection

There is no separate research agenda on child protection issues. So far the research has been uncoordinated and ad hoc according to the needs of various donors and organizations. Currently, there is not a system in place for national reporting on child protection issues. However, police reports are available on crimes against children.

Budget allocation

Development aid plays a critical role in child protection systems. There is lack of information on the budget allocated for child protection.

The National Monitoring Committee is working on building a database with information gathered from the relevant national and provincial ministries on expenditure specific to children in the national budget.

³¹⁰ <http://www.probabation.gov.lk> . *Case Management in Child Protection: Methodologies, Roles and Procedures.*

9. Community-based child protection systems

Child protection at local level is the responsibility of local government, and depends upon a strong partnership between all concerned actors including national, district and local authorities, Human Rights Commissions and Ombudsmen, teachers, professionals working for and with children, local health professionals, local law enforcement agencies, and children and families. Civil society, NGOs, the media and influential community members all have a role to play in ensuring proper services provision through advocacy work and often in South Asia by filling gaps in service provision. However, it is important that the local government systems are the first point of response in protecting children. To this end, the local government systems must develop community-based services by coordinating formal or informal service providers and ultimately contracting-out services as necessary to NGOs, private providers or civil society groups.

Local government structures, referred to as community-based systems, are extremely important because of their proximity to where children and families receive services. Though the national authorities are mandated to establish minimum standards for service provision and develop an overall strategy or plan, it is the responsibility of district and local authorities to implement these standards and policies through the provision of child-friendly services and mechanisms. Community-based systems enable children to be brought up by their families by providing a range of support services including advice, counselling, placement in family centres, paralegal services, programmes and financial support to families in need. Additionally, community-based systems are most able to collect accurate data and information about children at risk and violence against children.

District and local authorities are the key actors for the prevention of violence. Their role is to monitor and evaluate systems, services and programmes and to identify violence against children within the community itself. For this to be successful, district and local actors must have the skills to identify incidences or possible

incidences of violence against children in all the settings in which they are working. District and national authorities are therefore responsible for the training and continued capacity building of local government staff, health professionals, teachers, social workers, law enforcement agencies and others working with or for children so that effective referral and reporting systems can be established and clear roles and responsibilities are determined.³¹¹

Families, including extended families have an important role to play to protect children and prevent violence against children. Families must be empowered and their capacities strengthened on child protection, especially on prevention and early response.

Community members and civil society also have a role to play in preventing violence. Community-based systems for child protection are more effective when, through open platforms, councils or networks, partnerships and relationships are developed between municipal authorities, social and healthcare services, schools, local judiciary, police, community associations, faith-based organizations, children and families.³¹²

Although the government and government systems are responsible for protecting children, community and civil society involvement can effectively strengthen child protection systems.

To illustrate, the District Child Protection Committee under the Department of Women and Children could be the responsible authority at the district level and draw its mandate from the relevant ministry at national level, from which it would also receive its budget. The Committee would include representation from relevant authorities including health, social affairs, education, justice and police, INGOs, NGOs, youth groups, women's groups and

³¹¹ Council of Europe (2009), *Policy Guidelines on Integrated National Strategies for the Protection of Children From Violence*. Strasbourg Cedex: Council of Europe. p.13.

³¹² *Ibid.*

children and have the responsibility and authority to act in cases of violence against children. To deal with such cases, a Committee would have to constitute a small ‘core group’ who would be responsible for processing cases, following up and maintaining confidentiality. The Committee would also receive referrals from village child protection committees, residential facilities for children, parents and other members of the public, and take action against the perpetrators according to the law. It would also be responsible for collecting data, identifying areas of violence against children and risk groups which need more research, and developing standards of care and protection for institutions for children.

The Village Child Protection Committee should ideally consist of representatives from relevant government authorities, social workers, teachers and the local police. It may also include representatives from child clubs. All members of the Committee should have clear roles and responsibilities. For example, teachers who are members could be responsible for reporting incidents of violence. The Committee would usually be voluntary with a small budget from the District Child Protection Committee. The main focus of the Committee should be prevention of violence against children through planned approaches and raising awareness in the society on the right of children to be protected from violence.

Community involvement in child protection is imperative. Adults and children in a community are best placed to identify local protection issues and find appropriate solutions.³¹³ Children must be regularly consulted to find out whether services established for them work, and how they can be further improved.

Mobilization of community groups has become a common programming response to violence and a vital means of changing harmful behaviour. Most community groups are initiated by an external agency such as an NGO or other civil society organization that supports services, training and capacity building of local people. Sometimes, this mobilization is built on community groups that already exist, but often

child protection groups are newly created.³¹⁴ Community groups complement and supplement the efforts of the local authorities, thereby strengthening the child protection systems.

Achievements

Local government response

In the South Asia region, countries have authorities at local level who are responsible for implementing child protection and also provide services to vulnerable children and families.

In Afghanistan, the Departments of Social Affairs and Women Affairs deal with major issues of child protection at the provincial level and cases of child protection at district level. However, child protection systems are not well developed at district level. In addition, the Child Protection Action Network (CPAN), wherever available, is used for case management and protection of children.

In Bhutan, the National Commission for Women and Children is responsible for implementing child protection programmes and policies at the local level.

The Department of Social Services, Bangladesh, is responsible for implementing child protection programmes at the local level and also for case management of child victims of violence. It provides social protection and social safety nets for the poor vulnerable people as well as community empowerment and other development activities for the vulnerable, orphans and children at risk through counselling, training and rehabilitation.³¹⁵

In India, the Department of Women and Child Development/Social Welfare is responsible for implementing child protection programmes at the state level. The new Integrated Child Protection Scheme (ICPS) envisages setting up a District Child Protection Society in each district as a fundamental unit for the implementation of the scheme and will coordinate and implement all

³¹³ Save the Children (2008), “Discussion Paper. A common responsibility: The role of community-based child protection groups in protecting children from sexual abuse and exploitation”.

³¹⁴ *Ibid.*

³¹⁵ Background and Overview of the Department of Social Services (DSS), Department of Social Services. http://www.dss.gov.bd/index.php?page+modules_page/backup

child rights and protection activities at district level. Further, every district will have a Sponsorship and Foster Care Approval Committee (SFCAC) to review and sanction a sponsorship (for preventive settings only) and foster care fund. The Scheme also envisages setting up of block and village level Child Protection Committees.

Further, the Juvenile Justice (Care and Protection of Children) Act, 2000, India, provides for establishment of a Child Welfare Committee in each district as the final authority to dispose of cases for the care, protection, treatment, development and rehabilitation of children in need of care and protection and to provide for their basic needs and protection of their human rights.

Family and Children Service Centres are established in each atoll in the Maldives and, through social service workers, provide protection services to children and families at risk and those in need of protection.

In Nepal, District Development Committees, municipalities and Village Development Committees are mandated to carry out child welfare programmes. The functions and duties of local government institutions include birth registration, protection of children, income-generating activities beneficial to the parents of children from disadvantaged communities, collection of data concerning children, persons with disabilities and children at risk, and conditions and arrangements for their rehabilitation.³¹⁶ They are also responsible for strengthening community protection groups such as Village/Municipality Protection Committees.

In Pakistan, a Ministry and Directorate of Social Welfare Department is present in each province and is responsible for implementing programmes and services on child protection. The District Commission for Child Welfare and Development (DCCWD) is responsible for child protection at the district level. Child Protection Units have been established in 6 districts (Mansehra, Battagram and Abbottabad in Khyber Pukhtooakhwa Province and Muzzafarabad, Bagh and Neelam in Azad Jammu and Kashmir). A Child Protection Unit has also been

established in the social welfare department at district level with a database. Child Protection Committees (of adults) and child rights clubs (of children) have been formed in each district. The objectives of these structures are to identify the child rights and protection issues at the grassroots level.

In Sri Lanka, the Department of Probation and Child Care Services is responsible for providing child protection services. The Probation and Child Care Officers provide the primary child protection response and are available in every Divisional Secretariat in the country. Case identification is done through direct request by the child/family/legal representative, referral by another public or private service/institution and by written or telephone notification by another individual.³¹⁷

Families and extended families

In South Asia, family, including extended family, has traditionally provided protection to children in times of need. In the event of the death of the primary caregiver, usually the mother and children are taken into the care of the extended family. Often, when parents migrate to another place for work and are unable to take the children along, they leave them in the care of extended families.

However, not all children in the region have family or extended family to provide care and protection. Also, there may be situations when the family and extended family are unable to take care of children. In such cases, there is no option but to place the children in alternative systems of care, including institutions. It is also the case that while family and extended family support is generally an excellent system for protecting children, many instances of abuse, exploitation and violence are reported and therefore these structures need to be closely monitored.

Alternative systems of care

Adoption, sponsorship and fostering are some of the other alternative care systems found in the

³¹⁶ *Government of Nepal (3 December 2004). Second Periodic Report. UN Committee on the Rights of the Child, CRC/C/65/Add.30.*

³¹⁷ <http://www.probation.gov.lk>. *Case Management in Child Protection: Methodologies, Roles and Procedures.*

region. In South Asia, adoption exists only in India, Sri Lanka and Nepal.³¹⁸

In India, both in-country and inter-country adoption take place regularly through the courts following guidelines set out by the Central Adoption Resource Agency, an autonomous body under the government.

The inter-country adoption of a Nepalese child is carried out with the approval of the Council of Ministers in conformity with the Civil Code (Muluki Ain, 1963). In Sri Lanka, fostering is governed by procedures laid down in the Child and Young Persons Ordinance. Adoption procedures, both in-country and inter-country, are carried out according to the provisions under the Adoption Ordinance amended by Act No. 15 of 1992.

In Afghanistan, Maldives and Pakistan, which are governed by Islamic law, adoption is not allowed. In Bangladesh, the law in general does not allow adoption but a guardianship may be granted to a kin under the Guardians and Wards Act, 1890. However, under the Hindu personal law there is a limited provision of adoption.

In Panjshir province in Afghanistan, an informal foster care programme functions to place children in need of care in the community and to subsequently monitor their care.³¹⁹

Alternative care institutions like orphanages and children's homes are available in most parts of the region. For the support and care of orphans and children without family support, the Government of Afghanistan has set up 62 orphanages in the centre and other provinces of the country and provides board and lodging, care, education, health and leisure facilities for the children. In the absence of any orphanages or homes for abandoned children, the monastic institutes in Bhutan take in children and raise them to become monks.

In India, children in need of care and protection, including those without parental care, are placed in children's homes, in accordance with the

Juvenile Justice (Care and Protection of Children) Act, 2000. Also, NGOs run orphanages for destitute children. In Nepal, children who are orphans are placed in children's homes run by NGOs and the government. In Pakistan, a number of orphanages have been established in major cities of the country where children are provided with shelter, food, clothes and basic education. In Sri Lanka, children without parental support are placed in institutions.

Community protection groups

Community-based child protection groups are given diverse names throughout the region, such as child protection committees, child welfare committees, anti-trafficking groups and community watch groups. They usually consist of a collection of people, often volunteers, who aim to ensure the protection and well-being of children in a village, urban neighbourhood or other community. For example, in Bangladesh, community-level committees (watch groups) are an informal mechanism for addressing child protection concerns at the grassroots level.

Similarly, the Paralegal Committees, Nepal, which consist of volunteers and were initially formed as part of an anti-trafficking project, deal with all forms of violence, abuse and exploitation of children and women. The Committees collect information on children and women at risk through networking and from frontline community workers such as health workers, teachers and village facilitators and make timely interventions to prevent violence against children.

Recently, many governments in the region have been involving communities in child protection by promoting formation of community child protection groups, comprising community members, teachers, police, local NGO representatives and child group representatives. As these groups have the support of government, they are more recognized by the community and are sustainable over a longer period of time. For instance, in Nepal, the Village/Municipality Child Protection Committees are formal in structure, and consist of a nine-member committee with representation of the Village Development Committee/Municipality chairperson, a teacher, a female health worker, a women development worker, a child rights activist, a child club representative, and three members from ethnic,

³¹⁸ Kang, K. (2008). *What You Can Do About Alternative Care In South Asia, An Advocacy Kit 2009*. UNICEF, ROSA. p.5.

³¹⁹ Kang, K. (2008). *What You Can Do About Alternative Care In South Asia, An Advocacy Kit 2009*. UNICEF, ROSA. p.13.

marginalized and Dalit communities. In India, the Ministry of Women and Children under its comprehensive scheme 'Ujjawala' provides funds to NGOs to form Community Vigilance Groups as an anti-trafficking strategy. Further, some states including Tamil Nadu, Karnataka and Andhra Pradesh have been making efforts to establish community-based child protection groups at village level. These groups include panchayat (local governance) representatives as members.

There are some alternate mechanisms which are used by the community to seek solutions to their problems. For example, in Bangladesh, *Salish*, an alternate method of dispute resolution, is found within villages and the presence of people's organizations and NGOs can ensure that children receive justice. Children in Bangladesh can also take their complaints to their local child protection committees. The committees also act as a watchdog, rescuing children from jail or young teenage girls from early marriages and asserting the right of disabled children to get an education.³²⁰ Similarly, in Bhutan, *Gups* (village headmen) play a vital role in protecting children in rural areas.

Involvement of religious leaders

Religion is interwoven in the societal norms and functioning of societies in South Asia. Religious leaders have authority and are looked to for advice on day-to-day matters. There have been some initiatives to involve religious leaders in child protection issues. In Afghanistan, to mark the 20th anniversary of the UNCRC, Imams (Islamic religious leaders) in over 200 mosques in Kabul province, Jalalabad and in Mazar-i-Sharif addressed the issue of children and their rights. Similarly, in Bangladesh, Imams have been trained to disseminate information on child and women trafficking during their Friday prayers.³²¹

The Inter-faith Religious Priest Forum (IRPF), Bihar, India, works on Violence against Women (VAW), trafficking and other related issues.³²² In

³²⁰ [http://www.savethechildren.org.uk/en/docs/Bangladesh_CB_2009\(1\).pdf](http://www.savethechildren.org.uk/en/docs/Bangladesh_CB_2009(1).pdf)

³²¹ INCIDIN Bangladesh. (2001). *Local-level Initiatives to Combating Sexual Abuse and Sexual Exploitation in Bangladesh*. UNESCAP.

³²² Ministry of Women and Child Development, Government of India (2008). *India Country Report, To Prevent and Combat Trafficking and Commercial Sexual Exploitation of Children*

Nepal, religious leaders are being involved to create awareness on effects of early marriage and against the *Chhaupadi* system.

Gaps and opportunities

Over the years with urbanization and migration, nuclear family living is becoming more popular and joint families and extended family support is not as strong as before. Thus, many times, children are deprived of care and protection offered by traditional family systems.

Parents from poor economic backgrounds who are unable to take care of their children are increasingly placing them in the care and protection of institutions. Parents also use other means to protect their children from abuse and exploitation. For instance, parents in Bangladesh consider marriage and work-induced migration as means of ensuring protection of adolescent girls from being abused and stigmatized within rural households. In Sri Lanka, parents tend to remove children from situations of potential risk and harm, such as conscription into armed groups, by placing them in orphanages or sending them abroad or to relatives in safe locations.

Though adoption is often considered as a one of the better alternatives for care of children, lately it has become a murkier business. A recent study on inter-country adoption in Nepal showed that increase in adoption has led to numerous irregularities, including alleged falsification of documents (children who have parents are declared orphans or abandoned), child centres buying children from biological parents and child centres charging excessive amounts to prospective adoptive parents.³²³

Alternative care institutions such as orphanages and children's homes are not uniformly available in the countries of the region. In Islamic countries, where adoption is not recognized, by and large the only alternative system of care that exists for children is institutionalization. Other forms of alternative systems of care such as foster care are not well developed in the region.

and Women. World Congress III Against Sexual Exploitation of Children and Adolescents (Rio de Janeiro, Brazil, November 2008).

³²³ *Terres des homes Foundation (2008). Adopting the rights of the Child, A study on intercountry adoption and its influence on child protection in Nepal. p.9.*

Often, traditional alternate redressal mechanisms go against the best interest of children. For example, in Afghanistan, informal structures are formed to settle disputes and discuss local problems. They are normally governed by landlords, religious groups and influential persons from the community, who do not necessarily have the required skills or knowledge to deal with human rights issues. There is a likelihood that families and known people in communities mediate to buy out the perpetrator to avoid the matter going public.

There are also instances when perpetrators mediate and pay compensation to the victim's family to settle the matter. In sexual abuses cases, a girl may be forced to marry her abuser. In Afghanistan, girls can be offered to another family in retribution for wrongdoing. In Pakistan, *watta satta*, literally meaning 'give and take', involves bride exchange between two families as a mechanism to prevent mistreatment of daughters but in reality is used as a mutual threat of reciprocity. In such cases, the child continues to remain a victim and is denied justice.

Community-based child protection groups are not uniformly spread throughout the region and may depend upon where donors or NGOs have presence. Thus, these groups may or may not sustain over a period of time and often depend upon donor or NGO funding.

Despite the gaps, governments in the region have the opportunity to improve and strengthen community-based child protection systems. Governments must strengthen the capacities of their structures at the district and local level to deal with child protection issues, identify vulnerable children and children at risk, deal with cases of child victims, provide referrals and build databases.

Governments must have programmes which will help in raising awareness among families on child protection and build their capacities to look after their children. They must also have interventions to support poor families and single parents to take care of their children.

Governments must review their alternative systems of care and strengthen those which are more community-based. Adoption laws and guidelines must be strictly followed and agencies facilitating adoption should be regularly monitored. Institutionalization of children must

be kept as a last resort when all other options have been exhausted.

Attempts should be made by governments, INGOs and NGOs to engage more meaningfully with traditional redressal mechanisms and strengthen their capacities to address children's rights and their protection.

Governments while promoting community groups must ensure that they complement and supplement local authorities in child protection.

Community-based child protection systems in South Asian countries

Afghanistan

Local governance responses

In Afghanistan, the Departments of Social Affairs and Women Affairs deal with major issues of child protection at the provincial level and cases of child protection at district level. However, child protection systems are not well developed at district level. The Child Protection Action Network (CPAN), available in 28 provinces, is used for case management and protection of children.

Families and extended families

Afghanistan is a traditional society and daily lives for many are governed by customary practices, some of which contradict Islamic laws.³²⁴ Social norms and customs put great emphasis on the concept of family. Extended families are still very much the norm with very strong ties. Despite the family being in the best interest of the child, economic limitations, local customs and low levels of literacy and security result in traditional practices such as early or forced marriages of girls.³²⁵

It is estimated that 80 per cent of the population, especially those living in rural and remote areas, depend on customary laws to settle disputes and legal issues. Cases of violence against women and children, marriage and divorce and inheritance are settled without the involvement of formal

³²⁴ *Terres des homes Foundation (2008). Adopting the rights of the Child, A study on intercountry adoption and its influence on child protection in Nepal. p.9.*

³²⁵ *Ibid*

institutions. Even cases of murder, rape and torture are settled among families.³²⁶

Alternative systems of care

For the support and care of orphans and children without family support, the government has set up 62 orphanages in the centre and other provinces of the country and provides for the board and lodging, care, education, health and leisure facilities of the children.³²⁷

Afghanistan being an Islamic country guided by Muslim personal law does not recognize adoption of children.³²⁸ However, a new law on adoption, if approved, will provide criteria for people who apply for adoption and for the child to be adopted.³²⁹

Involvement of religious leaders in child protection issues

To mark the 20th anniversary of the UNCRC, Imams (Islamic religious leaders) in over 120 mosques in Kabul province, 60 mosques in Jalalabad and 20 large mosques in Mazar-i-Sharif, including the Blue Mosque, addressed the issue of children and their rights. This was a starting point for addressing rights of children in Afghanistan in the mosques of the country. Children's rights are now a recurring theme in the Friday prayers. This is a unique opportunity to reach out to parents, extended families and the society through mosques to strengthen the rights of children in Afghanistan. The Department of Religious Affairs is working with INGOs to introduce child rights into the religious education curriculum.³³⁰

Bangladesh

Local governance responses

The Department of Social Services is responsible for implementing child protection programmes

³²⁶ *Save the Children Sweden (2006). 'Mapping Save the Children's response to violence against children in South Asia.'* Kathmandu: Nepal p.22.

³²⁷ *Islamic Republic of Afghanistan, Ministry of Foreign Affairs. Human Rights & Women's International Affairs, Initial Report. Committee on the Rights of the Child.*

³²⁸ *Save the Children Sweden. Mapping Save the Children's response to violence against children in South Asia. p.22.*

³²⁹ *Anvari, H. (ed.) Civil society alternate report on Afghanistan's progress towards CRC realization – Initial Report. Civil Society Coalition on UNCRC Afghanistan.*

³³⁰ *Save the Children Sweden-Norway. In Over 200 mosques in Afghanistan, this Friday prayer's theme will be child rights.*

at the local level and also for case management of child victims of violence. It provides social protection and social safety nets for the poor vulnerable people as well as community empowerment and other development activities for the vulnerable, orphans and children at risk by providing them counselling, training and rehabilitation.³³¹

Families and extended families

Traditionally family, including extended family, was considered to be safe for children; however, this perception is now changing.

Parents consider marriage and work-induced migration as means of ensuring protection of adolescent girls from being abused and stigmatized within rural households. Children stay with relatives, neighbours and known contacts as a measure of safety. However, these mechanisms are proving ineffective as they do not always protect children. It has been found that girls often find marriage to be the beginning of an abusive experience.³³²

Alternative systems of care

Children from poor families or orphans are often sent to madrasas (Islamic schools) and orphanages where they frequently face physical and humiliating punishments, involuntary indoctrination to Islamic militancy, and sexual abuse.

The law in general does not allow adoption but guardianship may be granted to a kin under the Guardians and Wards Act, 1890. However, such legal arrangement is very rare. In the absence of civil law on adoption, it is governed by Muslim law for Muslims and by Hindu law for Hindus. Although there is a large Muslim population, the country does not have Shari'a or Islamic law. However, under the Hindu personal law³³³ there is a limited provision of adoption. Within this context, if the family is unwilling or unable to claim responsibility, the community may organize work and stay in the neighbourhood or the child

³³¹ *Background and Overview of the Department of Social Services (DSS), Department of Social Services. http://www.dss.gov.bd/index.php?page+modules_page/backround.*

³³² *INCIDIN Bangladesh (2000). Socio-Economic Dimensions of Trafficking in Girl Children in Bangladesh. SCF (UK).*

³³³ *Anath Bandhu Guba vs. Sudhangsu Sekhar Dey 31 DLR 1979.*

can migrate for work/begging or be enrolled in an orphanage or even an NGO-run shelter (if such facility is available).

Community protection groups

There are a number of positive community-led initiatives on child protection. For instance, the adult sex workers' groups closely monitor the entry of new recruits, resist the recruitment of girls, and assist in rescuing girls from harmful situations. Imams have been trained to disseminate information on child and female trafficking during Friday prayers.³³⁴ The existing community-level committees (watch groups) facilitated by NGOs and community-based organizations are also bringing in the concept of child protection and a very informal mechanism for addressing such concerns at the grassroots level. However, these structures need to be coordinated. The issue of protection is popularly treated in relation to sexual abuse and exploitation. Thus the awareness on protecting children from other forms of violation (such as economic exploitation or neglect) needs to be raised at policy and community levels.

In addition, there are alternate redressal mechanisms that exist at community level. *Salish*, an alternate method of dispute resolution, is found within villages and sometimes in the Union Parishad (the lowest tier of the locally elected body). Indirectly, the entire community is linked with *Salish*. The *Salishdar* takes testimony from both sides as well as the witnesses before declaring the verdict. The presence of people's organizations and NGOs can ensure that community justice for children is served; otherwise the verdict may swing towards social elites.

Children can also take their complaints to their local child protection committees. The problems brought to the committee range from rape to abduction. The committees also act as a watchdog, rescuing children from jail or young teenage girls from early marriages and asserting the right of disabled children to get an education.³³⁵

³³⁴ INCIDIN Bangladesh. (2001). *Local-level Initiatives to Combating Sexual Abuse and Sexual Exploitation in Bangladesh*. UNESCAP.

³³⁵ [http://www.savethechildren.org.uk/en/docs/Bangladesh_C_B_2009\(1\).pdf](http://www.savethechildren.org.uk/en/docs/Bangladesh_C_B_2009(1).pdf).

Bhutan

Families and extended families

The extended family system is still strong in Bhutan, although nuclear families with two working parents are becoming more common in urban centres.³³⁶ Strong family ties and cohesive communities traditionally provide protection to children. However, the national consultation on violence against children found that 80 per cent of violence experienced by children takes place within the home. Modernization and rapid urbanization is eroding traditional child protection systems, increasing the vulnerability of many children.

In rural areas, there exist informal systems within the system of local governance of the country known as *Gup* (headman). Though the *Gup* has no specific role in ensuring child protection, he is the first point of contact for any event at the sub-district level. Thus *Gups* play a vital role in protecting children in rural areas. An advantage of this system is easy access and immediate action to solve local problems using simple solutions and mutual settlement.

Alternative systems of care

The Buddhist values of non-violence and a culture of nurturing children have been important in influencing communities to shun child violence. In the absence of any orphanages or homes for abandoned children, the monastic institutes take in children and raise them to become monks. They are provided with food, shelter and a stipend after registering with the central monastic body.

The National Commission for Women and Children is currently the defacto adoption agency for inter-country adoption. No court in the country will issue an adoption verdict unless certified by the Commission.

The National Commission for Women and Children has also tabled the Draft Adoption Bill, 2010 which will be considered by the Parliament in the December Session (2010) of the Parliament.

³³⁶ Royal Government of Bhutan (16 July 2007). *Second Periodic Reports of States, Bhutan. Committee on the Rights of the Child, CRC/C/BTN/2*.

India

Local governance responses

The Department of Women and Child Development/Social Welfare at the state level is responsible for implementing child protection policies and programmes.

The new Integrated Child Protection Scheme (ICPS) envisages setting up a District Child Protection Society in each district as a fundamental unit for the implementation of the scheme and will coordinate and implement all child rights and protection activities at district level. Its function includes effective implementation of child protection legislation, schemes and plans of action, ensuring that for each child in need of care there is an individual care plan and that the plan is regularly reviewed.

Other tasks include identifying families at risk and children in need of care and protection through effective networking and linkages with the local authorities such as functionaries of the Integrated Child Development Service, Panchayat Raj institutions and urban local bodies and NGOs dealing with child protection issues and local bodies, assessing the number of children in difficult circumstances and creating district-specific databases to monitor trends and patterns. Further, every district will have a Sponsorship and Foster Care Approval Committee (SFCAC) to review and sanction sponsorship (for preventive settings only) and foster care fund. The Scheme also envisages setting up of block and village level Child Protection Committees.³³⁷

The Scheme seeks to strengthen child protection at family and community level by building capacities of families and community to strengthen care, protection and response to children and create and promote preventive measures to protect children from situations of vulnerability, risk and abuse. It also plans to involve community groups and local leaders, volunteers, youth groups, families and children and provide a protective and conducive environment for children, acting as watchdog and monitoring child protection services by, inter

³³⁷ Ministry of Women and Child Development, Government of India. *the Integrated Child Protection Scheme (ICPS) – A Centrally Sponsored Scheme of Government – Civil Society Partnership*. p.27–29.

alia, participating in the village and block level Child Protection Committees.³³⁸

Further, the Juvenile Justice (Care and Protection of Children) Act, 2000, provides for establishment of a Child Welfare Committee in each district as the final authority to dispose of cases for the care, protection, treatment, development and rehabilitation of children in need of care and protection and to provide for their basic needs and protection of human rights.

Families and extended families

Traditionally, family and communities are responsible for providing care and protection to children. It is widely believed that the family is ultimately the most capable of looking after the best interests of the child.³³⁹ A child without parents is usually provided care and protection as well as financial support from the extended family. However, with the advent of nuclear families, this traditional system seems to be disappearing. Furthermore, studies show that children are vulnerable to abuse, exploitation and violence within their families and homes.³⁴⁰

Alternative systems of care

Adoption is governed by personal laws, despite the Juvenile Justice (Care and Protection of Children) Act, 2000, also providing for it. The problem is that the Juvenile Justice Act does not lay down the procedure for adoption. It allows a child in need of care and protection to be declared legally free for adoption and then the matter goes to the district court. The courts only have the Hindu Adoption and Maintenance Act to use. The other personal laws do not allow adoption and therefore the Guardianship and Wards Act is used in matters involving children of families belonging to other religions, which only allows a child to be placed under guardianship. Since the Juvenile Justice Act does not clearly cover adoption for those belonging to other religions, the courts have not been able to use the law effectively. The adoption process is guided by a set of guidelines established by the Central Adoption Resource Agency (CARA), which is not the law. Therefore, lack of a proper

³³⁸ Ministry of Women and Child Development, Government of India. *the Integrated Child Protection Scheme (ICPS) – A Centrally Sponsored Scheme of Government – Civil Society Partnership*.

³³⁹ Ministry of Women and Child Development, Government of India (2007). *India Child Abuse Study*.

³⁴⁰ *Ibid*.

law on adoption allows for illegal adoptions and trafficking of children in the name of adoption. Activists have demanded a moratorium on international adoptions for 10 years, given that CARA guidelines allow adoption agencies to take money from prospective adoptive parents in the case of inter-country adoptions, which has kept many Indian parents waiting and given a boost to an adoption racket and treatment of children as commodities.

Children in need of care and protection, including those without parental care, are placed in children's homes, in accordance to the Juvenile Justice (Care and Protection of Children) Act, 2000. Also, NGOs run orphanages for destitute children.

Community protection groups

Over the years, government, especially in some states including Tamil Nadu, Karnataka and Andhra Pradesh, has been making efforts to establish community-based child protection groups at village level. In most states, however, it is the UN agencies, INGOs and NGOs that have succeeded in doing this. In West Bengal, for example, an INGO has helped to set up village-level child protection committees comprising 13–20 members, including influential people, parents, school teachers, employers and representatives of children's groups. Over three to four years, the committees have helped more than 1,200 children to leave work and return to school, and aided the arrest of 100 traffickers.³⁴¹ These community groups are sensitized and trained on child protection issues, and how to take steps to prevent violence against children. However, the groups are not uniformly spread throughout the country.

In Goa, the Goa Children's Act establishes children's committee at the panchayat level and the municipal corporation level.

The emphasis on community-based care and rehabilitation programmes for victims of trafficking, abuse and exploitation and those affected by HIV/AIDS can be seen in recent

³⁴¹ Wessells, M. (2009). *What Are We Learning About Protecting Children in the Community? An inter-agency review of evidence on community-based child protection mechanisms*. USAID, Oak Foundation, World Vision, UNICEF, Save the Children. Executive Summary available at: [http://www.savethechildren.org.uk/en/docs/What_Are_We_Learning_low_res_\(2\).pdf](http://www.savethechildren.org.uk/en/docs/What_Are_We_Learning_low_res_(2).pdf)

years in the work of INGOs and NGOs. On the issue of trafficking and HIV/AIDS in particular, several groups are engaged in ensuring community-based rehabilitation and different models are now available.³⁴² Such initiatives are promoted by the government and form part of its approach on trafficking and HIV/AIDS.³⁴³

Involvement of religious leaders in child protection issues

Religious leaders have been involved in sensitizing the community to curb trafficking of, and violence against, women. Partnerships have been built with the religious leaders in Bihar as a pilot project and an Inter-faith Religious Priest Forum (IRPF), Bihar, was formed. Today religious leaders from various faiths are working on the issues of Violence Against Women (VAW), trafficking and other related issues. Such initiatives now exist in Jharkhand, Bihar, Uttar Pradesh, West Bengal and Uttarakhand.³⁴⁴

Maldives

Local governance responses

Family and Children Service Centres are established in each atoll and, through social service workers, provide protection services to children and families at risk and those in need of protection.³⁴⁵

³⁴² HAQ: Centre for Child Rights (2008). *Compendium of Best Practices on Anti Human Trafficking by Non-Governmental Organizations*. UNODC-ROSA. India HIV/AIDS Alliance. *Innovative Programs Improve Lives of Indian Children Affected by HIV/AIDS – Indian Model May Help Other Developing Countries Fight AIDS*. Available at: http://www.abbottglobalcare.org/PDFs/200409_pr.pdf

³⁴³ Planning Commission of India. *Eleventh Five Year Plan. Towards Women's Agency and Child Rights*. Chapter 6, pp. 199, 213, 214, 215. Available at: http://planningcommission.gov.in/plans/planrel/fiveyr/11th/11_v2/11v2_ch6.pdf

Ministry of Health and Family Welfare, NACO (30 November 2006). *National Aids Control Programme (NACP) III, 2006–11*.

³⁴⁴ Ministry of Women and Child Development, Government of India (2008). *India Country Report, To Prevent and Combat Trafficking and Commercial Sexual Exploitation of Children and Women*. World Congress III Against Sexual Exploitation of Children and Adolescents (Rio de Janeiro, Brazil, November 2008)

³⁴⁵ McBride, R. (29 December, 2009). *Social services now reaching children in the Maldives*. UNICEF. www.unicef.org/infobycountry/maldives_522278.html

Families and extended families

The traditional Maldivian society has a strong system of extended families, which are also a source of social, financial and emotional support to all members including children. In the event of the death of the primary caregiver, usually the mother and children are taken into the care of the extended family. On divorce, the mother is given preference when granting custody to children under the age of 7. The Family Act stipulates clearly how the child custody should be granted.

With the onset of nuclear families and changing dynamics of the community, traditional systems are altering. Moreover, critical examination of the traditional and informal child protection systems reveals that though they are the best option for children, there have been reports of abuse and violence by relatives and guardians.

Alternative systems of care

There are few alternative care options for children in need of protection. A study by the Ministry of Gender and Family suggests that though kinship care and fostering are supported by the public, however due to housing and financial difficulties they are unable to do so. However, with support from the government, the public would like to undertake foster care. In this regard, from May 2010, foster care benefits are being provided by the National Social Protection Agency.

Hence, up till recently, the State is currently left only with the option of institutional care. Efforts are being made to strengthen fostering systems within the Department with the assistance of international experts.

Informal fostering by relatives still does take place, with some of these children moving around from one relative to another with little long-term stability.

Nepal

Local governance responses

The District Child Welfare Boards, District Development Committees, municipalities and Village Development Committees are mandated to carry out child welfare and protection programmes.

The District Child Welfare Board is formed by involving local administration, local bodies and other local line agencies.

The Local Self-Governance Act has made it mandatory to have women representatives in all municipalities and District Development Committees so that the issues of children can be raised in the local bodies. The functions and duties of local government institutions include birth registration, protection of children, income-generating activities beneficial to the parents of children from disadvantaged communities, collection of data concerning children and persons with disabilities and children at risk, and conditions and arrangements for their rehabilitation.³⁴⁶ They are also responsible for strengthening community protection groups such as Village/Municipality Protection Committees.

Families and extended families

The joint family system is the norm, although nuclear families are becoming more common in the urban areas. Children are raised according to the community customs and traditions. In urban areas, parents of nuclear families often are unable to give sufficient time to their children as both parents usually work. This is leading to an increase in social problems such as drugs, alcoholism and gang fights among urban children. Similarly, male labour migration increases women's household and family responsibilities. The existence of early marriage and polygamy deprives many children of much-needed parental guidance.³⁴⁷

Alternative systems of care

Children who are orphans are placed in children's homes run by NGOs and the government. The Central Child Welfare Board regularly monitors these children's homes and follows up complaints and registration renewals. Though the government has set minimum standards for physical infrastructure and ensuring health, education and psychosocial support, not all homes meet these requirements.

Nepal law allows adoption of a child under certain conditions. Domestic adoptions are

³⁴⁶ *Government of Nepal (3 December 2004). Second Periodic Report. UN Committee on the Rights of the Child, CRC/C/65/Add.30.*

³⁴⁷ *Ibid.*

administered by the land revenue offices at the local level and the inter-country adoption of a Nepalese child is carried out according to the “Procedure of Inter-country adoption”.

The Ministry of Women, Children and Social Welfare is responsible for the administration of the inter-country adoptions. However, there is no single agency to coordinate and monitor all adoptions taking place in the country.

Community protection groups

Recently, NGOs, INGOs and UN agencies working on child protection issues have been involving the community by setting up community-based child protection committees and paralegal committees in their area of operations. For instance, the model Village/Municipality Child Protection Committee consists of a nine-member committee with representation of the Village Development Committee/Municipality chairperson, a teacher, a female health worker, a women development worker, a child rights activist, a child club representative, and three members from ethnic, marginalized and Dalit communities. It collects data on children in need of care and protection, formulates programmes and implements them in coordination with different governmental and non-governmental organizations. The Committee also refers complaints of child rights abuse to concerned agencies, provides emergency aid to children in need of care and protection and advocates for child protection. The mandate of the Committee is broad in the sense that it works for overall community development and protection of children. At present, the Village Child Protection Committees are not recognized under the Children’s Act.

Paralegal Committees, which consist of **volunteers, address all forms of violence, abuse** and exploitation of children and women. The Committees collect information on children and women at risk through networking and from frontline community workers such as health workers, teachers and village facilitators and make timely interventions to prevent violence against children. When they take up the case, they facilitate access to appropriate services, shelters, psychosocial counselling, skills training and reintegration programmes for the survivors. They also establish linkages with other stakeholders having medical, legal, educational and psychosocial expertise. Whenever there is a reported incident, Paralegal Committees hold

meetings in the community to discuss the problem and possible solutions. At present the Committees are not recognized by any legislation; however, they are recognized in the National Plan of Action for the ‘Year Against Gender Based Violence, 2010’ and the Government of Nepal is considering formalizing its existence.

Religious leaders and community members create awareness against harmful traditional practices such as early marriage and the *Chhauwadi* system. Since communities have great faith in religious leaders, this has helped in bringing about raised awareness among the people.

Pakistan

Local governance responses

A Ministry and Directorate of Social Welfare Department are present in each province and are responsible for implementing programmes and services on child protection. The District Commission for Child Welfare and Development (DCCWD) is responsible for child protection at the district level. Child Protection Units have been established in 6 districts (Mansehra, Battagram and Abbottabad in Khyber Pukhtooakhwa Province and Muzaffarabad, Bagh and Neelam in Azad Jammu and Kashmir). A Child Protection Unit has also been established in the social welfare department at district level with a database. Child Protection Committees (of adults) and child rights clubs (of children) have been formed in each district. The objectives of these structures are to identify the child rights and protection issues at the grassroots level.

Families and extended families

Traditionally, care and protection of children is the responsibility of families and communities. There are no structured child protection systems at societal level and the concept of child protection is poorly understood. Responses to violence sometimes require interventions into the private family sphere and challenge accepted norms and values, which is a powerful obstacle to protecting children.

Alternative systems of care

Historically, children in difficult circumstances such as orphans and homeless children were cared for through philanthropic acts of charity. A number of orphanages have been established, in major cities of the country, where children are

provided with shelter, food, clothes and basic education. However, at State level, there are no structures for alternative care, except for a few children's homes (Darul Aftal) run by the provincial social welfare departments in major cities. Some NGOs also run shelters for destitute children. Generally, homes have untrained staff and provide inadequate facilities.

Pakistan being an Islamic country does not recognize adoption; however, guardianship is allowed under certain conditions.

Community protection groups

With support from INGOs, child protection mechanisms are being developed at the village level, with the active participation of local communities. Male/female community organizations have been formed with the active participation of the community according to democratic processes, and marginalized groups have been given representation in the forum. Existing forums have received some capacity building on child rights, community organization management and child protection. Community organizations have provided opportunities to community members at grassroots level, especially women and children, to organize themselves and work collectively for the identification and solution of their problems.³⁴⁸

Sri Lanka

Local governance responses

The Department of Probation and Child Care Services is responsible for providing child protection services. The Probation and Child Care Officers provide the primary child protection response and are available in every Divisional Secretariat in the country. Case identification is done through direct request by the child/family/legal representative, referral by another public or private service/institution and by written or telephone notification by another individual.³⁴⁹

Families and extended families

Family and extended family are the traditional system of child protection. The resilience of the extended family system was amply demonstrated post-Tsunami when over 90% of children who

lost both parents were fostered by immediate relatives. Also, in situations where mothers leave for employment abroad, young girls are generally entrusted to female relatives such as aunts and grandmothers. In the absence of parents, there is also a tradition of the eldest son or daughter assuming a parental role. However, the efficacy of these social and informal arrangements in meeting the best interests of children seems to depend on the support they receive from the community and wider society.

Parents tend to remove children from situations of potential risk and harm, such as conscription into armed groups, by placing them in orphanages or sending them abroad or to relatives in safe locations.

Alternative systems of care

Fostering is governed by procedures as laid down in the Child and Young Persons Ordinance. Adoption procedures, both in-country and inter-country, are supported by Probation Officers under the Adoption Ordinance amended by Act No. 15 of 1992.

A large number of children in Sri Lanka are placed in institutional care. About 80% of children residing in homes are known to have one or both parents alive. Often this is a way for poor parents to access education for their children.³⁵⁰

³⁴⁸ *Save the Children Sweden. Pakistan, Community Based Child Protection Mechanism (internal document).*

³⁴⁹ <http://www.probation.gov.lk>. *Case Management in Child Protection: Methodologies, Roles and Procedure.*

³⁵⁰ *Parry-Williams, J. Evaluation of SCISL project 'New beginnings for children affected by violence and conflict' in Jaffna district and Southern & western provinces & suggestions for a 3 year strategy 2008–11. Save the Children in Sri Lanka.*

10. Child protection in emergencies

Governments in the region must deal with daunting challenges of poor populations faced with increased vulnerability to emergencies while at the same time struggling to manage the impact of climate change, rapid unplanned urbanization and unprecedented population growth with limited resources. Governments are focusing on improving their access to limited resources for emergency management, but efforts would be strengthened with more transparency and attention to good governance to curb corruption. Such a focus needs to address both the causes and development issues by strengthening State systems as well as handling the effects of conflict and disaster. Remedies would support social protection and system building at national and sub-national levels. This is more challenging if the State is the cause of the conflict but even then it is imperative to defend children's protection and rights.

Emergency situations

An emergency can be defined as, 'A situation where lives, physical and mental well-being, or development opportunities for children are threatened as a result of armed conflict, disaster or the breakdown of social or legal order, and where local capacity to cope is exceeded or inadequate.'³⁵¹

The South Asia region is prone to earthquakes, floods and cyclones and has seen some of the worst man-made and natural disasters in recent times. The Tsunami of 2004 was a reminder of how vulnerable Asia is to natural disasters as it left behind complete devastation, both to property and people. Natural disaster statistics over a period of the last two decades point out staggering numbers of people affected in the region: India 1.5 billion, Bangladesh 317 million, Afghanistan 6 million, Pakistan 39 million, Sri Lanka 16 million and Nepal 4 million.³⁵²

³⁵¹ *Rules and Principles for Save the Children Emergency Response, October 2009.*

³⁵² <http://www.preventionweb.net/english>

The number of internal armed conflicts appears to be increasing in South Asia, resulting in a large number of displaced people. For instance, the 25 years war in Afghanistan has led to 3.5 million refugees moving to neighbouring Pakistan. Pakistan itself has also seen a rise in extremism and political violence over the last few years. The ten-year war in Nepal ended in 2007 with the signing of a Peace Agreement; however, the government still remains unstable. After more than 25 years of violence, the conflict in Sri Lanka appeared to be at an end – at least militarily – in May 2009, when government forces seized the last area controlled by the Tamil Tigers.

During emergency situations families often lose their homes, livelihood autonomy and dignity when trying to obtain humanitarian relief and protection. Frequently families do not have proper documentation such as identity cards, birth certificates or property titles, which makes it difficult for them to enjoy and exercise their rights. They may also face discrimination based on age, race, caste, colour, sex, language, religion, origin or other socio-economic indicators.

Children in armed conflict

Conflict has its greatest impact on the poorest communities in the poorest countries, and children are among the most severely affected. According to the United Nations, some 20 million people have been killed in over 150 armed conflicts in developing countries since the Second World War, the majority being women and children. The impacts on children may be direct and apparent, as in the case of death, wounding, family separation or dislocation, but they are frequently far less obvious, as with economic impoverishment, hazardous labour, early marriage, or the loss of opportunities for education and health.

Children are used both by State and non-State agencies in conflicts in South Asia. The military recruitment of children and their use in conflict, including unlawful and forcible recruitment and

use of children by armed groups and regular armies, continues in the region despite the high level of international attention on the issue. The international framework to protect children from involvement in armed groups and militaries has been strengthened and is becoming increasingly field-focused. However, prevention of recruitment and use, and disarmament, demobilization and reintegration of child soldiers back into society, continue to be a challenging process.

In Pakistan the minimum age of recruitment to the country's armed forces is 17. However, children under 18 are not part of active service. There is substantial evidence of children being recruited through coercion, promise of adventure and sacrifice into armed groups and of being used as suicide bombers in both Pakistan and Afghanistan. Afghanistan with its armed groups, tribal factions, criminal networks and groups ideologically opposed to the government has been responsible for the recruitment and increasing use of children as suicide bombers, messengers, couriers and fighters.³⁵³

In India the minimum age for recruitment into the military is 16, though there is a clear government position that personnel become operational only after the age of 18. However, armed groups in Kashmir, central India and the north-east including State-supported anti-insurgency groups regularly use children below 18.

In Bangladesh, the minimum age of recruitment into the army and navy is 17 years, and 16 for the air force. Here again, Islamist groups, Maoist groups and criminal gangs recruit and use children. A number of such children have been reported to have been killed by police in 'crossfire'.³⁵⁴

The age of recruitment into the armed forces in Bhutan is 18 years. Bhutan has remained a peaceful country for much of its present history

and children have not been recruited as soldiers before 18.

Nepal had its last batch of child soldiers released recently, and so child soldier use is now over. Nevertheless, concerns remain about the involvement of children in political activities, including demonstrations, and their ensuing vulnerability to manipulation, indoctrination, injury and death.³⁵⁵

During the 18 years of conflict in Sri Lanka the LTTE continued to recruit and use children as suicide bombers and soldiers. Children in the east of the country were forcibly recruited and used by the Karuna group, a breakaway group of the LTTE, with the complicity of, and in some instances actively working with, the security forces.³⁵⁶ However, with the end of the conflict, child soldier use is now over.

International legal instruments and their effectiveness

The Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict has been ratified by six countries in the region. The UN Security Council-adopted resolutions 1539 (2004) and 1612 (2005) have established monitoring and reporting mechanisms on children and armed conflict and have documented six categories of grave abuse against children, including recruitment and use of child soldiers. The Security Council working group on children and armed conflict has issued conclusions, sent letters and appeals to violating parties and taken a range of other actions. While the general direction is positive, the pace of progress is slow and the impact not felt by children on the ground.

'The most important single challenge in addressing the plight of children in armed conflict' remains 'how to translate international instruments and local values into practice on the ground'.³⁵⁷ While there is much relevant

³⁵³ UNICEF (July 2003). *Rapid Assessment on the Situation of Child Soldiers in Afghanistan*. Cited in *Child Soldiers: Global Report 2004*. 18, 'Afghanistan: Civilians paying the price in Taliban conflict', IRIN, 16 July 2007.

³⁵⁴ Hogg, Charu Lata (2006). *Child Recruitment in South Asian Conflicts: A Comparative Analysis of Sri Lanka, Nepal and Bangladesh*. London: Chatham House and Coalition to Stop the Use of Child Soldiers.

³⁵⁵ *Child Workers in Nepal Concerned Centre (CWIN) (June 2006)*. *Children Affected in the Course of Suppressing the Janaandolan, Nepal*.

³⁵⁶ *Child Soldiers Global Report, 2008*.

³⁵⁷ *Translating International Instruments into Practice, Key in Addressing the Plight of Children in Armed Conflict*. United Nations Press Release GA/SHC/3479, 20 October 1998.

legislation available, the practical reality on the ground is the difficulty in implementation. National law and international law do not necessarily match. On a practical level, prime responsibility for prosecution of violations is with national authorities where the violations occurred and who are at times party to the conflict.

Crimes against children relating to conflict are not adequately punished. Crimes against children under international humanitarian law are war crimes, crimes against humanity and peace. Conflicts in developing countries often move quickly out of the international spotlight – so that parties involved in conflict are therefore under less scrutiny, and so under less pressure to respect international laws they may have signed and to fulfil their corresponding duties to protect children. Much needs to be done in disarmament, demobilization and reintegration of child soldiers through developing educational, life skills and psychosocial support.

Children's protection – a development and an emergency issue

Children are most affected during emergencies and are more vulnerable to violence. With an uncertain future, repeated emotional stress and only minimal access to education, children are at risk of sexual abuse and exploitation, physical harm, separation from their families, psychosocial distress, gender-based violence, early marriage, economic exploitation, trafficking and recruitment into armed groups. Family support systems also are severely stretched and stressed parents and caregivers may respond with neglect and violence towards children.

Although many of these issues are a concern for children in South Asia even under normal circumstances, there are increased problems involved in tackling them during an emergency. Risks are usually significantly amplified and responses are more difficult because of factors such as lack of preparedness, sheer numbers of children, lack of professionals, partial or total destruction of infrastructure, weak or non-existent government presence and insecurity and rights violations.

An essential approach during emergencies is to continue working with governing ministries, civil society and training institutions to strengthen and build on existing national and community-based child protection systems. Child protection systems must therefore develop the capacity to handle emergency-related violence by establishing referral systems inside camps which connect with local structures. Issues of separation of children from their families, the prevention of the recruitment of children into armed forces/groups, the prevention of and response to all forms of violence against children, and advocacy work must be incorporated into emergency child protection systems.

Coordination among actors and the government involved in the emergency response is essential to reduce overlap and marginalization of certain geographical areas or certain groups of people. Increased emphasis on integrated approaches in emergencies – through the UN cluster approach – has improved coordination between agencies.

The cluster system focuses on both education and protection as the key areas of response during and after an emergency. Quickly getting children back to school or into safe spaces is a proven way to protect children and provides a location for recovery from trauma. By not doing so children are denied their right to education, the learning of crucial survival skills and the capacity to be productive citizens after the emergency is over. Schools and safe spaces provide children with a sense of normality, structure and hope and protect them from death and bodily harm while reducing vulnerability to exploitation and violence. The continuation of education should be coordinated with local authorities to ensure sustainability.

Achievements

The UN cluster approach has been adopted in South Asia. During the 2005 earthquake in the North West Frontier Province in Pakistan-administered Kashmir and the 2007 floods in Balochistan and Sindh provinces, this approach was used at the field level and though there still are challenges the approach did help to bring about increased coordination and avoid duplication of aid. Cluster/sub-cluster contingency plans (interagency disaster preparedness and response plans) are operational

in Bangladesh, Pakistan, Nepal, Afghanistan and Sri Lanka.

All the governments in the region have recognized the importance of disaster management and have established separate bodies such as the National Disaster Management Council in Bangladesh. Governments have also developed legislation, strategy, policies and plans to address issues related to disaster management. For example, Sri Lanka has developed a Disaster Management Act, 2005, to coordinate the preparation of comprehensive local and sectoral disaster management plans by committees and government ministries.

Lately, governments have been beginning to take specific actions to protect children in emergencies. For example, at the time of the 2005 earthquake, the government in Pakistan put an immediate ban on child adoption in the earthquake-hit areas of North West Frontier Province and Kashmir to avoid trafficking of children as well as to keep children within their own environment and extended families in the interest of their well-being.

UN agencies, INGOs and NGOs have been working on child protection in emergencies and have been proactive in ensuring that children affected by disasters are protected. The aftermath of Cyclone Aila, the last tropical cyclone in Bangladesh (May 2009), saw national NGOs with the technical support of international organizations implement the Child-Friendly Space Initiative. Child-friendly spaces can be used as emergency shelters and help to protect children from 7 to 18 years against abuse, trafficking and early marriage.

Those working with children in emergency situations have observed the remarkable natural resilience of children, who can return to normal levels of functioning even in the often unpredictable and changing environment of an emergency. Just as adults need structure, children also need to feel a structure, purpose and meaning in their lives. Experience from the field suggests that children are able to cope psychologically better in and after an emergency if structure and routine can be created that allows them to return to a sense of normalcy despite

ongoing disruption and changes around them.³⁵⁸ Child-friendly spaces improve children's psychosocial well-being by strengthening and nurturing their cognitive, emotional and social development. The spaces can strengthen children's internal and external support systems by offering socializing and structured play activities with peers. They also help minimize the disruption to the learning and development opportunities that schooling provides.

Gaps and opportunities

The UNCRC provides a global charter for children's survival, protection, development and well-being. Armed conflict creates conditions under which many of the rights laid out in the UNCRC are undermined. As the 1996 Graça Machel report to the United Nations on War Affected Children pointed out, war greatly increases the threats to children and clearly contravenes the mandate for their protection provided by the UNCRC.

Children in Afghanistan have been heavily affected by decades of armed conflict, instability and drought. Children experience military recruitment, repression, hazardous work, and poor access to education and health services. In Sri Lanka and Nepal, large numbers of children are affected by conflict and displacement. In India, Pakistan and Bangladesh, children affected by conflict live in specific localized areas: Jammu and Kashmir, Assam, Nagaland, Mizoram in India and the Chittagong Hill Tracts in Bangladesh. Even without the special powers granted to security forces at times of conflict, children in South Asia are vulnerable to arrest due to the very low age of criminal responsibility in most countries in the region. In Bangladesh, India and Pakistan this is set at seven years, for example.³⁵⁹

Education protects the well-being, fosters learning opportunities and nurtures the overall development (social, emotional, cognitive and physical) of children affected by conflicts and

³⁵⁸ *Christian Children's Fund (April 2003). Children in Conflict: Afghanistan.*

Christian Children's Fund (no date). Child Centered Spaces: Safe Places for Healing: An Account by the Program Director.

³⁵⁹ *Children affected by armed conflict in Asia – A review of trends and issues identified through secondary research. Refugee Studies Centre, Working Paper 7, Oxford University.*

disasters.³⁶⁰ Education in emergencies still poses a challenge in comparison with other sectors, for example water and sanitation, because it is not perceived as life-saving by governments in the region where the focus is more on the hard components.

By and large, there are no special provisions for child protection in emergencies in South Asia. There are laws, strategies, policies and plans on disaster management but they do not specifically address child protection in emergencies.

Though the governments in the region have slowly started addressing child protection in emergencies, there is still ample scope to improve the response by focusing on specific risks faced by boys and girls, and establishing strong leadership on the ground. For effective coordination, it is vital that actors' network and plan together, visit the affected area, assess needs, follow up on activities, monitor and evaluate progress, and give further feedback.

There is a need to enhance awareness of child protection among local, national and international systems across all sectors and contexts (development and emergency). There is a strong need to support the active engagement of children in their current and future protection as both individuals and agents of change. Governments must review laws, strategies, policies and plans on disaster management and expand them to include child protection.

Globally, SPHERE is an initiative to improve effectiveness and accountability in emergency responses. The initiative was launched in 1997 by a group of humanitarian NGOs and the Red Cross and Red Crescent movement, who framed a Humanitarian Charter³⁶¹ in 1997 and identified Minimum Standards to be attained in disaster assistance, in each of five key sectors (water supply and sanitation, nutrition, food aid, shelter and health services). This process led to the publication of the first SPHERE handbook in 2000. Taken together, the Humanitarian Charter and the Minimum Standards contribute to an operational framework for accountability in disaster assistance efforts. The 2011 SPHERE Handbook will include a chapter on protection – especially child protection.

³⁶⁰ *Save the Children Alliance Education Group, 2001.*

³⁶¹ <http://www.sphereproject.org>.

Child protection in emergencies in South Asian countries

Afghanistan

Afghanistan faces a growing number of natural and man-made disasters. The humanitarian threats range from major earthquakes in an area of high urban density and low construction standards, a low nutritional baseline (due to chronic food insecurity issues across the country) and poor hygiene and health standards. In much of the country there is a persistent epidemiological threat, with cholera and other diarrhoeal diseases, flash flooding in the north and in the valleys, and drought and associated food insecurity.³⁶² High food prices and droughts threaten approximately 11 million people in 22 out of 34 provinces across the country.

Afghanistan has been affected by war for over 25 years. Children have paid the price as the emergency situation has not only been a risk to their lives, but has also affected their growth and development, and access to education, health and normal childhood. Active military operations, air strikes and insurgencies have caused considerable human casualties and over 40 per cent of the country's territory has been inaccessible to humanitarian aid workers for extended periods. There have also been serious attacks on NGOs and abductions of their staff. No particular documentation or record of the situation of children during the emergency situation in Afghanistan is available, though it is estimated that around 8,000 children are associated with armed groups and armed forces.

Over 240,000 persons are currently internally displaced (IDPs) in the country,³⁶³ mostly in the south and west and including those displaced by conflict, drought and lack of economic opportunities. It is anticipated that ongoing drought and conflict will cause further displacements in the months to come.

As each individual displacement is usually low in number, from a few dozen to a few hundred families at a time (although over 1200 families in our operational area are estimated to have been displaced by the recent offensive on Marjah in Helmand province), there is little attention paid

³⁶² *Operational Profiling, Save the Children.*

³⁶³ <http://www.internal-displacement.org>

to the needs of these people. This is an issue that needs addressing as in total it is unofficially estimated³⁶⁴ that over 80,000 families are currently considered displaced, with UNHCR reporting 51,000. With an average family size of 7, this equates to a considerable problem, and one that is not being properly addressed by the international community.

While increasing emphasis is being placed on the need for preparedness in the case of emergencies, a significant proportion of the immediate response is carried out on an ad hoc, spontaneous basis, often involving numerous and diverse actors.

The number of children requiring care services puts tremendous pressure on existing and potentially feasible solutions. Afghanistan's rural areas in particular suffer from a lack of local professionals to work in child protection and related spheres. Religion plays a significant role in helping out survivors of emergencies and relatives play a strong role in supporting children without family support.³⁶⁵

During armed conflict, societal values tend to be quickly eroded, leading to a significant increase in criminal and antisocial activity. Often it is difficult for the government to impose the rule of law in such circumstances. Thus violation of the human rights of children occurs frequently.

Child participation in response programmes is practised to some extent by NGOs. For example, a number of youth volunteers have been trained to play a significant role in raising awareness and distributing aid during emergencies.³⁶⁶ However, children's and youth's role in designing and planning emergency programmes has not yet been addressed.

The Afghanistan National Disaster Management Authority (ANDMA) has the mandate to coordinate and manage all aspects related to emergency response to disaster.³⁶⁷ The National Disaster Management Plan focuses on procedures for various role-players and their inter-coordination. The plan lays down general guiding principles to be followed by the disaster

³⁶⁴ <http://www.afghanconflictmonitor.org/displacement>

³⁶⁵ Interview with Mr. Ab. Rahman, Head of Emergency Unit of Red Crescent Society of Afghanistan, 2009.

³⁶⁶ *Ibid.*

³⁶⁷ <http://www.andma.gov.af/> / Government of Afghanistan.

management system in the country.³⁶⁸ In addition, there are also provincial Disaster Management Plans for the provinces. The plans, however, do not have any special provision on child protection.

Bangladesh

Bangladesh has a history of natural disasters and calamities. Every year, the country is prone to floods and cyclones. It is estimated that around 11 million people are affected by disasters every year.

However, currently, there are no special provisions for children during emergencies. The primary responsibility for a child lies with the family and community. During emergencies, if a child is separated from his/her family, orphaned (especially if the father dies) or injured, the child is taken care of by the extended family. As the law in Bangladesh does not allow adoption, a guardianship may be granted to a blood relation. However, such legal arrangements are very rare.

In the event of being relocated within the extended family, there is a possibility that the child may be expected to give up education and go to work. If the family is unwilling or unable to claim responsibility for the child, the community may organize work for the child within the neighbourhood or send the child to an orphanage or NGO-run shelter (if such facilities are available). Very rarely an NGO or the locally elected representative will approach the local Social Welfare Officer to place the child in a government-run shelter (*shishu palli*).

Proper support system would have stopped child migrating to another place for work or take up begging. This heightens the risk of economic exploitation, trafficking, sexual abuse and sexual exploitation.

To counter disasters, the government has put in place a Disaster Management System. The Ministry of Food and Disaster Management (MoFDM) has the responsibility for coordinating national disaster management efforts across all agencies. In January 1997 the Ministry issued Standing Orders on Disaster (SOD) to guide and monitor disaster management activities. A series

³⁶⁸ *Ibid.*

of inter-related institutions, at both national and sub-national level, have been created to ensure effective planning and coordination of disaster risk reduction and emergency response management.

At the national level, the National Disaster Management Council (NDMC) headed by the Prime Minister formulates and reviews disaster management policies and issues directives to all concerned. At sub-national levels there are District Disaster Management Committees (DDMC), Upazila Disaster Management Committees (UZDMC), Union Disaster Management Committees (UDMC), Pourashava (i.e. municipality) Disaster Management Committees (PDMC) and City Corporation Disaster Management Committees (CCDMC).

The Poverty Reduction Strategy Paper (PRSP) and National Strategy for Accelerated Poverty Reduction (NSAPR) envisage enhanced community-level capacity for disaster risk reduction (community-level preparedness, response, recovery and rehabilitation) and to ensure social protection of women, children, the elderly, people with disabilities and other vulnerable groups.³⁶⁹

The Draft National Plan on Disaster Management 2007–12 identifies protection for children, the elderly, the disabled and other disadvantaged populations at risk from seasonality and shocks through the social safety net. It lays out a model for disaster management comprising three components: (i) Defining and redefining the risk environment; (ii) Managing the risk environment; and (iii) Responding to the threat environment, which includes warning periods (alert and activation), hazard onset (response), and post-hazard periods (relief, early recovery and rehabilitation).³⁷⁰

During disasters schools are used as multi-purpose cyclone and flood shelters, but these shelters are not child-friendly and can lead to violation and abuse. As an alternative in the aftermath of Cyclone Aila (May 2009), 20 national NGOs with the technical support of international organizations implemented the Child-Friendly Space Initiative. This project

focused on creating safe spaces to be used as emergency shelters during flooding.

This approach allowed widespread coverage whilst capitalizing on the local knowledge of national NGOs. Valuable data and information were gathered and used to advocate for the recognition of child protection issues and ways to address them in the construction and management of emergency shelters. Trained Child Facilitators assessed the impact of the disaster. Children and young people were involved in consultation sessions to explore the different impacts of disaster on children, especially psychosocial effects, for the benefit of the whole community.

However, disaster management structures at present are not tuned to address all the social protection needs of children. In the case of post-disaster relief activities, the approaches of government or mainstream NGOs do not have any special provision for infants, children and young people. Child-focused NGOs undertake campaigns to create awareness on protection issues and children's needs, otherwise there is limited training on child-focused disaster management. The child-focused national NGOs have also carried out training for its own staff or network members, but only on a small scale.

Publications to raise awareness of NGOs on children in emergencies and issues related to health, food, attitudes, monitoring and management have been produced and circulated. International organizations have conducted child-focused research into the impact of specific disasters on children, risks and mitigation.³⁷¹

Bhutan

Bhutan has been fortunate not to have experienced any major emergencies or been affected by a major armed conflict. However, there have been several natural disasters.³⁷² Although children were not harmed during these incidents, there was the feeling that shelter, care and support should be provided. Currently, there

³⁶⁹ Government of Bangladesh. *Moving Ahead: National Strategy for Accelerated Poverty Reduction II. Chapter IV.*

³⁷⁰ Ministry of Food and Disaster Management.
<http://www.mofdm.gov.bd/>

³⁷¹ Save the Children (2007). *'Child-Led Disaster Risk Reduction: A practical guide.'*

³⁷² Royal Government of Bhutan, World Bank and UNDP (September 2009). *Joint rapid assessment for recovery, reconstruction and risk reduction.*

are no specific legislations or policies for children in emergencies.

During the disasters, families and communities came forward to protect children and shared the responsibility of care and recovery. One of the advantages during emergencies has been the relatively small population and the familiarity among most households. This has helped in identifying, locating and providing support to displaced children. One of the important lessons learnt from past disasters has been that educational centres need to be re-opened at the earliest so that children can continue with their schooling.

Bhutan has established a Department of Disaster Management under the Ministry of Home Affairs. However, due to lack of expertise and personnel, specific measures for child protection have not been addressed. Recommendations have been made for establishment of Emergency Operation Centres (EOCs) at national, district and sub-district levels and to provide training and capacity building for members from different sectors and also within the department.

The government has established health centres, schools, safe drinking water and electricity across the country and such facilities are accessible to nearly 90 per cent of the population. There are proper referral mechanisms, especially in the health sector, with transport and personnel, which can be called upon during emergency situations.

India

Many of the disasters that occur in India are man-made. India has a traumatic history of dissension, partition, disintegration of the country and of prejudices, animosity and conflicts between various communities. Currently, rising inequity, struggle for existence, competition over scarce resources and jobs and congestion in urban areas has fuelled social and political tensions. The result of is that various types of conflicts are happening between different communities. At present, conflicts are taking place in at least 118 of India's 604 districts.

Large populations congregating at certain times and places, inadequate safety standards, violation of rules and regulations and a general apathy and

negligence has contributed to emergency situations.

Irrespective of the nature of the disasters, the poor and most marginalized as well as women, children and elderly and disabled people are the worst affected. Conflicts have affected large numbers of children and many suffer from psychological trauma or are orphaned, wounded or even killed, especially in India's north-east in highly-militarized Manipur.

The recruitment age into the national armed forces is 18 years. Child soldiers, however, are used in the states of Jammu and Kashmir, Assam, Nagaland, Meghalaya, Tripura, Sikkim, Karnataka and Andhra Pradesh, by both the state and anti-state groups. Children are used as scouts and to test for mines and other forms of explosives, as they are seen as being more expendable than adults.³⁷³

Children are often recruited from tribal communities located in conflict zones. In anti-state militias, girls are reportedly being used for sexual gratification. A common strategy used by both sides is to recruit children aged around 14, as their age can easily be covered up. State-sponsored militias usually recruit children by promising them jobs in the future with the state police department. In Chhattisgarh, Central India, a paramilitary group called the *Salwa Judum* employs children as 'Special Police Officers'. The Naxalites have a child soldiers' wing, called the *Bal Mandal* (or Child Forum).³⁷⁴

The Juvenile Justice (Care and Protection) Act, 2000, defines a child victim of any armed conflict, civil commotion or natural calamity as a child in need of care and protection.

The government has changed its approach to disaster management in the country by moving from a relief-centric to a holistic approach which covers the entire cycle of disaster management including prevention, mitigation, preparedness, response, relief and rehabilitation.³⁷⁵

Recognizing the importance of disaster management as a national priority, in August

³⁷³ http://www.childlineindia.org.in/cr_CPI_armedConflicts_3.htm

³⁷⁴ *Ibid.*

³⁷⁵ *Ministry of Home Affairs, Government of India. Annual Report, 2008–09.*

1999 the government set up a High-Powered Committee (HPC) and a national committee for making recommendations on the preparation of disaster management plans and suggesting effective mitigation mechanisms. The Disaster Management Act, 2005, stipulates the creation of the National Disaster Management Authority (NDMA), headed by the Prime Minister, and State Disaster Management Authorities (SDMAs), headed by respective Chief Ministers, to spearhead and implement a holistic and integrated approach to disaster management throughout the country.

The National Disaster Management Authority is the apex body mandated to lay down the policies, plans and guidelines for disaster management to ensure timely and effective response to disasters. The Integrated Child Protection Scheme mentions that special efforts shall be made to ensure either foster care or sponsorship for children affected by disaster and natural calamities.³⁷⁶

The Sub-group Report on Child Protection, Eleventh Five Year Plan, recommends the strengthening of monitoring and reporting on child protection by conducting rapid assessment of protection issues related to children and women in emergencies. It also talks about implementing registration, tracing/tracking systems, interim care and reunion for separated children, establishment of child-friendly spaces and the provision of psychosocial support, including in emergencies.³⁷⁷

Maldives

At present, there is no specific policy for ensuring child protection in an emergency context. The draft National Plan on Disaster Management does not talk about the special needs of vulnerable groups such as children, pregnant women, the elderly, children with disabilities, women and girls. Instead it uses a generic term ‘services for affected people’. Thus, in event of an emergency, the responders may not be able to figure out how to address the needs and rights of specific groups. Relief

³⁷⁶ Ministry of Women and Child Development, Government of India. www.wcd.nic.in. Integrated Child Protection Scheme.

³⁷⁷ Ministry of Women and Child Development, Government of India. *Child Protection in the Eleventh Five Year Plan (2007–12). Sub-Group Report.*

distribution systems need to be structured to reach vulnerable groups and tracing and rapid reunification mechanisms for separated children need to be specified in the plan.

The roles and responsibilities of government agencies are mentioned in the draft plan in some detail; however, the plan does not recognize the role that can be played by ‘affected people’. Furthermore, children do not participate in vulnerability assessments, risk mapping, improving early warning systems and preparedness measures. All emergency and disaster preparedness, mitigation, response and recovery plans, projects and activities have been conducted with only adult stakeholders. The role of the civil society is also not clearly mentioned in any available documents on disaster management.

According to the UNDP Disaster Risk Programme briefings, teachers and parents in selected schools have been trained in disaster preparedness planning. However, such programmes have been very limited in scope.

A draft National Plan on Disaster Management is being developed. Since the Ministry of Health is a key actor in disaster and emergency preparedness and response and also in child protection, it is presumed that child protection in emergencies will be included in the national plan.

There is no civil strife or armed hostilities in the Maldives. Children are prohibited from being recruited into the armed forces by the Maldives National Defence Force Act and the Police Act, 2000 which stipulate minimum age of recruitment to be 18. There are no armed criminal gangs in the Maldives and incidences of recruiting children or taking children or adults hostage have never happened in the country.

Nepal

Nepal’s 10-year conflict resulted in thousands of children being associated with armed forces and groups (CAAFAG). The Comprehensive Peace Agreement between the Seven Party Alliance and the Maoists makes a number of recommendations related to children which include an end to misuse of school teachers and students for political purposes, discrimination based on age, sex, caste and ethnic origin,

violence against children and child labour and use of children by armed forces and groups. The unstable security situation in much of the country, especially in districts in the southern Terai region, has also seen children at risk of being associated with new armed groups since the formal end of the conflict.

The last batch of child soldiers was released by the Maoists in February 2010. However, their reintegration into society remains a challenge.

Being located in a seismic zone, Nepal is prone to natural disasters, including destructive earthquakes, flash floods, landslides, famines and droughts. During emergencies and conflict situations, children have been injured, killed and trafficked. Children miss out on education as they are taken out of class and forced or paid by political parties to attend demonstrations. Children are also made to undertake dangerous roles like manning roadblocks and throwing stones. In the past children were used for capturing polling booths and impersonating voters.

There is no stand-alone child protection policy for emergency situations, though the National Strategy for Disaster Risk Management (DRM) provides special disaster risk reduction programmes for the most vulnerable populations including children and focusing on girls and women. The government has included disaster risk reduction and recovery concepts and practices in school curricula and is currently considering their inclusion in teacher training.

Nepal is also initiating the formulation of a National Policy for Disaster Risk Management and the preparation of a new legislation for Disaster Risk Management to replace the existing Natural Calamity (Relief) Act, 1982.

Recently government, in partnership with NGOs, has started a toll-free child Helpline which is operating in five districts to rescue children from emergency situations and provide them with short- and long-term relief. As part of the rescue, the services provided by the Helpline include ambulance, emergency relief, residential facility, first aid, healthcare, counselling and legal aid. It also helps reintegrate children with their families and provides counselling if necessary. The government has also enforced the Child Helpline Operating Guideline, 2064.

Pakistan

Being a disaster-prone country, Pakistan has experienced both natural and man-made disasters in the recent past, with the earthquake of October 2005 being the biggest natural catastrophe faced to date. In 2009, as a result of the military operation in the North West Frontier Province against the militants, more than 2.5 million people were internally displaced. Besides its own emergencies, Pakistan is hosting more than 3.5 million refugees from neighbouring Afghanistan, which has posed some challenges for child protection.

Pakistan has a National Disaster Management Policy and a National Strategy for disaster management. Disaster management is also integrated into the national planning processes. A number of bodies such as the Emergency Relief Cell, National Crisis Management Cell, Provincial Relief Departments and Federal Flood Commission have been established for overseeing disaster management.

The country has gained considerable knowledge in disaster management and issues surrounding child protection in emergencies. Child protection during past emergencies has been a major concern for the government, international humanitarian agencies and local civil society organizations.

Soon after the 2005 earthquake, a debate started on child protection and certain concrete steps were taken. The government put an immediate ban on child adoption in the earthquake-hit areas of North West Frontier Province and Kashmir. Pakistan Paediatric Association developed a draft outline for an immediate and long-term plan for child protection following the earthquake. The essential components of the plan included registration of children, particularly orphans and unaccompanied minors, establishment of child-friendly spaces and provision of educational and recreational facilities.³⁷⁸ A number of NGOs provided psychosocial support services to affected children.

In response to the new influx of refugees from Afghanistan (in 2001), a Child Protection Monitoring Tool was developed by INGOs and piloted in refugee camps in Balochistan and Kotkai in the North West Frontier Province. A

³⁷⁸ PPA (2005). *Guidelines for child protection in earthquake*.

visual participatory tool was also developed for exploring issues identified within the child protection monitoring tool.

Local communities, including women, men, youth, girls and boys, were empowered to express their concerns. Specific issues that children explored and presented to officials included recommendations for the education system, children under stress, disease, water shortages and early marriages. Responses by the camp and relief agency administrators led to improved school facilities, changes in teacher behaviour, checks on corporal punishment, awareness on early child marriage and gender-related violence, increased access to hygienic sanitation, and an adequate water supply.³⁷⁹

In 2005, Pakistan established a National Disaster Management Authority (NDMA) to develop national capacity on disaster preparedness and coordinate the response to disasters. The NDMA, however, has limited overall capacity and lacks structures and mechanisms at provincial and local levels.

In 2008–09, Pakistan suffered a series of overlapping crises, which left millions in need of humanitarian assistance. Additionally, Pakistan was already reeling from the effects of the global economic and food crisis.

With the help of UN agencies and other humanitarian organizations, Pakistan has developed a Humanitarian Response Plan (2008–09). Some of the child protection measures spelt out in the Plan include identification and reunion of children and women at risk of separation, separated and/or unaccompanied with their families or placed in family-based care. It also established an Inter-Agency Joint Protection Monitoring System, and an effective monitoring, reporting and response system on child protection against risks of violence, abuse, exploitation and neglect. It provides for safe and play spaces and psychosocial support and women-sensitive healthcare services to the most vulnerable girls, boys and women in immediate danger. It also provides supplies to ensure menstrual hygiene for women and girls. The plan calls for local government and community plans to be developed for the prevention and response to recruitment of children by the militants.

³⁷⁹ *Save the Children (2002). Child Participation in Camp Management: Kotkai Refugee Camp.*

The response to the Internally Displaced Persons (IDPs) crisis in 2009 was relatively swift and efficient. The government, INGOs and NGOs established a number of child-friendly and women-friendly spaces in affected areas and in host communities. Registration and other child protection measures were also put in place by the government and no major child rights violations were reported.

Sri Lanka

Sri Lanka has faced a number of natural disasters, including the Tsunami in 2004. These disasters have had grave consequences in terms of loss of lives and livelihoods. Given the island's geographic location, Sri Lanka is especially vulnerable to water-related hazards such as severe flooding, landslides and tsunamis.

Additionally, the civil conflict that began in 1983 has resulted in more than 65,000 deaths.

³⁸⁰Currently, 2 per cent of the population is internally displaced, and thousands more people have migrated overseas. Vulnerability to disasters varies among locations due to climate and socioeconomic situations.

In 1996, the government formed the National Disaster Management Centre (NDMC) under the Ministry of Social Welfare with the responsibility of reforming disaster management activities. As the focal agency for disaster management, the NDMC coordinates with all relevant agencies in disaster preparedness, mitigation, response, and long-term rehabilitation and recovery. Comprehensive Disaster Preparedness and Response Plans were completed before the 2004 Tsunami for five districts with high levels of vulnerability to natural disasters.

The Disaster Management Bill provides for the establishment of a National Council for Disaster Management (NCDM) to coordinate the preparation of comprehensive local and sectoral disaster management plans by committees and government ministries. The Bill also provides for the establishment of a State Disaster Management Centre (DMC) and for technical advisory committees to implement policies.

³⁸⁰ www.cida.gc.ca, *Canadian International Development Agency, Country Profile In Sri Lanka*,

The unprecedented devastation caused by the Tsunami in 2004 revealed the shortcomings in the institutional framework for early warning and disaster preparedness. This led to strong political commitment to create firm legal and institutional foundations for future disaster management. The government passed the draft Disaster Management Bill as the Sri Lanka Disaster Management Act, 2005. The National Council for Disaster Management and Disaster Management Centre were also established.

There is no preparedness plan at governmental level but the Department of Probation and Child Care Services (PCCS) and the police are guided by legal frameworks which are sufficient to respond to issues of separated and unaccompanied children and acts of violence including child trafficking and child recruitment. However, there is lack of coordination between various agencies.

Where an immediate response is necessary, as in the case of the Tsunami, community systems can respond efficiently. Police and hospital-based emergency services, civil society and temples, churches and mosques have the capacity to transcend identity-based barriers and act quickly to save lives, treat the injured and care for children separated from their parents.³⁸¹

Sri Lankans have learnt to deal with war-related child protection issues for two decades and with disasters such as tsunamis. Two good practices came to be established as a result of the 2004 Tsunami experience. The first was the clear recognition that children separated from parents require special measures. The second was the importance of psychosocial approaches to deal with multiple losses children had to face. Prevention of child conscription into armed groups (there is no child recruitment into government forces) takes place at the family level when children are sent away. International NGOs and UN agencies have worked on individual cases and advocated for the release of child soldiers. Moreover, since 2006, when recruitment was made a criminal offence, police have been encouraged to arrest and prosecute offenders. The first arrests and prosecutions were initiated in 2009 in Eastern Sri Lanka.

³⁸¹ *Thalayasingam, P. (2006). Dealing with Demons: An exploratory study of post-conflict justice. Centre for Poverty Analysis, Colombo.*

In 2009, the government launched a media campaign to advocate 'zero tolerance' of child recruitment into armed groups. Directives were also issued to the police in Eastern Sri Lanka to take firm action under penal laws against splinter groups still holding children. With the defeat of the LTTE, all child combatants have surrendered for rehabilitation under the Child Centred Emergency Regulation which was put in place in December 2008.

Child protection in emergencies is not included as a specific response in government plans. In general, emergency response comes under the purview of the Ministry of Social Welfare and district-level coordination is managed by the Government Agent (GA). Although there are several social work officers responsible for vulnerable children and women at the Divisional level, they are low profile officers with weak leadership. As a result, a Government Agent already overwhelmed with the issues of basic needs in an emergency can re-assign these officers into labour-intensive relief tasks. The UN agencies, INGOs and NGOs have child protection in emergencies as part of their activities and work closely to support officers. The final phase of the Eelam war in both the Eastern and Northern parts of Sri Lanka led to many restrictions which prevented NGOs and at times the UN from accessing civilian populations. There was a clear shift of power from civilian to military authorities during this period. The situation in Eastern Sri Lanka has improved since August 2007 and access to all parts of Sri Lanka is now possible. The focus currently remains on early recovery and resettlement of the conflict-affected population.

After the Tsunami experience, where over 6000 children lost either one or both parents, the Department of Probation and Child Care Services gathered the know-how and tools for the registration of separated and unaccompanied children. The Department of Probation and Child Care Services is recognized as the government functionary responsible for registration, tracing and reunification. All separated and unaccompanied children fall within the legal category of children in need of care and protection under the Children and Young Persons Ordinance. However, where alternative care needs to be regularized (if the child is with a close relative) or alternative care must be found the Probation Officers act under the supervision of the Magistrate's Court.

The government has recognized the critical role of children in disaster preparedness and management. A national programme was undertaken by the Ministry of Disaster Management together with the National Institute of Education and Ministry of Education with donor support to introduce disaster preparedness, identification and response into

the national school curriculum and also develop structures for training children at the school and district levels. The Ministry coordinates these activities at the district level through a Coordinator who functions under the Government Agent/District Secretary.

11. Children's voices and participation

Children, like adults, have their own views and opinions, and have the right to express them without any fear. Article 12 of the UN Convention on the Rights of the Child gives this right to children, and further says that governments should take necessary steps to ensure the right. With the adoption of the Convention by countries in the region, children's participation has gained momentum, with many governments, donors and civil society organizations including children in planning processes. Unfortunately, often children's participation remains mere tokenism or is done only as part of formalities rather than fostering long-term partnerships where input and recommendations are valued and acted upon.

Children's participation also includes supporting the establishment of and strengthening existing child-led groups, clubs and organizations that enable children to actively engage with issues concerning them, finding solutions and creating awareness on child protection issues among peers and within communities to prevent violence. When children are empowered as 'social change agents' within the community and formal governance systems and forums on their own terms they can have an important role to play in ending violence.

Achievements

Constitutions in South Asia give citizens, including children, the right to freely express their views and the freedom to form associations. For example, the Interim Constitution of Nepal provides every child in the country the right to express his/her views freely and the freedom to form associations. In Maldives, the Law on the Protection of the Rights of the Child gives children the right to associate and seek information.

Though child participation is still an emerging concept in South Asia, governments in the region are recognizing its importance. For example, India and Maldives have included child participation as part of their national strategies or

plans. The National Plan of Action for Children, 2005 has included child participation as one of its components. Furthermore, the Juvenile Justice (Care and Protection of Children) Act, 2000, India and its Rules provide for the formation of a Children's Committee in every home for children and juveniles. Maldives's Strategic Action Plan, 2009–13, reflects child participation. In Afghanistan, newly developed laws and policies such as the Juvenile Code have made attempts to include components of child participation.

Children are more and more being involved in development of policies and laws. For example, for the first time, children were involved in the preparation of Afghanistan's first State report as well as the NGO report to the UN Committee on the Rights of the Child. The government of Bangladesh informally involved children in developing the National Plan of Action against Child Sexual Abuse, Sexual Exploitation and Trafficking (CSAET). Young people of Bhutan were consulted during drafting of the Childcare and Protection Bill and Adoption Bill. In Nepal, children were involved in the preparation of the Child Participation Guidebook, 2063 (2006), and their views and suggestions were incorporated in the guidebook. Children actively participated in the process of developing the National Plan of Action against Child Sexual Abuse and Exploitation in Pakistan. In Sri Lanka, children were involved in the development of the National Plan of Action.

Children through child-led organizations and children's groups are being engaged in combating violence against children. For example, in Afghanistan, civil society and international organizations have been actively involved in establishing and strengthening school Students' Councils and community-based Child Protection Networks and establishing children's media groups.³⁸² The Afghanistan Independent Human Rights Commission, through the child-to-child

³⁸² Interview with representative of Save the Children Sweden Norway, Kabul, Afghanistan, 2009

education programme, trains groups of children on child rights.

Shishu Prokash, a children's news agency established in 2005 in Bangladesh, aims to strengthen children's participation in the media and to enhance both the quality and quantity of child development and rights-based news. Shishu Prokash has created 1,265 child journalists in 64 districts of the country.³⁸³ Similarly, Ichchey Media Group, Bangladesh, is an organization of children involved in media-related works, including newspaper production, film development on child-related issues, theatre for development, radio, computers and facilitation. Around 10,000 adolescents in Bangladesh have been involved in the project 'Empowerment of Adolescents, Kishori Abhijan (2006–10): Adolescence – time for development not for marriage' which aims to empower adolescents, especially girls, to participate meaningfully in decisions that affect their lives (including education, livelihood strategies and increasing age at marriage) and to become active agents of social change.

In Bhutan, *Kuzoo* radio has become a source of support and avenue for youth to express their opinions. Other radio stations and the Bhutan Broadcasting Service (BBS) have developed programmes on child protection.

The state of Karnataka (South India) has made it mandatory for panchayats (local governing bodies or village councils) to offer children a platform to voice their concerns and problems, through special children's *gram sabbas* (assemblies). Every year, Government of India awards 24 National Bravery Awards to children for showing exemplary courage. From 2003, one National Bravery Award is reserved for children who have shown courage in fighting against social evils such as early marriage.

Nepal has the highest number of child clubs in South Asia with over 10,000 clubs and 250,000³⁸⁴ affiliated children who are involved in raising awareness on children protection issues.

In Pakistan, international NGOs have been involving children in a number of research studies on child protection issues such as

³⁸³ <http://www.shishuprokash.com/aboutus.html>

³⁸⁴ *Central Child Welfare Board, Government of Nepal, The State of Children of Nepal, 2008*

corporal punishment in schools, exposure of children to pornography at internet cafés, and commercial sexual exploitation of children in the transport industry.

In Sri Lanka the government has established a National Children's Council, a common constitution was developed and structures established at divisional and district levels which feed into national level processes. A vote has been created for an annual budget allocation of about 15,000 USD.

The Children's Development Khazana (Treasure) or Bal Vikas (Child Development) Banks aim to empower street and working children and are now in operation in Afghanistan, Bangladesh, India, Nepal and Sri Lanka.

There are also some examples in the region of involving children during emergencies. In response to Cyclone Aila, partners of INGOs in Bangladesh implemented relief and recovery programmes through the active participation of children and child-led organizations. In Sri Lanka, a national programme has been undertaken to introduce disaster preparedness, identification and response into the national school curriculum and to develop structures for training children at school and district levels.

Gaps and opportunities

Though children in the region are increasingly being involved by governments, INGOs and NGOs, there is still a notion among people that children are not mature enough to make decisions for themselves, and adults are in a better position to decide on matters that concern them. Policies, laws and programmes are developed by adults without active participation of children. The end result is that children's concerns and solutions are ignored, leading to less effective programmes which do not adequately address the needs of children.

Children's participation cannot be a one-time standalone event. It is an ongoing process which needs national, district and local level engagement as well as interconnectedness between different levels. This requires close coordination between child-led organizations, civil society and government at all levels. More importantly, children's concerns and solutions

should be seriously considered and incorporated in legislations, policies and programmes.

Though there are examples that show some efforts have been made by governments to include child participation in the planning and development process, by and large it is the civil society organizations in the region that have been actively involving children in their work and also in the formation of child-led organizations.

Thus, governments must recognize child participation and child-led organizations as important components of child protection systems. Governments must ensure that legislation, policy and other planning documents not only endorse child participation but also provide adequate budget for consistent participation of children in governmental decision-making processes.

In the South Asian context, socio-economic factors, discrimination based on gender, caste, class or religion, cultural and traditional value systems, or geographic isolation can act as barriers to child participation. Thus, child participation must include all children irrespective of colour, caste, religion, sex, socio-economic condition and disability.

To engage with children requires certain skills and techniques, and not everyone is adequately equipped to facilitate child participation. Therefore, it is important that adults' capacities are built so that they can work with children in a more meaningful and ethical way.

Children's voices and participation in South Asian countries

Afghanistan

The Constitution of Afghanistan and other legislation guarantees boys and girls the right to express their views freely. But the concept of child participation is still new to Afghanistan and children are yet to be made part of the main structures and processes of decision-making that affect their lives and well-being.

For the first time, children were involved in the preparation of Afghanistan's first State report as well as the NGO report to the Committee on the Rights of the Child. This provided an

opportunity for children to share their views to the Committee, in both State and NGO reporting processes.³⁸⁵ Newly developed laws and policies in Afghanistan have made attempts to include components of child participation. For example, views of children are taken into account during a custody hearing. Also, the Juvenile Code provides children in conflict with the law the right to express their views in matters related to their case.³⁸⁶

Civil society and international organizations have been actively involving children in their activities by establishing and strengthening school Students' Councils and community-based Child Protection Networks at district level, promoting involvement of students in parent-teacher associations and establishing children's media groups.³⁸⁷ Students' Councils are being used by children to voice their concern about matters such as abuse in schools and homes.³⁸⁸

The Afghanistan Independent Human Rights Commission is actively promoting children's participation. Through the child-to-child education programme, every year the Commission trains groups of children on child rights who in turn conduct similar programmes for other children under the supervision and assistance of the Commission. In 2009 alone, 10,000 children participated in the programme.

At present, however, there are no permanent structures at national and community level for children's participation. This would require capacity building and training of various actors, including the government, on child participation.³⁸⁹

Bangladesh

The Constitution of Bangladesh allows freedom of association and there are no legal restrictions which prevent children from expressing their

³⁸⁵ Interview with representative of Save the Children Sweden Norway, Kabul, Afghanistan, 2009

³⁸⁶ Interview with Judge Homa Alizoy, Head of Juvenile Court, Kabul, Afghanistan., 2009

³⁸⁷ Interview with representative of Save the Children Sweden Norway, Kabul, Afghanistan, 2009

³⁸⁸ <http://www.savethechildren.org/emergencies/stories/courage-afghanistan.html>

³⁸⁹ Interview with Mr Parvaiz Abang, Child Right Officer, AIHRC.

opinion or views. The law does require that an adult register formal organizations; however, there is no bar against the formation of informal children's organizations. In recent years, the government has informally involved children in developing child-focused policy and planning. For instance, while developing the National Plan of Action against Child Sexual Abuse, Sexual Exploitation and Trafficking (CSAET), a series of consultations were organized with children to collect their views and disseminate the Plan.

Child-focused NGOs are facilitating the establishment of children's organizations as well as seeking children's opinions at local and national level. They also involve children in their project planning, implementation, monitoring and evaluation. Further, child-focused NGOs and research agencies involve children in research processes, including the planning phase, data collection, analysis and dissemination. In addition, a recent review of national laws and policy on child labour provided space for children to contribute.³⁹⁰

Ichchey Media Group, Bangladesh, is an organization of children involved in media-related works, including newspaper production, film development on child-related issues, theatre for development, radio, computers and facilitation. The children are involved in both print and electronic media and promote child rights, especially those of deprived children. Launched in November 2003, the Ichchey Group publishes a monthly paper named *Amader Kotha*, in which the editor and writers are all children.³⁹¹

Shishu Prokash, a children's news agency established in 2005, aims to strengthen children's participation in the media and to enhance both the quality and quantity of child development and rights-based news in Bangladesh. Shishu Prokash has created 1,265 child journalists in 64 districts of the country. The creation of child journalists provided extra emphasis on strengthening children's participation in the media by providing children with opportunities to speak for themselves, about their hopes and fears and their achievements, and to inform the

people that children deserve to be respected as individual human beings. They have also produced a reporting guideline 'Shishu Shangbadik Shahayika' for child journalists and a training module 'Nirdeshika: Shishu Shangbadik Karmi Nirman abong Dakhata Unnayan o Udhbudhokorn Prosikhokhan', and published a Handbook on Child Right Reporting for the team leaders, child journalists and media professionals.³⁹²

The project 'Empowerment of Adolescents, Kishori Abhijan (2006–10): Adolescence – time for development not for marriage' aims to empower adolescents, especially girls, to participate meaningfully in decisions that affect their lives (including education, livelihood strategies and increasing age at marriage) and to become active agents of social change, to create and sustain a supportive environment for adolescent girl development at the household and community level. Around 100,000 adolescents (approximately 60% girls) are involved in the project. Through participation in life skills-based education Training of Trainers, adolescents are now equipped with knowledge to carry out peer-to-peer sessions in their own communities. Peer leaders are responsible for coordinating and conducting several activities including the organization and running of forums/centres for adolescents.

Studies show that child-led organization (CLO) processes are empowering and liberating methods of children's engagement. Child-led organizations contribute to achieving several aspects of children's wellbeing.³⁹³ For example, economically active children are now seeking alternative (less strenuous and more respectable) livelihoods through collective initiatives. The studies have also showed that child-led organizations are actively advocating in their localities on protection issues.

Although the National Plan of Action for Children (2005–10) identifies goals relating to protection, recovery and reintegration of children during natural disasters, it does not see any active role of children in these endeavours. INGOs and civil society, however, have been involving children during emergencies. For

³⁹⁰ Ali, AKM Masud (2009). *Mapping of Policies and Legislation & Analysis of Child Labour Programs In Bangladesh*. UNICEF, UCW.

³⁹¹ www.newagebd.com/2006/dec/18/met.html, by staff correspondent, *Article-Website for children launched*,

³⁹² <http://www.shishuprokash.com/aboutus.html>

³⁹³ INCIDIN Bangladesh (2009). *Stories of Mountain Movers: Assessment and Mapping of Child Led Organizations in Bangladesh*. SCSD

instance, in response to Cyclone Aila, partners of INGOs in Bangladesh implemented relief and recovery programmes through the active participation of children and child-led organizations. It was found that in places where child-led organizations were present, children played more active roles in disaster preparedness, post-disaster relief and recovery activities.³⁹⁴ Organizations such as Shishu Shurokhay Amra (SSA), a child protection network, are advocating for safety education in government curricula that would address the needs of children with respect to natural disasters.

Children have also developed key indicators relating to effective functioning of child-led organizations which include the unthreatening space of interaction, platforms for reaching out to the broader community, private space of care, access to peer support, process of raising voices against violence and rights-violations and collective negotiation skills for protection within workplaces, and on an organizational level.³⁹⁵

Bhutan

The Constitution of Bhutan provides every Bhutanese citizen, including children, the 'right to freedom of speech, opinion and expression'. There is an understanding and acceptance at all levels of government, including legislators, to involve young people in decision-making processes. The vision document, *Bhutan 2020*, states that people, including youth, need to participate fully and effectively in decisions that have a bearing on their lives and the future of their families, communities and the nation.³⁹⁶

Although there are no formal procedures, policies or structures established which mandate consultation with children, during the development of laws, policies and programmes, government and relevant organizations have taken initiatives to involve young people in decision-making processes. For example, young people were consulted during the drafting of laws

such as the Childcare and Protection Bill and Adoption Bill.

Print and electronic media have also provided avenues for children to express their views and opinions. For example, *Kuꞑoo* radio has become a source of support and an avenue for youth to express their opinions. Similarly, other radio stations and the Bhutan Broadcasting Service (BBS) have developed programmes that raise awareness on child protection. Such initiatives have led to advocacy and awareness, and young people are now more involved in consultative meetings and policy planning processes.

Children are also involved in awareness campaigns, trainings, advocacy, health programmes and social events, and are more aware of their rights and the risks and vulnerabilities they face. Contributions from children are considered to be significant. This could be seen during the formulation of the national youth policy where young representatives recommended specific policy statements on protecting and preventing violence against children.³⁹⁷

The National Commission for Women and Children, Women and Child Protection Unit, has been conducting awareness and training programmes and making relevant services known to children and adults alike. Similarly, the judiciary has been raising awareness on legislation among school children. Such campaigns have led to increased awareness of reporting mechanisms and consequently more and more children are speaking out about violence they have experienced.

Children have not yet been recognized as contributory participants in disaster management but rather are seen as victims. Children are also poorly represented during implementation and monitoring of child protection systems in schools, hospitals, workplaces, police stations, courts or in care homes.

India

The Constitution of India guarantees freedom of expression as a fundamental right to all its citizens, including children. It also allows for the

³⁹⁴ INCIDIN Bangladesh (2009). *Stories of Mountain Movers: Assessment and Mapping of Child Led Organizations in Bangladesh*. SCSD

³⁹⁵ *Ibid.*

³⁹⁶ Planning Commission, Royal Government of Bhutan (1999). *Bhutan 2020, A Vision for Peace, Prosperity and Happiness*. Royal Government of Bhutan. p.48.

³⁹⁷ Ministry of Education, Royal Government of Bhutan DYS (2009). *National Youth Policy (Draft)*.

formation of associations or unions. In reality, however, families and communities do not routinely engage children in matters concerning them and most decisions are taken by adults on their behalf. Children are seen and treated as extensions of their parents rather than as individuals in themselves.

Child participation has been included in plans and schemes relating to child protection. For instance, the National Plan of Action for Children, 2005, has included child participation as one of its cross-cutting themes. The Juvenile Justice (Care and Protection of Children) Act, 2000, and its guidelines provides for the formation of a Children's Committee in every home for children and juveniles and ensures that children participate in activities such as improving the conditions of the institution, reviewing the standards of care being followed, preparing timetables of their day-to-day activities, planning menus, developing educational, vocational and recreation plans, reporting abuse and exploitation by peers and caregivers and being part of the overall management of the institution through representation in the Home Management Committee.

More recently, the comprehensive scheme on trafficking, 'Ujjawala', has included the formation of adolescent groups as a preventive strategy and provides funds to NGOs to take up this initiative.

Nevertheless, children continue to remain outside the processes of formulating laws, policies, research and planning. Even their participation in the reporting of the UNCRC is seen more as tokenism rather than true participation. However, civil society processes on the alternate UNCRC report have in different ways and at different levels engaged with children and taken their voice into account.

Some state governments are increasingly including child participation in local governance processes. For example, the state of Karnataka (South India) has passed an order making it mandatory for panchayats (village councils) to offer children a platform to voice their concerns and problems, through special children's *gram sabhas* (assemblies).³⁹⁸

Undoubtedly, it is the INGOs, NGOs and UN agencies that have been at the forefront of promoting children's participation and meaningfully engaging them in their activities. In 2003, the Campaign against Child Trafficking (CACT) advocated with the government to give the National Bravery Award to five girls from Karnal, Haryana, and North India, who had fought against their community to stop two child marriages from taking place. Since then every year one award is given to children for showing exemplary courage in fighting against social evils. Such encouragement can go a long way towards making children agents of change and protagonists.

A number of child-led organizations have been formed in many parts of the country with facilitation from civil society actors, often initially with a specific purpose, for example for getting more children into school, for literacy campaigns, immunization campaigns, environment campaigns, preventing child labour or trafficking, or preventing child marriages. However, over time they have broadened their objectives and have been empowered with the capacity to look holistically at the issues of violence and child-friendly governance. For example, in Goa, *Bal-Panchayat* (children's local governance institution) meetings organized by an NGO aim to boost child participation at the village level and enhance the formation of Village Child Committees as mentioned in the Goa Children's Act 2003 (a state law). The children identify the problems they face in the village along with solutions to the problems. They also get an opportunity to interact with their panchayat representatives and to express themselves. In another example, some civil society initiatives and processes with children have attempted to bring children's voices into the election manifestos of different parties.

There are also examples of establishment of Children's Development Khazana or Bal Vikas Banks to empower street and working children with skills for democratic functioning, to promote principles and practices of democratic participation, to teach them to prioritize needs, budget, save and manage money, and to provide an education so that they can become self-reliant, productive and respected adults in society. The Children's Development Khazana is now in

³⁹⁸ <http://www.irc.nl/page/38716>

operation in Afghanistan, Bangladesh, Nepal and Sri Lanka.³⁹⁹

However, at the national level there are no permanent structures or resources allocated for child participation. Also, there are no programmes by government to train professionals and adults on children's participation and implement it at all levels of governance.

Maldives

The Law on the Protection of the Rights of the Child gives children the right to associate and seek information. Also, the Strategic Action Plan, 2009–13, envisages establishing a child-friendly website on child and family protection services to promote child participation.

Children interviewed for this study have expressed that their role in addressing issues concerning them is not recognized and that they need to know how to make informed decisions. They felt that child protection agencies need to discuss issues with children and hear their experiences. It also came out in the discussions that empowering children is instrumental in addressing violence perpetrated by children and violence against children.

Nepal

The interim Constitution of Nepal guarantees the right of free expression to its citizens, including children. Further, the draft amendment of the Children's Act (2063 [2006]) and three-year interim plan also talk about children's participation, and promoting, strengthening and capacity-building of child clubs and children's institutions. In addition, policy and guidelines will be prepared to ensure children's participation in all stages of the planning cycle of government and NGO programmes.

Over the years, there has been an increasing realization within the government that involving children in formulating plans and policies leads to more effective programming and service delivery. For instance, children were involved in the preparation of the Child Participation Guidebook, 2063 (2006), and their views and

suggestions were incorporated in the guidebook. Children were also involved in the formulation of the Ninth National Plan and the National Plan of Action for Children.

Child clubs have been involved in raising awareness of trafficking, child sexual abuse and child marriage, and to some extent involved in successful interventions. It is estimated that Nepal has the highest number of child clubs in South Asia with over 10,000 child clubs and 250,000 affiliated children. Representation of Dalits and ethnic minority communities, however, is less than other groups of children. Also, child clubs are more urban-based with less presence in remote hill and mountain regions. This means that children participating in child clubs are not necessarily the most disadvantaged children. It is still important for Nepal to develop mechanisms to ensure the participation of all children, especially those who are extremely marginalized such as geographically isolated groups or Dalits.

The Supreme Court of Nepal has given permission for child clubs to register with the District Child Welfare Boards, which demonstrates the recognition of the importance of children's participation and the support awarded at national level.

In Nepal, children were involved in giving their inputs to the making of the Interim Constitution. In Kakshi district, an innovative approach was tried out to seek the views of children. This was a self-initiated activity without any adult intervention, facilitated by an NGO. Thirty-six child clubs (also called child self-help groups) having a membership of 620 children decided to document the issues related to children in the form of a booklet titled 'Our Voices'. They hoped to use this as a guideline to ensure child rights in the process of making the new constitution for Nepal. The child clubs organized a drawing/art competition in their school and in their local community with all 620 children participating. The problems and their solutions were widely discussed and the recommendations to be made to the constitution-making committees were finalized and documented in the booklet.

In some places, a platform was provided to the children to directly express their concerns to the Constituent Assembly members to make them sensitive towards child-related issues. For

³⁹⁹ <http://www.butterflieschildrights.org/developmentBank.asp>

instance, in Tanahun district a conference of child clubs was held in which approximately 275 children from 33 Village Development Committees participated. The children had interactions with Constituent Assembly members of the districts, with a declaration submitted to the Prime Minister through the CA members. A similar process was initiated in Biratnagar municipality. Some of the issues identified by children were sexual harassment, abuse and exploitation, disability, child marriage, all types of discrimination, lack of education, children in armed conflict and *kamalari* practice (domestic bonded labour of girls).⁴⁰⁰

But other than child clubs, there are no permanent structures established or resources allocated at national and community level to consult with children and young people when developing and implementing laws, policies and programmes that concern them.

Pakistan

Many people in Pakistan believe that children lack the capacity to make appropriate decisions and that involving children in decision-making processes places them at risk and will have adverse effects on family and school life, and the larger society. Participation, therefore, remains the least understood and least practised children's right in Pakistan.

There are no formal structures at state or community level to facilitate children's participation. Similarly, there are no programmes to build or strengthen the capacities of professionals, teachers, parents and other duty bearers on ethical and meaningful participation of children. Children do not have access to child-friendly versions of the existing policies, plans and laws related to them.

Nevertheless, the National Commission for Child Welfare and Development and civil society organizations have made efforts to provide space for children to express their views and opinions on policy and other matters affecting them. For example, children actively participated in the process of developing the National Plan of Action against Child Sexual Abuse and Exploitation. Subsequently, a child-friendly

⁴⁰⁰ Interview with Child Participation Adviser, Save the Children Nepal, 2009.

version of the National Plan of Action was produced and is being used as a tool for consultations with children.

Children participated at the World Congress III against the Sexual Exploitation of Children and Adolescents, Rio de Janeiro, 2008, and made substantial contributions. Children were also consulted during the preparation of Pakistan's Periodic Reports on the implementation of the UNCRC.

INGOs have adopted innovative approaches for child participation, for example the Child-led Action for Rights & Empowerment (CARE) approach which promotes empowerment of boys and girls by facilitating them to organize into self-help groups and develop life skills, particularly reflective thinking, systematic analysis and planning, effective communication, leadership, advocacy and self-protection. The CARE approach uses PRA tools to organize systematic analysis of children's situations and identify issues of immediate concern to children and their root causes. A manual on the approach is being developed.⁴⁰¹

International NGOs have also been involving children in a number of research studies on child protection issues such as corporal punishment in schools, exposure of children to pornography at internet cafés, and commercial sexual exploitation of children in the transport industry.

Sri Lanka

The culture of including vulnerable children in developing policies, programmes and laws is not strong in Sri Lanka. Children who participated in developing the National Plan of Action were chosen on merit rather than experiences of vulnerability. Such selection generally favours children who are more autonomous, socially competent and articulate and does not necessarily ensure fair representation of children's views.

The right to free expression of views and duty to ascertain and consider the wishes of children are clearly accepted in civil proceedings for custody and adoption. However, the criminal law and placement proceedings under the Children and

⁴⁰¹ Information received from Save the Children Sweden, Pakistan Country Office, 2009.

Young Persons Ordinance for fostering and residential care do not fully recognize this right.

The government has been making efforts to actively engage children. Along with INGOs it has established children's clubs in the country.⁴⁰² A National Children's Council has been established which has brought together hundreds of district child representatives. A common constitution was developed and structures established at both divisional and district levels to feed into the national level processes.

At the district level an Annual Work Plan has been developed. At the national level separate committees have been formed under various themes including environment, science and Information Technology and child rights promotion. A vote has been created for an annual budget allocation of about 15,000 USD. The creation of the Children's Council is seen as a government effort to bring child participation into a more regulated sphere which can be sustained over time.

The government has recognized the critical role of children in disaster preparedness and management. A national programme which is coordinated at district level has been undertaken to introduce disaster preparedness, identification and response into the national school curriculum and to develop structures for training children at school and district levels.

Though Information, Education and Communication materials have been produced, awareness-raising programmes on laws, services and reporting mechanisms have been undertaken only in an ad hoc manner.

Children were involved in the development of the National Plan of Action; however, they were not involved through to the implementation and assessment stages.

⁴⁰² Interview with Ms Ajantha Peiris, Child Rights Promotion Officer, Central Office Department of PCCS, 2009.

12. An aware and supportive public

Protecting children against violence is the responsibility of every person and cannot be seen as the sole responsibility of organizations and people working with children. It requires involvement and support of the public who can play an active role. Worldwide, there exist several good practices that show that active mobilization of the public on child protection issues can lead to a decrease in vulnerability of children to abuse, neglect, exploitation and violence.

Often violence occurs because of misconceptions in the community. Harmful traditional practices are seen as either protecting the child or a religious requirement. Additionally, acceptance of violence for the purpose of disciplining a child is widespread and the public needs to be aware of the detrimental effects such violence can have on his or her development.

For an effective public response to child protection issues, it is necessary for there to be awareness-raising campaigns which enhance knowledge and understanding, help people identify violence, challenge social norms, and promote a better understanding of children's development needs. Additionally, parenting programmes can be effective in decreasing violence within the home.

Moreover, awareness campaigns need to be sustained, creative and use different mediums such as print and electronic media, radio and television as well as traditional forms of communication like street theatre and puppetry. These programmes need to be sustained over time for long-term impact.

Governments have an important role to play in raising the awareness of the public on child protection issues. This can be easily carried out through state-owned television channels and radio stations. Also, cultural institutions set up by the government should be involved in such campaigns.

Achievements

The governments in South Asia are undertaking and supporting activities to raise awareness among the public on child protection issues. Some countries have stated the importance of raising awareness on child protection in their strategy documents. For example, in Maldives, behaviour change programmes to sensitize and educate the public on child protection issues are incorporated in the Strategic Action Plan, 2009–13. The plan also calls for partnership with civil society, media, religious leaders, parliamentarians, and the judiciary and law enforcement agencies. The National Plan of Action for Children, 2005, in India incorporates awareness-generation on child protection as a cross-cutting issue. The National Plan of Action for Children, Pakistan, talks about creating public awareness on children's rights and child protection.

Governments in the region use many innovative means to raise awareness among the public. For instance, events such as Children's Day (Pakistan) and National Girl Child Day (India) are popular occasions used by governments to raise awareness on child protection issues. The Afghanistan Independent Human Rights Commission creates awareness on issues related to child rights and every year around 50,000 people including teachers, police, community leaders and religious groups receive training on child rights. In Bhutan, the government has successfully implemented the School-based Parents Education and Awareness (SPEA) Programme across many schools in the country and has helped in raising awareness against corporal punishment among teachers as well as parents. In Sri Lanka, the government has supported a large number of multi-media campaigns against child sex tourism and child conscription.

In India, the government provides financial grants to NGOs for awareness-raising activities. For instance, 'Ujjawala', a comprehensive scheme on anti-trafficking, provides financial assistance so that NGOs can undertake awareness-raising

programmes and develop information, education and communication materials on anti-trafficking. The Labour Ministry has been using the Airtel mobile connections to reach out to people with the message that employment of children under 14 years is a punishable offence.

Governments in the region also partner with international agencies, NGOs and INGOs to undertake awareness campaigns. For instance, in Bangladesh the government, in collaboration with an international agency, is implementing a project to raise awareness on the worst forms of child labour. Also, in partnership with NGOs it had organized a 'Jagoron Pada Jatra', a road march to raise awareness on violence against children and trafficking. In Pakistan, the government is working in partnership with an INGO to promote practical solutions to end newborn and infant mortality.

Across the South Asia region, civil society has played a leading role in raising awareness on child protection by undertaking campaigns, producing information, education and communication materials and working closely with the media and communities. In Bangladesh, a national level coalition of NGOs has organized a mass information campaign in 20 districts along with seminars and workshops. In Nepal, community-based groups such as women's groups, mother's groups and child clubs have been actively involved in raising awareness on children's and women's issues in the communities. Also, NGOs have played a crucial role in creating awareness on domestic labour and ensuring that they have access to non-formal education as they work.

Information, Education and Communication (IEC) materials, including films and spots on child protection issues, have been developed by UN agencies, NGOs, INGOs and governments, in English as well as in local languages. For instance, in Bangladesh community actors including children are actively engaged in developing IEC materials and producing videos for distribution. In Pakistan, brochures, posters, booklets and videos on child rights and good parenting skills have been developed. In India, the Ministry of Women and Child Development has developed training and sensitization materials such as child protection handbooks for teachers and panchayat (local governance) representatives.

The South Asia region is rich in various art forms and people relate to them easily. Moreover, they

are effective not only in terms of cost but also in conveying social messages to people. Increasingly these art forms are being used to raise awareness on child protection among the public. For instance, in Bangladesh, India, Nepal and Pakistan, street theatres are popular among people and have been used to spread awareness on gender stereotyping, domestic violence and trafficking.

The use of media, both print and electronic, is a powerful means of bringing child protection to the forefront of public attention and creating awareness among the public. In Afghanistan, Bhutan and India, the media has played a crucial role in highlighting child protection issues. Pakistan and India have developed ethical guidelines for the media on reporting child protection issues.

Some efforts have been made to impart training for media professionals on child rights and child protection. For example, the Afghanistan Independent Human Rights Commission in collaboration with the Faculty of Journalism, Kabul University, conducted a series of workshops on human rights in which around 400 journalists participated. The workshops had a special focus on child rights.

Awareness-raising programmes should not only enhance public knowledge on child protection issues but also lead to affirmative action from the public. The public should know who to approach in case of violations against children and what steps need to be taken. For example, the informants of this study in Maldives knew that they can contact the Maldives Police Services or the Department of Gender and Family to report about the welfare and safety of a child.

Involving families

The UNCRC recognizes the family as the fundamental social group and the natural environment for the growth and well-being of children.⁴⁰³ Families are central in protecting children from violence and need to be supported in fostering healthy and positive family environments. Too often, parents do not understand the needs of a developing child and the risks for harm, or do not recognise actions like beating children as violence.

⁴⁰³ Preamble, UN Convention on the Rights of the Child, 1989.

Parenting programmes and positive discipline techniques can help to reinforce a greater understanding of the needs of children. Programmes with families are most effective in protecting children and ending violence when they include a strong commitment to the families' needs and where family members have as much involvement in decision-making as possible.⁴⁰⁴ Parents can also offer peer support through informal channels and organized events. Teachers are trained to understand the negative effects of corporal punishment and to discourage the use of physical punishment at home.

Involving men and boys in preventing violence against children

South Asian societies define 'man' as someone who yields authority, leadership and power and where their fear of losing the leadership position, being left behind in the race by girls and women, forces boys and men to find a way of controlling them.⁴⁰⁵ Therefore stereotypical masculinities can be a root cause of violence against children, exclusion, the spread of infectious diseases and weak involvement of men in raising children or taking family responsibilities. To promote a violence-free environment and gender equality, boys and men need to be part of the solution. Campaigns and programmes which aim to creating an enabling environment where men and boys can question gender norms and roles can lead to boys and men taking action to end violence in their homes, communities, schools and workplaces.

There are initiatives in the region where men and boys are being involved to end violence against women and children. A pilot project 'Allies of Change: Creating a safer environment for girls' in Surkhet district (mid-western region of Nepal) empowered boys to become agents of change in their community to end violence against women, girls and boys. Boys were encouraged to discuss and take responsibilities on the harmful traditional practices. Youth clubs were also engaged to ensure that the process created sustainable change. This achievement led to the replication of such efforts in Afghanistan,

⁴⁰⁴ Centre for the Study of Social Policy (CSP). *Getting Started on Community Child Protection*. www.cssp.org/center/publications.html

⁴⁰⁵ Save the Children (2009). *Allies for Change: Together Against Violence*. Kathmandu: Nepal.

Bangladesh, India, Pakistan and in other areas of Nepal.

Additionally, a MenEngage network is operating in South Asia which works with various key activists in the region who are taking a stand against all forms of violence. This network brings on board men and boys who have remained silent when witnessing violence, so that in future they will break the silence and stand up against all forms of violence, particularly gender-based violence.

Gaps and opportunities

Though there have been efforts to raise awareness among the public on child protection, in general awareness programmes of government or civil society are often project-based, dependent on donor funding and there is little or no continuum of activities. Country reports reiterate that awareness-raising campaigns are important in bringing about behavioural and attitudinal change towards children and lead to increased reporting of child protection violations.

Lately, media in the region has increasingly been reporting on child protection issues. However, sensitive and confidential reporting on violence against children still remains a challenge.

Today the fast growing information technology has opened up opportunities for innovation and can be effectively used by governments, INGOs and NGOs in raising awareness among people. For instance, various organizations working for and with children can use their website as a medium to raise awareness. Further, governments, INGOs and NGOs can effectively collaborate by drawing up a combined long-term strategy on awareness-raising and pooling of resources. This would not only help in minimizing duplication of efforts but can also be cost-effective.

The media is an important partner in raising awareness and bringing child protection issues to the forefront. A Code of Conduct drawn up in collaboration between government, media, INGOs and NGOs would guide the media persons in 'sensitive reporting'. Press institutes can also be involved in training journalists on ethical reporting of violence against children.

An aware and supportive public in South Asian countries

Afghanistan

There is low level of awareness among society, including duty-bearers on child protection issues and child rights in Afghanistan. Over the past few years, civil society has been very active in raising public awareness on issues related to child rights, and the Afghanistan Independent Human Rights Commission has been one of the leading agencies. Every year around 50,000 people including teachers, police officers, community leaders, youth groups, religious groups and children groups from all over country receive training on child rights.⁴⁰⁶

However, awareness-raising campaigns on child rights are focused more on what rights children have and do not provide information to parents, communities and individuals on how to protect children from violence or what to do in cases of violence. Absence of an awareness-raising policy at national and community level and a lack of proper structures and services are seen as challenges in raising awareness among the public on child protection issues.

The media in Afghanistan has played a role not only in initiating campaigns but also in taking part in awareness-generation programmes organized by the civil society organizations. Yet the media is not always sensitive in reporting child protection issues.

Bangladesh

In Bangladesh awareness-raising programmes are based on specific issues such as trafficking in children, child labour, early marriage, dowry, acid violence and gender-based discrimination. There is regular government involvement in raising awareness on trafficking in women and children through the Inter-Ministerial Coordination Committee headed by the Ministry of Home Affairs. The government is raising awareness on the worst forms of child labour, early marriage, dowry and discrimination against girls. NGOs and networks are highly active in

carrying the messages to the communities in which they work.

The Ministry of Women and Children Affairs, in collaboration with NGOs, is implementing various projects to address violence against children. For instance, the ministry has undertaken *Jagoron Pada Jatra*, which is a road march to raise awareness to combat violence against children and child trafficking. NGOs also advocate for legal reform, work to promote child-sensitive court procedures, and build the capacity of vulnerable groups to resist cross-border trafficking.

A national-level coalition of NGOs has, among other activities, organized a mass information campaign in 20 districts along with seminars and workshops. NGOs also carry out campaigns through drama (including child drama groups, as mentioned above, and adult performers' groups) and by meeting with law enforcement officials. Campaigns such as We Can Alliance, which works with boys and men to end domestic violence, and Global Campaign To End Violence at School have helped in raising awareness among the public.

However, in the absence of a focal ministry or specialized authority on child protection at national level, the campaigns are largely unable to link the public to any specific agency if they have concerns for the safety or welfare of a child. Moreover, as the campaigns are more issues-based, and NGOs are usually active in targeted localities, so information is unequally dispersed among the public. However, some networks and NGOs have made attempts to nationalize access to reporting through 24 hour toll-free hotlines, but awareness of these hotlines and the capacity of the actors responding to calls are limited.

The media is not sensitized on child protection as a holistic issue, though it has played a prominent role in raising or reflecting public opinion on certain issues at specific times. There is absence of government initiative to build the capacity of the media on child protection issues. The NGOs and networks only sporadically work with the media to raise public awareness and build the capacity of media professionals.

However, there are efforts such as 'Ichche media', a child-led media initiative supported by an INGO and its partner NGOs, which works to bring children's perspective into the media and

⁴⁰⁶ Interview with Mr Parvaiz Ahang, Child Right Officer, AIHRC, 2009.

monitors reporting of child protection issues on a daily basis.

Bhutan

In Bhutan, awareness-raising programmes are being organized by various organizations that work with children, civil society, the government, the judiciary and the police. The government also ensures that global events relating to child rights and violence are used to raise awareness and disseminate information to the public.

Government agencies, the judiciary and the police have set up partnership programmes involving youth which have resulted in widespread sensitization and advocacy.

The National Commission for Women and Children and the Women Child Protection Unit organize campaigns in different parts of the country on child rights targeting educational institutions and homes. Various actors including teachers, the police, lawyers, judges, parliamentarians, monasteries and childcare institutions take part in these campaigns and workshops.

The Royal Court of Justice has conducted a series of legal awareness programmes, 'Know the law to protect your rights' for schools.

In Bhutan, the government has successfully implemented the School-based Parents Education and Awareness (SPEA) Programme across many schools in the country. This has helped in raising awareness against corporal punishment among teachers as well as parents.

The media in Bhutan has played a significant role in spreading awareness and highlighting issues related to violence. Programmes on parenting are regularly aired on Bhutan Broadcasting Service and also on several radio stations.

India

The National Plan of Actions for Children, 2005, incorporates awareness-generation on child protection as a cross-cutting issue.

The Media Unit of the Ministry of Women and Child Development is engaged in generating awareness in the country about issues concerning women and children by giving wide publicity to

policies, programmes and developmental activities formulated and implemented by the Ministry. It has launched campaigns focusing on the girl child and domestic violence.⁴⁰⁷ In the last few years, the Ministry has come out with training and sensitization materials such as child protection handbooks for teachers and panchayat representatives, which aim at dispelling myths and generating greater awareness and necessary action on a range of child protection issues. Recently a handbook on the child marriage law has also been developed to inform different stakeholders about the law and their role in implementing it. While training for stakeholders on the child marriage law is yet to begin, such initiatives need to be carried out systematically and should be sustained over a period of time in order to see the desired results.

State governments have also been raising awareness on child protection issues. For example, the government of Delhi has been carrying out campaigns against female foeticide and against child labour in the firecracker industry. The anti-firecracker campaign was undertaken with school children and it became so popular that many children refused to burn crackers during Diwali, the festival of light where firecrackers are hugely popular. The Labour Ministry has been using the Airtel mobile connections to reach out to people with the message that employment of children under 14 years is a punishable offence.

Advertisement boards on new modes of transport such as the Delhi Metro are increasingly being used to raise awareness on child protection. For example, the child Helpline number has been advertised inside the metro trains.

Awareness-raising campaigns have mostly been driven by international and civil society organizations. Female foeticide, trafficking of children, domestic child labour, and right to education are some of the issues that have been highlighted on an ongoing basis.

In India, print as well as electronic media have been proactive in raising awareness on child protection and highlighting issues of violence against children. Talk shows and debates are becoming a regular feature on television

⁴⁰⁷ *Annual Report, 2009–10, Ministry of Women and Child Development, Government of India.*

channels. Further, newspapers are increasingly covering features and reports on child protection. These have greatly helped in increasing awareness among the public in urban areas. The rural population, however, is not very aware about child protection issues.

Also, while the media can play a positive role in generating mass awareness, insensitive reporting or emphasis on putting a face or an identity to a story can lead to double victimization of those who have suffered abuse and violence. Although there have been cases in the past with action against irresponsible reporting by media, such measures need to be implemented properly for them to have a deterrent effect. Greater effort is required to put a check on media reporting of child abuse and ensure confidentiality and privacy of children. The Juvenile Justice law in India ensures this under Section 21.

The National Human Rights Commission, India, has developed a Guidebook for the Media on Sexual Violence against Children.⁴⁰⁸ The Guidebook aims to facilitate media intervention to protect the rights of children against sexual violence. It is meant for professionals working in the media and hopes to encourage them to address the issue of sexual violence against children in a consistent, sensitive and effective manner, consonant with the rights and best interests of children.

Issues like child sexual abuse, corporal punishment and child marriage are yet to draw public attention and have remained a challenge for both the government and the civil society actors.

Maldives

The Strategic Action Plan 2009–13 uses behaviour change programmes to sensitize and educate the general public on the rights of children in partnership with civil society. Additional audiences for such behaviour change programmes are the media, religious leaders, parliamentarians, and the judiciary and law enforcement agencies.

⁴⁰⁸ <http://nhrc.nic.in/MedGuideChild.pdf>, National Human Rights Commission, Government of India

The Department of Gender and Family has the mandate to mobilize the community and advocate for child protection. However, there are very few public education campaigns to promote good parenting except for sporadic sessions conducted by the Family and Children Service Centres on the Atolls. A British Broadcasting Corporation (BBC) Campaign on violence against children is being developed by the Department of Gender and Family Protection Services.

It is seen that the media and civil society can play a key role in educating the public on good parenting and generally developing protective attitudes towards children. However, there is a tendency of the media to sensationalize child protection issues and there is a need to train media personnel on sensitive reporting. In this regard, in 2009, Media training have been conducted. Further, under the United Nations joint project on Gender Based Violence a media sensitisation component has been included.

Nepal

In Nepal, direct involvement of the community on child protection issues has helped in creating awareness. Further, NGOs and INGOs working with children have been in the forefront in raising awareness on different forms of violence against children and how to prevent and respond to violence and abuse. Guidebooks and leaflets have also been produced to provide requisite information to the public. Volunteers from NGOs and child club members make regular visits to government and private schools and talk on child protection issues.

Child clubs and village level facilitators are involved in raising awareness on overall child rights issues and different types of violence including trafficking, child sexual abuse, child marriage, *Chhaupadi* system, etc. Awareness-raising programmes of NGOs have helped child domestic workers to attend non-formal education classes in Kathmandu.

There are initiatives in the region where men and boys are being involved to end violence against women and children. A pilot project ‘Allies of Change: Creating a safer environment for girls’ in the Surkhet district (mid-western region of Nepal) empowered boys to become agents of change in their community to end violence against women, girls and boys. The project

addressed the issues of gender-based violence and violent forms of masculinity holistically, using the Life Cycle Approach and Socio-Ecological Framework to initiate social behaviour change. The primary focus of the project was to create a safer space where both boys and girls can come together and discuss issues like women empowerment and social justice. The community supported equal access of girls and women to education, resources and leadership positions in the society. This achievement has led to replication of the project in Afghanistan, Bangladesh, India, Pakistan and in other parts of Nepal.

However, in general, people are unaware of the existing laws, regulations and different forms of violence.

Pakistan

The National Plan of Action for Children talks about creating public awareness on children's rights and child protection.

Civil society organizations have been working actively to create awareness amongst professionals and the general public on the UNCRC and the prevention of child abuse and neglect. Brochures, posters, booklets and videos on child rights and good parenting skills have been developed. Such efforts are limited, however, and the majority of professionals, parents, teachers and the general public have little understanding about children's rights and protection issues. For instance, by and large parents, teachers and other adults still believe

that corporal punishment is the only method of disciplining children.

Though Pakistan has robust print and electronic media, few concrete efforts have been made to engage these on issues surrounding child rights, child protection and prevention of violence against children, though the National Commission for Child Welfare and Development has developed a 'Code of Ethics for Media on Reporting of Children's Issues'. A media group has also been formed to improve coverage of child rights-related issues. Training programmes for media practitioners has resulted in some improvement in sensitive reporting on violence against children.

Sri Lanka

The government has supported a large number of awareness campaigns including multi-media campaigns such as 'Stop Child Sex' against child sex tourism and the 'Bring Back the Child' campaign, heralding the ban and effective end of child conscription. The government also creates awareness campaigns on International Children's Day.

Members of the public are aware that the police are available to receive and act upon complaints but favouritism and indifference to issues affecting children and women hinder access to police.

Training programmes for media persons have been conducted. However, respecting the confidentiality of child victims by the media still remains a concern.

13. Central Asia – Kyrgyzstan and Tajikistan

The countries in the Central Asia Region comprise Kazakhstan, Kyrgyzstan, Uzbekistan, Tajikistan and Turkmenistan, all previously republics within the former Soviet Union. During the Soviet time, all countries in the region followed a centrally planned and budgeted childcare system. The system relied heavily on institutionalization of children as a protection measure, though alternative care systems such as adoption and guardianship were available to some extent. Family support services were underdeveloped and more or less restricted to day-care for working parents.

In the early 1990s, during the transition period to independent republics, the economic conditions of many families deteriorated and the countries in Central Asia found it difficult to offer proper care and maintain the network of public services for children. Thus, many families used institutionalization of children as a strategy to mitigate family poverty. At the same time, the transition also changed the political climate and opened the door to new ideas and strategies for the development of children.⁴⁰⁹

Between 1992 and 1994, all countries in Central Asia ratified the UN Convention on the Rights of the Child, thereby committing to uphold children's rights, including their right to protection from violence. Further, significant achievements on child protection have been made in Central Asia through policy and legislative reform and bringing it in conformity with standards set up in the UNCRC. Specialized bodies for child protection have been set up at central and local level in all Central Asia countries. These new bodies are intended to improve interagency coordination and shift focus from residential to family-focused services.

⁴⁰⁹ *Analysis of the Progress and remaining challenges in Child Care Reform Systems, (Azerbaijan, Kazakhstan, Kyrgyzstan, Tajikistan, Turkey, Turkmenistan and Uzbekistan); Discussion paper for the 2nd Child Protection Forum on "Building and reforming child care systems", Bishkek, Kyrgyzstan, 12 – 14 May 2009.*

Community-based child protection services have been developed in all five countries, mostly as pilots. These include family and children support centres (in all countries), day-care services for children with disabilities (Tajikistan, Uzbekistan, Kazakhstan and Kyrgyzstan) and services for young offenders (Tajikistan).

Tajikistan and Kyrgyzstan: countries in transition

As Tajikistan and Kyrgyzstan became independent from the Soviet Union, they experienced transition periods fraught with economic crises, political instability and civil unrest. This was highly detrimental to both countries' socio-economic conditions, and government expenditures on health, social welfare and educational services significantly dropped, resulting in the closure of a number of health, social protection and educational services. Families witnessed breakdowns, separations, migration, drug addiction, alcoholism and domestic violence, which increased children's vulnerability to becoming victims or witnesses of violence. Many more children are now becoming involved in child labour, particularly cotton farming, and rates of early marriage are increasing. Many families finding themselves in poor financial conditions rely on the institutionalization of their children as a means to escape poverty. However, the transition period also provided an opportunity for countries in Central Asia to expand their approaches, and develop new approaches to child protection which may not have been viable under the Soviet structure.

States' commitment to child protection

Both the countries have established and are continuously strengthening national child protection systems. The Constitution and other

legislation form the backbone to protect children against violence. Legislation in both countries prohibits all forms of slavery, sale and trafficking of children, all forms of sexual exploitation, debt-bondage, serfdom, forced or compulsory labour, and the death penalty. The recently established Ombudsman offices in the countries have further reiterated the commitments of the government towards children's rights.

Kyrgyzstan and Tajikistan have both identified a nodal agency which holds primary responsibility for child protection and coordination of programmes and policy. Additionally, other specialized bodies with responsibility for child protection work include the Child Protection Section under the Departments of Social Protection and Education, Ministry of Labour and Social Development (MoLSD), Ministry of Health, Ministry of Education and Science (MoES), Child Protection Department, State Agency for Physical Culture and Sport,⁴¹⁰ Ministry of Interior Affairs and Ministry of Justice.

Both countries have taken significant steps to respond to emergencies by setting up specialized bodies, such as Emergency Coordination Councils (Kyrgyzstan) and Rapid Emergency Assessment and Coordination Team (Tajikistan) to coordinate the emergency efforts.

Local governance structures

Government structures have been established from the national to local level for better reach and service provision. In Kyrgyzstan, for example, at district level the Inspection of Minors Affairs through a network of neighbourhood police inspectors prevents delinquency among teenagers and works with children in conflict with the law, assisting with reintegration into society. Additionally, the Social Protection Directorate, subordinate to the Ministry of Labour and Social Development, has a network of social workers at the village level to support single senior citizens, and also addresses

⁴¹⁰ According to the status, the Director of State Agency for Physical Culture and Sport is not a member of the cabinet of ministers, and the Child Protection Department, being subordinate to the State Agency for Physical Culture and Sport, cannot take independent decisions. It does not have subdivisions and institutions subordinate to it.

issues of targeted social assistance jointly with the leading specialist on social protection of the *ayil okmotu* (village council) office. In Tajikistan, power has been devolved from national to local level (*Jamoats*) and relevant ministries including Education, Health, Labour, Inspection on Minors and Emergency Situations are represented at State and district levels.

At the community level, local self-governance bodies such as Kyrgyzstani *ayil* (neighbourhood committees) and *Hukumat/Jamoat* (Tajikistan) have been set up and promoted. Local government offices and religious structures play an important role as community members often prefer to approach such offices to settle disputes rather than go to the police or courts.

Children's participation

Children's participation was common within the Soviet Union but the transition to independence affected the children's movement in both countries. The current governments are in the process of reviving and strengthening children's movements. The National Plans of Action for Children in Kyrgyzstan and Tajikistan promote and respect the right of children to express their views and opinions. Such commitments enable civil society organizations to engage more meaningfully in child participation. Increasingly, INGOs and NGOs are promoting children's participation in decision-making processes and children are being involved in the preparation of alternate reports on the UNCRC and in developing laws and strategies. Further, a number of campaigns have been carried out to raise awareness on child protection issues which at times have led to policy changes.

Challenges to child protection in Tajikistan and Kyrgyzstan

Despite progress made, children of Kyrgyzstan and Tajikistan continue to experience violence in all settings – home, schools, religious institutions, care and residential institutions, streets, workplace, detention centres and prisons. Both boys and girls are vulnerable to physical and psychological violence which includes neglect and abuse, corporal punishment, economic exploitation, sexual abuse and exploitation, trafficking and early marriage.

Currently, the legislations of both Kyrgyzstan or Tajikistan do not work to protect all children from all forms of violence. For instance, children are not fully protected from corporal punishment and such practices are seen as socially acceptable and a viable disciplinary method. Even though legislation identifies a minimum age of marriage for both boys and girls, early marriage continues to be practised. Thus, children, especially girls, are more likely to be exposed to domestic violence, sexual abuse and exploitation. Moreover, marital rape is not prohibited by law.

Family, including extended family, is seen as the traditional child protection system. However, the disintegrating economic situation has forced many families to place their children in institutions. There is a high reliance on institutions as a means of providing alternative care to children without parental care or children from poor families. Adoption is accepted and widespread in Kyrgyzstan; however, laws in Tajikistan prohibit intra-country adoption. Other alternative systems such as foster care are not well developed. Lack of trained staff, lack of knowledge about child protection issues, lack of reporting and registering cases of violence, and absence of systematic data collection are seen as major challenges to implementing an efficient national child protection system. Social work is yet to be fully recognized as an important service by the government and currently higher level courses are not offered at universities.

National child protection systems in Kyrgyzstan and Tajikistan

Definitions of violence and child protection

At present, in Tajikistan as well as in Kyrgyzstan, several provisions under Criminal and Family Codes address various forms of violence against children, such as trafficking, sexual exploitation and legal age of marriage. However, currently there is not a comprehensive definition of violence against children that includes all forms of neglect, abuse, exploitation and violence. Similarly, there is no definition of child protection in the current legislation of either country.

Situational analysis

The transition of Kyrgyzstan and Tajikistan from members of the Soviet Union to independent republics led to a significant drop in government expenditures on health, social welfare and educational services. The reduction in expenditures has resulted in the closure of many health, social welfare and educational services, and programmes that were previously financed and supported by the government. Children have been most affected by the economic crisis and civil war. For instance, in Tajikistan, two-thirds of the population is living in poverty. The country spends just \$12 per capita on healthcare and the education share of the GDP is 2.8 per cent.⁴¹¹

Children from single-parent families, children with parents suffering from alcoholism and drug addiction, children of ethnic minorities, children living in rural areas, street and working children in urban areas, children in special institutions, disabled children and children and parents of children living with HIV and AIDS are now more at risk of being abused, neglected and exploited.

Furthermore, Kyrgyzstan and Tajikistan are strongly patriarchal societies and dominance by men is evident both within and outside the family. The population is primarily rural, and stereotypes in culture limit women's opportunities. Women and girls are often confined to maternal roles and experience various forms of discrimination including early or forced marriage, and often cases of sexual harassment and rape are underreported.⁴¹²

In both the republics, violence against children occurs in schools, religious institutions, and care and residential institutions. In general, adolescents experience physical violence and emotional and psychological abuse at school from teachers and classmates. This includes corporal punishment, physical violence and abuse and sexual abuse from teachers and school

⁴¹¹ UNICEF, *Tajikistan, Background*.

<http://www.unicef.org/infobycountry/Tajikistan.html>

⁴¹² Different publications confirm this statement, e.g. *Violence against children in Tajikistan: the capacity of service providers to identify, register, report and refer cases of violence against children*, November 2007 & Hotkina, Z. and Rabiieva, G. (2003). *Tajikistan: On the Way to Gender Equality*, UNDP, UNFPA, UNIFEM and Swiss Cooperation Office

staff. Physical violence and abuse, psychological and emotional abuse (e.g. verbal aggression, obscenities), sexual abuse and bullying are also committed by students on their peers.⁴¹³

Trafficking

Trafficking of children is a growing problem in both Tajikistan and Kyrgyzstan, with children from poor or marginalized families, street children and children in residential institutions most commonly the victims. There is no reliable data on the number of children trafficked, though it is estimated that around 4,000 Kyrgyz women and girls are trafficked every year for sexual exploitation. Children are thought to account for 10 per cent of all those trafficked.⁴¹⁴ Most commonly, girls and women are trafficked from Tajikistan through Kyrgyzstan and Russia to the United Arab Emirates, Turkey, Russia, Saudi Arabia, Kuwait, Pakistan and Iran for the purposes of sexual exploitation and forced labour. Both boys and girls are trafficked internally for begging and labour.⁴¹⁵

Economic exploitation

The official statistics of Kyrgyzstan put the number of registered child workers as 575 cases. Analysts say that the actual figure is considerably higher and could be up to 125,000.⁴¹⁶

According to UNICEF MICS (Multiple Indicator Cluster Survey) 2005, it is estimated that 200,000 children from 5 to 14 years old are involved in child labour (excluding non-intensive household chores), and 65,000 children aged 5–14 are engaged in paid work in Tajikistan.⁴¹⁷ Various data sources suggest that the proportion of children in cotton-picking varies from 20.4% to

⁴¹³ UNICEF Dushanbe, *Tajikistan, An Evaluation of the 2000-2004 Country Programme of Cooperation Between UNICEF and the Government of Tajikistan & Recommendations for the 2005-2009 Country Programme Action Plan to Reduce Harm and Exploitation of Children in Tajikistan*, October 2004

⁴¹⁴ UNICEF, *Kyrgyzstan, Child Protection, the Issues*, <http://www.unicef.org/kyrgyzstan/protection.html>

⁴¹⁵ US Department of State (2008). *Trafficking in Persons Report*.

⁴¹⁶ *Assessment of Child Protection System in Kyrgyzstan, Case study prepared by Irina Malanchuk, International Expert on Child Protection System Reform, Moldova for 2nd Child Protection Forum for Central Asia, Azerbaijan and Turkey on Child Care system reform, Bishkek, Kyrgyzstan, April, 2009*

⁴¹⁷ Baschieri, A. and Falkingham, J. (2007). *Child Poverty in Tajikistan*. University of Southampton. p.7.

71.9% from the overall number of school children.⁴¹⁸

Assessments in Tajikistan reveal that 70% of working children are boys, and 30% are girls. Moreover, girls are mostly involved in unpaid work, while most boys are remunerated.⁴¹⁹ In urban areas children (mostly boys) are working in bazaars, airports, factories, streets, etc. and their work includes portering, street vending, collecting plastics/bottles, washing cars, begging, stealing, trafficking drugs, etc. Girls are mostly involved in prostitution and drugs trafficking.⁴²⁰

Corporal Punishment

In Kyrgyzstan and Tajikistan, both children and parents generally consider non-physical, psychological techniques of discipline to be normal.

UNICEF MICS, 2005, showed that over half of children surveyed were subjected to less severe physical punishments such as shaking or being spanked on the bottom with the hand.⁴²¹

Children experience psychological abuse at home, in school and on the street, and parents themselves often reported that they commonly shouted at or cursed their children and called them names. It is also common practice for parents to punish their children by locking them alone in a room or forbidding them from going outside the home or play or eat.

Early marriage

In Kyrgyzstan the rates of early marriage are increasing because of poverty, unemployment and cultural norms. 'Bride-kidnapping' (abduction of girls and women to marry them by force) is one of the most common forms of forced marriage. Human Rights Watch found that approximately 40 per cent of women in cities had been victims of bride kidnapping, while 60 to 80 per cent of village women had been victims.⁴²²

⁴¹⁸ *Save the Children (2008) 'Worst forms of child labour', Save the Children, Central Asia Office.*

⁴¹⁹ *Ibid*

⁴²⁰ *Observations of Save the Children staff involved in implementation of Child Protection Projects in Dushanbe*

⁴²¹ Baschieri, A. and Falkingham, J. (2007). *Child Poverty in Tajikistan*. University of Southampton. p.61.

⁴²² *Expert Paper by Cheryl Thomas, Director, Women's Human Rights Program, Forced and Early Marriage: A focus on central and Eastern Europe and former Soviet Union*

Early marriage is common in Tajikistan, even though marrying a daughter off before she reaches the legal minimum age is punishable by law.

Sexual abuse and exploitation

Social stereotypes are very common and cases of sexual harassment and rape remain underreported. Sexual abuse of children, particularly girls, is widespread in residential/special institutions by staff.⁴²³

Law and legal enforcement

Kyrgyzstan and Tajikistan have acceded to the UNCRC and its Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography. Both the countries have ratified other international instruments such as the UN Convention against Transnational Organized Crime and its Protocols to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, ILO Convention No 138 on Minimum Age of Admission to Employment, and ILO Convention No 182 on the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour.

The Hague Convention on Inter-country Adoption has been ratified by Kyrgyzstan. The Convention has not been ratified by Tajikistan, as inter-country adoption is prohibited.

The Constitutions of both countries ensure that parents have ultimate responsibility for the care and upbringing of their children. Further, legislation and regulations in both countries provide children some protection rights.

Kyrgyzstan is the first and so far the only country in Central Asia to have developed a Children's Code, 2006.⁴²⁴ By adoption of the Code, the Government of Kyrgyzstan made a step forward to conduct reforms in the area of protection of the rights and interests of the child. However, further laws and norms are required, and the

countries With selected laws from other countries, The Advocates for Human Rights, Minnesota, USA, June 19, 2009

⁴²³ *Violence against children in Tajikistan: the capacity of service providers to identify, register, report and refer cases of violence against children, November 2007*

⁴²⁴ <http://www.un.org/ky/en/publications/document-database/article/86-document-database/3493-from-words-to-deeds-the-children-s-code-of-the-kyrgyz-republic-in-action>

government needs to ensure that existing laws, rules and regulations in the field of child rights are in compliance with international law.

Prevention of violence

Birth registration

In Kyrgyzstan birth registration is carried out under the Marriage and Family Code, while in Tajikistan births are registered under the Family Code.⁴²⁵ Ninety-four per cent of births were registered between 2000 and 2008 in Kyrgyzstan,⁴²⁶ while in Tajikistan the figure was 88 per cent.⁴²⁷

Minimum age of marriage

In Kyrgyzstan, the Family Code establishes the minimum age of marriage at 18 years for both boys and girls. In Tajikistan, the legal minimum age for marriage is 17 years for boys and 18 years for girls. However, in both the countries, early marriage is common.

Setting a minimum age for sexual consent

The legal age of sexual consent in Kyrgyzstan and Tajikistan has been established at 18 years. Sexual relationships out of wedlock are not accepted, especially for girls.

Prohibition of violence

Degrading practices

National legislations of both Kyrgyzstan and Tajikistan prohibit all forms of child slavery, sale and trafficking of children up to 18 years, debt-bondage, serfdom, forced or compulsory labour, and use, procurement or offering children up to 18 years for illicit activities. Both the countries have abolished the death penalty.

Minimum age of criminal responsibility

Both in Kyrgyzstan and Tajikistan the minimum age of criminal responsibility is 14 years for grave crimes.

Sexual abuse and exploitation

Kyrgyzstan laws provide a number of measures to protect children from sexual abuse, including regulation of the admission of children to video-

⁴²⁵ Article 49 ('Establishment of the origin of the child'), Family Code.

⁴²⁶ http://www.unicef.org/infobycountry/Kyrgyzstan_statistics.html.

⁴²⁷ http://www.unicef.org/infobycountry/Tajikistan_statistics.html.

viewing establishments (clubs) and prohibition of the import of pornographic material and works that glorify violence and cruelty. Under the Criminal Code, Kyrgyzstan, rape of a female minor, sodomizing of a male minor, sexual intercourse with a person under 15, entertaining of de facto marital relations with a person under marriageable age, and the involvement of minors in criminal activity, particularly prostitution, constitute aggravated offences punishable by deprivation of liberty.⁴²⁸

The Criminal Code of Tajikistan deals with offences related to sexual abuse and exploitation and prohibits forcible acts of a sexual nature with a minor, sexual relations and other sexual acts with a person under the age of 16 and rape of a minor.⁴²⁹

In Tajikistan, current legislation does not recognize marital rape. In Kyrgyzstan this has changed after adoption of the Law on Social-Legal Protection from Domestic Violence in 2003. Recent statistics show an increase in violent acts against women: the network of crisis centres providing emergency assistance to the victims of domestic violence dealt with twice as many cases in 2005 as in 2004. Yet psychological pressure, cultural traditions and the behaviour of authorities responsible for applying the legislation discourage women from filing complaints.

Economic exploitation

The labour codes of both the countries set the minimum age of admission to employment. In Kyrgyzstan it is 16 years and in Tajikistan it is 15 years. In both countries, children aged 14 years may work with parental consent, provided it does not interfere with school and is not hazardous to health. Children under 18 years are prohibited from hazardous labour.

Trafficking

The Minors' Rights (Protection and Defence) Act, Kyrgyzstan, says that the State, in accordance with current national legislation and international law, may take measures against the unlawful movement of children across the

⁴²⁸ CRC/C/104/Add.4, 5 April 2004, Committee on the Rights of the Child, Second Periodic Reports of States parties due in 2001, Kyrgyzstan, p.54.

⁴²⁹ CRC/C/TJK/2, 2 April 2009, Committee on the Rights of the Child, Second Periodic Reports of States parties due in 2000, Tajikistan, p.47.

country's borders and failure to return them, and against the abduction and trafficking of children for any purposes and in any form.

Tajikistan has enacted the Trafficking in Persons (Prevention) Act, 2004, which establishes the legal and organizational basis of the system for combating trafficking in persons and defines the legal status of its victims.⁴³⁰ It also lays down responsibilities for various ministries – for example, the Ministry of Labour and Social Protection is responsible for assisting trafficked victims while the Ministry of Health is responsible for medical and psychological assistance. It also establishes specialized anti-trafficking police units and an inter-Departmental Commission on Combating Trafficking.

Corporal Punishment

In Kyrgyzstan, corporal punishment is lawful within the home and is condoned as a socially acceptable means of discipline. The Criminal Code⁴³¹ prohibits severe abuse, including beatings and brutal or systematic violence. Corporal punishment is unlawful in schools. The use of violence is prohibited and teachers should use only non-violent methods.⁴³² Corporal punishment cannot be used as a sentence for crime nor in residential institutions.

In Tajikistan, laws do not prohibit corporal punishment in homes, schools, penal institutions and alternative care settings. However, corporal punishment cannot be used as a sentence for a crime committed.⁴³³

Juvenile justice system

Neither Kyrgyzstan nor Tajikistan has separate legislation or provisions for juveniles in conflict with the law. Criminal laws of both countries, however, have laid down provisions on the treatment of such children.

⁴³⁰ CRC/C/TJK/2, 2 April 2009, Committee on the Rights of the Child, Second Periodic Reports of States parties due in 2000, Tajikistan, p.153.

⁴³¹ Criminal Code, 1997, Articles 110 and 111, Kyrgyzstan. <http://www.endcorporalpunishment.org/pages/progress/reports/tajikistan.html>.

⁴³² Article 14, Law on teachers' status, 2001. <http://www.endcorporalpunishment.org/pages/progress/reports/tajikistan.html>.

⁴³³ <http://www.endcorporalpunishment.org/pages/progress/reports/tajikistan.html>.

In Kyrgyzstan, the Criminal Code, Code of Criminal Procedure and Penal Enforcement Code, the Administrative Liability Code and the Regulations on Commissions for Minors provide special measures for the protection of minors. The Minors' Rights (Protection and Defence) Act prohibits exposing minors to any kind of mental or physical pressure and forcing them to give evidence as witnesses, to admit guilt or to testify in the absence of counsel. It also stipulates that minors suspected or accused of a crime may not be questioned for more than two hours without a break or for more than four hours in a day. When minors commit a criminal offence, their age should be taken into account and all efforts should be made to return children to their normal lives so that they can be productive members of society.⁴³⁴

The participation of the child's legal representatives is obligatory in cases involving crimes committed by minors. Convicted minors serve their sentences separately from adult offenders. Moreover, persons under 18 years of age may not be sentenced to more than 15 years' imprisonment. Opportunities to receive school and vocational education exist for minors serving sentences in correctional institutions. In the absence of appropriate young offenders' institutions, convicted girls are forced to serve their sentences together with women convicts in a correctional colony.⁴³⁵

The Criminal Code of Tajikistan contains provisions related to juvenile justice. According to the Act, a minor who has committed a first offence of lesser seriousness may be exempted from criminal liability if it is considered that his or her behaviour could be corrected by the application of compulsory educational measures. Also, minors suspected or accused of an offence have the right to be informed of any grounds for suspicion and of the accusations made against them, to have the assistance of a defence counsel, to participate in the proceedings, to file objections, to appeal against the actions and decisions of the examining magistrate, procurator and judge, and to defend his/her rights and legitimate interests by any other means and methods consistent with the law. The law does not require minors suspected or accused of an

⁴³⁴ CRC/C/104/Add.4, 5 April 2004, *Committee on the Rights of the Child, Second Periodic Reports of States parties due in 2001, Kyrgyzstan*, pp.47–48.

⁴³⁵ *Ibid.*

offence to give testimony. Further, if the child is unfamiliar with the language of the hearing, he or she has the right to give testimony and take part in the proceedings in their mother tongue and to use the services of an interpreter free of charge. Programmes to mitigate the administration of juvenile justice and the use of alternatives to pre-trial detention and preliminary judicial investigation have been introduced in Dushanbe. Judges have received training in juvenile justice.⁴³⁶

National and community-based child protection systems

Institutional framework

Nodal agency for child protection

Kyrgyzstan is the first and so far the only country in Central Asia to have developed a Children's Code (2006).⁴³⁷ It sets out a broad legal framework for a decentralized system of service delivery for child protection. The Code stipulates that a single national coordinating body should be responsible for the protection of children's interests and rights at national level, while at district level the key bodies are the Commissions on Children's Affairs and the Family and Children Support Departments.⁴³⁸

Further, the code aims to decentralize facilities in charge of the protection of the child, introducing partnership between government and non-governmental organizations as far as the protection of the rights and interests of the child are concerned and promoting responsibility of central and local government officials as well as of individual citizens for any violation of the rights, freedoms and lawful interests of the child or doing harm to him or her.

⁴³⁶ CRC/C/TJK/2, 2 April 2009, *Committee on the Rights of the Child, Second Periodic Reports of States parties due in 2000, Tajikistan*, p.37.

⁴³⁷ <http://www.un.org/ky/en/publications/document-database/article/86-document-database/3493-from-words-to-deeds-the-children-s-code-of-the-kyrgyz-republic-in-action>.

⁴³⁸ http://lib.ohchr.org/HRBodies/UPR/Documents/Session8/KG/UNICEF_UPR_KGZ_S08_2010_United_Nations_Childrens_Fund.pdf. *Universal Periodic Review – Human Rights Council, Unicef Inputs / Kyrgyzstan, October, 2009*

In Kyrgyzstan, the State Agency for Physical Culture, Sport, Youth and Child Protection at the central level is the nodal agency for child protection. Its functions include implementing state policy on child protection, developing state minimum services on child protection, monitoring their implementation, accrediting organizations providing services to children and monitoring their activities, raising public awareness on child rights and the UNCRC, and reviewing complaints and appeals on decisions of the Commission on Minors, including those submitted by children.

The Department of the State Agency for Physical Culture, Sport, Youth and Child Protection is not mandated to formulate state policy on child protection; however, it can develop proposals and recommendations for policy formation in the area of child protection and identification of priority areas. In addition, the Department is tasked with providing financial and organizational assistance as well as current information and methodologies to departments of family and child support, commissions on children's issues and local self-governance bodies.

At the centre level, other specialized bodies working on child protection issues include the Child Protection Section under the Departments of Social Protection and Education, Ministry of Labour and Social Development (MoLSD), Ministry of Health, Ministry of Education and Science (MoES), Child Protection Department, State Agency for Physical Culture and Sport,⁴³⁹ Ministry of Interior Affairs and Ministry of Justice.

At the oblast level, there are no special structures responsible for child protection. At the district level, the district state administration/city mayor's office, including the Department for Support of Family and Children (DSFC)⁴⁴⁰ and

⁴³⁹ According to the status, the Director of State Agency for Physical Culture and Sport is not a member of the cabinet of ministers, and the Child Protection Department, being subordinate to the State Agency for Physical Culture and Sport, cannot take independent decisions. It does not have subdivisions and institutions subordinate to it.

⁴⁴⁰ The Department for Support of Family and Children is a structural subdivision of district state administration and reports to the Akim as, according to the legislation, it does not have superior or subordinate structures. It cannot take independent decisions and any proposal must be coordinated with the

Commission on Minority,⁴⁴¹ is responsible for child protection. The Inspection on Minors Affairs, subordinate to the Ministry of Internal Affairs has a network of neighbourhood police inspectors for prevention of delinquency amongst teenagers who work with children who have committed offences and/or reintegrate them into society.

The Social Protection Directorate, subordinate to the Ministry of Labour and Social Development, has a network of social workers at the village level to support single senior citizens, and also addresses issues of targeted social assistance jointly with the leading specialist on social protection of the *ayil okmotu* (village council) office. The Education Directorate, subordinate to the MoES, has institutions providing education services – schools and pre-school institutions – in rural and urban areas.

Hospitals and Family Medicine Centres have a network of medical institutions providing primary health care services at the level of villages and cities, however, their capacity to provide psychosocial counselling is very limited.

At the village level, the *ayil okmotu* has a leading specialist on social protection. There are also institutions providing healthcare and education services and a network of social workers who provide services to single senior citizens, however, special focus on child protection issues is lacking.

Though health, education, social protection and interior affairs have established their own structures, institutions and services, both on horizontal and vertical levels, newer structures, such as the Department of Child Protection, do not have any linkages between the central and district level. The overlap of child protection services among various agencies, lack of permanent and trained staff both at the national and *ayil okmotu* level, absence of a network of social services for child protection and limited budget are seen as constraints for effective implementation of comprehensive child protection programmes.

Commission on Minorities and confirmed by the resolution of the Akim, which significantly bureaucratizes and hinders work.
⁴⁴¹ The Commission is not a permanent working body and carries out its activities on a periodic basis.

In Tajikistan, the National Commission on Child Rights (earlier known as the National Commission on Child Protection) was established by the government in 2001 and is responsible for coordinating policy at the national level. It is an inter-departmental consultative body made up of ministries dealing with child protection, agencies, local executive bodies of government, non-governmental organizations and religious leaders. The Commission is responsible for coordinating child protection activities of the State, non-governmental organizations, international organizations and other agencies working with or for children. Its mandate is also to raise awareness and promote the UNCRC among various stakeholders such as law-enforcement agencies, teachers, medical practitioners, parents and children.

Other ministries responsible for child protection include the Ministry of Health (MoH), which is responsible for children up to the age of three years. The ministry runs four homes for infants aged 0–4 years. It also runs a home for children suffering from tuberculosis.

The Ministry of Education (MoE) is responsible for residential children's homes, schools for children deprived of parental care, special schools (young offender institution for boys aged 11 to 14 and girls aged 11 to 16⁴⁴²) and Special Vocational Schools. It also sets criteria for admission and is responsible for the management, treatment and care of children within these institutions.

The Ministry of Interior Affairs (MoIA) is mandated to prevent juvenile delinquency, and is required to take appropriate measures to prevent the abandonment and homelessness of children. The ministry is also responsible for Temporary Children's Centres in Dushanbe and Khujand and another location proposed in Khatlon. The Centres are governed by national regulations and operate as temporary welfare centres.

The Ministry of Labour and Social Protection (MoLSP) has recently established the Department for Rendering Social Services and

Family and Child Protection Issues.⁴⁴³ The new Department at the national and local level is responsible for the development and implementation of policy on family and child protection issues as well as coordinating issues of social protection, reintegration of children, prevention of forced labour and other forms of exploitation. The Department at the national level is responsible for coordinating activities of local child protection offices and supervising child protection services provided by government and NGOs.

In addition, the Ministry of Labour and Social Protection provides economic support to families with no or insufficient income and also to persons with disabilities. The Ministry runs 13 homes for people with disabilities, including services for disabled children. It sets criteria for admission and operation of the disabled children's homes including staffing, providing care, treatment and education to the children.

The State Committee on Women and Family Affairs (SCoWFA), established in 2004, is responsible for developing state policies to promote and protect the rights and interests of women and families, to promote gender equality and equity, and to promote the participation of women. It also looks at issues concerning the protection of girls, especially those who have been trafficked or exploited. The role of the Committee is, however, largely advisory.

At the local state level, the Oblast *Hukumat* is the first level of governance below the national level. The Rayon *Hukumats* are at district level and are further subdivided into smaller units known as *Jamoats*.⁴⁴⁴ Relevant Ministries such as Education, Health, Labour and Social Protection, Inspection on Minors and Emergency Situations are represented at the Oblast and Rayon *Hukumats*.

Lack of trained staff is a major challenge in the implementation of a national child protection system. The majority of civil servants employed by state agencies for implementation of social policies lack specific knowledge about child protection issues, guidelines and/or training on reporting and registering cases of violence against children, and inter-sectoral coordination to

⁴⁴² CRC/C/TJK/2, 2 April 2009, *Committee on the Rights of the Child, Second Periodic Reports of States parties due in 2000, Tajikistan*, p.132.

⁴⁴³ *Order on the Department for Rendering Social Services and Family and Child Protection Issues (2007)*.

⁴⁴⁴ *Jamoats are established in towns or for a small group of villages.*

respond to incidences of violence against children. Most of them have a narrow view on violence against children, and focus mainly on the most severe cases of physical violence. There is also a general reluctance among civil servants and other professionals to interfere in what is perceived as a private family matter, and to report cases of violence against children which occurs within the home.

Independent Ombudsman for children

The formation of an Ombudsman office is a major achievement in protecting children in Kyrgyzstan. The office of the Ombudsman has set up a separate section to consider cases of children's violation.

In Tajikistan, an Ombudsman's office was recently established in May, 2009. The main area of focus of the Ombudsman is to monitor the protection of human rights with special attention to labour migrants.

Policy framework

Kyrgyzstan has developed a Plan of Action for children, 'New Generation' (2001–10), on the realization of children's rights. It provides a mechanism for effective coordination of policy relating to children between central and local bodies and independent institutions.⁴⁴⁵

The National Commission on Child Rights, Tajikistan, has developed a National Plan of Action for Children, 2003–10 (NPA).⁴⁴⁶ It sets out strategies and actions for the prevention of violence against children, the creation of mechanisms to support victims and the development of family support services. However, implementation is weak. In addition, Tajikistan has also developed a National Action Plan, 'Comprehensive Programme on Countering Human Trafficking' (2006–10), which seeks to eliminate social problems that contribute to human trafficking. It calls for establishment of youth centres in rural areas and development of vocational guidance and training for unemployed youth.

⁴⁴⁵ CRC/C/104/Add.4, 5 April 2004, *Committee on the Rights of the Child, Second Periodic Reports of States parties due in 2001, Kyrgyzstan*, p.10.

⁴⁴⁶ *National Plan of Action for the Interests of the Child for 2003–2010, No. 309 of 4th July 2003*.

Social protection

Children in both countries, Kyrgyzstan and Tajikistan, have access to social welfare programmes such as health and education. However, there has been, as yet, no consistent development of community-based 'prevention' services providing support to families where children are at risk of abuse or separation in the Republic of Tajikistan. Apart from some limited pre-school provisions, there are very few government-funded community-based services for children at risk of abuse, neglect or exploitation. The Ministry of Interior Affairs runs an activity programme for children at risk at the Temporary Children's Centre in Dushanbe, and local governments support a juvenile justice prevention scheme for children at risk in Fidarvsi District in Dushanbe and in Khujand and Isfara.

Before the collapse of the Soviet Union, both Kyrgyzstan and Tajikistan had a highly developed social protection system to eliminate poverty. Social protection included social insurance and social assistance. The social insurance funds provided comprehensive protection against loss of income due to old age and unemployment, and the social assistance system was based on cash compensation for vulnerable widows and the disabled, among others, and institutionalized care for the indigent including disabled people and orphans who were kept in boarding centres. With severe fiscal constraints, the social protection system was no longer able to meet the basic needs of the poor. Payments were eroded by inflation and paid in arrears; assistance to orphans and the disabled was insufficient and their institutions were not habitable due to a lack of maintenance and high running costs.

Currently, the Poverty Reduction Strategies of both countries are aimed at providing targeted support to the most vulnerable groups in society (elderly people, pensioners, children from poor families, orphans, and disabled) through cash benefits (allowances) to children of poor households, timely payment of pensions to the elderly, and various types of services to disabled citizens. The objective is to provide the poor with income through direct cash compensations, increase opportunities through access to productive assets, and increase their opportunity to obtain basic education.

The social protection system exists but in general is ineffective and inefficient, and unable to respond to current needs.

Childcare standards

At present in Tajikistan, there are no education facilities that prepare social workers, except for the Centre of Social Work established under the Ministry of Labour and Social Protection. Similarly, there are no courses on social work at university level approved by the Ministry of Education. Though many students receive qualifications abroad, few return and become employed as social workers.

A curriculum for social work students has been introduced at Bishkek State University, Kyrgyzstan, although the profession has not yet been officially recognized.

Reporting violence

The police remain the main agency for reporting violation against children. However, more and more people are using community-based systems such as local government bodies or religious structures to settle their cases.

On a pilot basis, child protection systems at community and local levels are being undertaken and include setting-up of Child Rights Departments at district level.

Referral system

In both countries, protocols between the bodies responsible for child protection and schools, hospitals, NGOs and other bodies for identifying children at risk and for their referrals have not yet been developed.

In Tajikistan, though the Family Code (Article 57.3) provides for receiving referrals about potential abuse, neglect or exploitation by the Guardianship Authority and gives them the right to visit families and take the necessary measures to protect the rights and interests of the child, it provides only a general framework, and does not give directions on how children are to be identified, referrals investigated, child protection procedures initiated, decisions taken or measures applied.

Data collection

Though some data on violence against children exists, both countries are yet to establish a comprehensive database on violence against children.

Budget allocation

There is lack of information from both countries on budget allocation for child protection.

Community-based child protection system

In Kyrgyzstan and Tajikistan, families play an important role in the upbringing of children. Traditional values encourage families to take responsibility for children left without parental care, and avoid institutionalization. Economic hardship and widespread poverty, however, may compel a family to institutionalize their children. Furthermore, with limited understanding and knowledge on child protection, traditional community-based structures may not have the capacity to respond to cases of violations, such as early or forced marriages, polygamy, sexual harassment, abuse of women and children and domestic violence.

Institutionalization of children remains the main form of protecting children without parental custody and children from low-income families. In recent years in Kyrgyzstan the number of children living in institutions has grown from 17,230 in 2004 to 20,750 in 2007.⁴⁴⁷ Except for a few districts, few measures have been taken to prevent institutionalization of children or to reintegrate them back into the family. There are also no formal procedures for case management with respect to the child and the family in a crisis situation. At present, in Kyrgyzstan, there is no database on children in residential institutions or of children without parental custody.

⁴⁴⁷ www.juvenilejusticepanel.org/.../IrinaMalanchukChildProtectionSystemKyrgyzstanApr09EN.pdf, Irina Malanchuk, *International Expert on Child Protection Systems Reforms, Moldova for 2nd Child Protection Forum for Central Asia, Azerbaijan and Turkey on Child Care system reform, Bishkek, Kyrgyzstan, April, 2009, Assessment of Child Protection System in Kyrgyzstan*, pp 6
www.juvenilejusticepanel.org/.../IrinaMalanchukChildProtectionSystemKyrgyzstanApr09EN.pdf

Family separation is a problem in both Kyrgyzstan and Tajikistan, with a number of men and women seeking work abroad, mostly in Russia. Frequently, children of migrants tend to be left behind with family members, often with mothers or grandparents, or placed in institutions.

According to the Moscow Department of Kyrgyz Public Fund ‘Aruujan’, during 2007–09, no less than 230 Kyrgyz children were left in special institutions of Moscow Oblast by their mothers who came to Russia for work.

In 2006, Tajikistan had 12,969 children in State residential care,⁴⁴⁸ of which 10,538 were in general boarding schools.⁴⁴⁹ It is estimated that only 20% of the children in residential care have no living parents.⁴⁵⁰ A significant number of children with disabilities are also institutionalized. Recent figures suggest that 8.8–14.7% of children with disabilities⁴⁵¹ are in institutions.

Alternative systems of care

Guardianship is a traditional form of alternative care. Since the number of children registered with guardians is quite low in the Central Asia republics, it could be assumed that there may be many unregistered cases of kinship care, where families who migrate to other countries for work prefer to leave their children with their relatives or extended families.

Adoption is widespread, and the Family Code identifies it as priority form of placement for children without parental care. Strict rules on inter-country adoption have been introduced in Kyrgyzstan and adoptions can take place only if there is a bilateral agreement with the country of a prospective adoptive parent. In Tajikistan, a recent amendment to the Family Code prohibits international adoption.

⁴⁴⁸ This represents an estimated rate of 416 per 100,000 children in residential care (TransMonee 2007, p.47).

⁴⁴⁹ TransMonee 2007, p.47.

⁴⁵⁰ UNICEF Tajikistan, *Annual Report 2007, internal document*, p.8.

⁴⁵¹ The calculation depends on which statistics are used. According to UNICEF, the Ministry of Health reported that 11,300 children were suffering from a disability in 2006, whereas 19,000 children are registered as disabled in the Ministry of Labour and Social Protection (UNICEF Tajikistan, *Annual Report 2007, internal document*, p.8).

Fostering is not well developed in Kyrgyzstan or Tajikistan. Though a draft regulation on foster placement and standards on foster care exist in Kyrgyzstan, they are yet to be approved. Child protection professionals in Tajikistan are of the view that because of the economic burden and few long-lasting social rewards, fostering is not an attractive option for families.

The NGO sector provides essential support services and has developed some community-based services. These services are more or less restricted to day-care services for children in conflict with the law, disabled children, trafficked children, and street and working children, rather than family support services. Most of the NGOs have very limited funds for long-term follow-up. Community services are not subject to minimum quality standards, nor are they monitored and inspected, which makes it difficult to access the quality and effectiveness of such services.

Community-based child protection systems

Though the idea of community participation and governance is increasingly being recognized by the governments of both republics, lack of adequate financial and human resources to provide services to the citizens is a challenge. The governments of Kyrgyzstan and Tajikistan have promoted local self-governance bodies such as *Kyrgyzstani ayil/Tajikistani mahalla* (neighbourhood committees subordinated to the district), *ayil okmotu* (Kyrgyzstan) and *bukumat/jamoat* (Tajikistan).

INGOs have also set up community-based organizations such as village development councils and community initiative groups for micro-level planning and implementation of development projects. Further, they have been successful in information sharing, raising public awareness and prevention work in the area of violence, abuse, neglect and exploitation of children.

Both in Kyrgyzstan and Tajikistan, traditional community-based systems exist and have a strong influence over the community. Traditional clan-based structures such as *avlods* (extended families) exercise strong influence over social relations, and the religious organizations built around the mosques are steadily gaining authority. In Kyrgyzstan, the *aksakal* (elder)

courts established according to traditions and customs of the Kyrgyz people have the right to make decisions, provided that they do not contradict national laws.

In the first instance, people try to resolve disputes within their own families. Rather than going to the police or courts, community members prefer to contact local government offices such as *akimiyats* (Kyrgyzstan)/*kbukumats* (Tajikistan), village/neighbourhood councils (*maballa* (Tajikistan)/*ayil okmotu* (Kyrgyzstan)) or religious authorities to settle their case.

Traditionally, village organizations and local authorities were male dominated. However, many of them now have female members, which has had a positive effect on the outcomes of cases, and also increased women's and children's readiness to seek their help.

Child protection in emergencies

Both Kyrgyzstan and Tajikistan are prone to disasters, including floods, mudslides, landslides, drought, earthquakes and avalanches. Kyrgyzstan ranks among the most vulnerable in risk indices. Between 1992 and 1999, there were 1,210 natural disasters in Kyrgyzstan alone. The Ministry of Emergency Situations estimates that 3.5 million or roughly 70% of population are living in disaster-prone areas, of which 1.5 million reside in high-risk areas. The United Nations Economic Commission for Europe (UNECE) estimates that every year natural disasters cost Kyrgyzstan over \$20 million.

Tajikistan experiences over 5,000 tremors and earthquakes every year. Floods occur due to heavy rain or as a result of melting snow and mudflows threaten 85% of Tajikistan's area. Further, environmental degradation, ploughing and animal grazing have caused intensive destruction to the soil cover, leading to mudslides, landslides and avalanches.⁴⁵²

The World Bank estimates that over 1 million people in Kyrgyzstan and 700,000 in Tajikistan are currently at risk from natural disasters. It also estimates that 47% of the land area in Kyrgyzstan

and 36% in Tajikistan are at risk of earthquakes (excluding floods and landslides).⁴⁵³

The impact of these disasters is often exacerbated by limited legal and institutional frameworks, poor governance and decision-making at local levels, lack of professional staff and resources to respond to emergency situations.

Both Kyrgyzstan and Tajikistan have signed the Hyogo Framework for Action, but there is little progress in its implementation. The Ministry of Emergency Situations (MoEmS) in Kyrgyzstan is mandated to coordinate search and rescue operations; however, lack of resources, both manpower and financial, are seen as constraints to implementation of the mandate. The Ministry has recently formed the Emergency Coordination Council and works on both central and oblast levels in preparation for cold-weather and energy-related crises.

Kyrgyzstan has drafted an Action Plan (2007–10) and has begun to make progress against the indicators as outlined by the United Nations International Strategy for Disaster Reduction (UNISDR).

The Committee of Emergency Situations (CoES) in Tajikistan is responsible for overall response coordination, and search and rescue services. However, due to lack of financial and human resources, not many initiatives have been undertaken. Tajikistan is currently in the process of drafting a National Disaster Preparedness and Response Plan.

The Action Plans of both Tajikistan and Kyrgyzstan make strong commitments to engage with communities to reduce their vulnerability to disasters; however, lack of resources poses a challenge.

The Rapid Emergency Assessment and Coordination Team (REACT) in Tajikistan is active at both national and oblast (province) levels, and has the objective of improving coordination and information sharing among all actors in disaster risk management, as well as strengthening the Committee on Emergency Situations in disaster risk management activities.

⁴⁵² UNDP, *Central Asia Human Development Report, 2007*, p.117.

⁴⁵³ Pusch, C. (2004). *Preventable Losses: Saving Lives and Property through Hazard Risk Management. A Comprehensive Risk Management Framework for Europe and Central Asia*. World Bank.

A number of INGOs conduct disaster risk assessments/child protection needs assessments at community level that result in communities mapping major hazards, protection concerns, capacity to respond to disasters, required resources and ideas about the risk and safe areas for children. Currently, Disaster Risk Reduction (DRR) initiatives remain led and dominated by international agencies and lack adequate participation of local authorities. Furthermore, the initiatives are not linked between different levels – *jamoat* (community), *ayil* (district), oblast (province) and central authority – to ensure efficient management of planned interventions and allocation of resources. Most communities do not have disaster preparedness or mitigation plans or a community-level response plan.

Children are most affected during disasters and are vulnerable to all forms of violence; child labour particularly is increased. There is little understanding of children’s specific vulnerabilities and their needs during disasters/emergency situations, both at national and local levels. To improve the situation, INGOs and other international organizations are implementing a project ‘Increasing Communities’ Capacity for Child-focused Disaster Preparedness and Response’ in Tajikistan as well as in Kyrgyzstan. The project aims to strengthen coordination mechanisms at national and local levels to protect children in disasters, increase capacity of target communities and local government stakeholders and create a protective environment through risk mitigation interventions for children and adults.

Children’s voices and participation

During the Soviet period children were recognized as social actors in accordance with the communist ideology. The movement of young pioneers was a children’s movement in which children aged 7 to 18 years were organized in *Komsomol* (Communist Union of Youth). The government paid the staff to work with pioneers, allocated school space for children’s activities and organized summer camps for children who excelled as young pioneers. With the downfall of the Soviet Union, the children’s movement also collapsed and State subsidies for activities which involved children were withdrawn.

The current democratic governments are trying to revive and redesign the overall goals and objectives of the children’s movement. The young pioneers, a school-based organization (*Nasli Somon*) in Tajikistan, undertake social activities such as helping the weak and elderly, and improving the school and community environments, but are not well organized or resourced. Such youth organizations have emerged in place of *Komsomol*.

Kyrgyzstan and Tajikistan have developed National Plans of Action for Children which promote and respect the rights of girls and boys to express themselves freely and ensure that their views are given due consideration in all matters affecting them. Permanent mechanisms for consultations with children and young people when developing, implementing and monitoring laws, policies and programmes, however, have yet to be established.

Though there are examples of child participation in both republics, participation is fragmented. INGOs and UN agencies have been promoting children’s participation in decision-making processes on matters that affect their interests and development through advocacy campaigns. Children in both Kyrgyzstan and Tajikistan are being involved in the preparation of the alternate reports of the UNCRC, developing the National Plans of Action and legislation, and in monitoring of implementation of Poverty Reduction Strategy Papers.

Child-led organizations (CLOs), such as children’s clubs in schools and communities, and children’s media centres and child referent group in Tajikistan, have been set up with the aim to raise awareness on child rights amongst children and adults and empower children so that they can influence decision-makers.

In general, child-led organizations are considered parallel structures to the state-run institutions and sustainability of such interventions is a concern. Staff working directly with children are often unclear of the aims and objectives of child-led organizations or do not know how to promote such organizations so that they contribute to decision-making.

Efforts have also been made to encourage children’s participation at the community level. A number of consultations with children have been held as part of a community-based education

management information system. Through these initiatives children are allowed to express their views in the presence of adults.

One of the challenges faced by child-led organizations is finding facilitators with the right attitude and appropriate skills who could work with children on a voluntary basis, especially in the rural areas. Often, adult/young facilitators coordinate CLOs outside their working hours and are overworked. Thus, their enthusiasm and continued engagement cannot always be guaranteed.

An aware and supportive public

Children's rights is still a new concept in Kyrgyzstan and Tajikistan and children, parents, community leaders and state officials are generally unaware of the rights of the child as guaranteed in the UNCRC.

NGOs in Tajikistan continue to depend on support from international organizations to provide funds for project-related activities. Many NGOs lack clear aims and strategic direction, and because of a lack of donor interest and a small funding base are often forced to develop projects for which grants are available. Many NGOs working with children lack the experience, vision and capacity to be effective partners in the development and implementation of the projects.

Civil society organizations with support from UN agencies, donors and INGOs have been organizing a number of campaigns such as 'Global Movement for Children – Say Yes for Children' and child protection 'Leave No Child Out'. Currently, a campaign to stop forced and child labour in the cotton industry is being undertaken. The campaigns have been initiated in an effort to promote rights-based development and child-focused policy among the governments and civil society.

In order to raise awareness among the public in a sustained manner, the Governments of Kyrgyzstan and Tajikistan in collaboration with UN agencies, INGOs, NGOs and civil society should develop a long-term strategy for awareness raising. Also, the media should be engaged meaningfully for bringing child protection issues to centre stage.

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15. Appendix I

Work Plan of the South Asia Initiative to End Violence Against Children's (SAIEVAC)

SAIEVAC has developed a work plan with specific actions to end violence against children which was recently endorsed by the Ministers and other government delegates from the South Asia Countries in the SAIEVAC Ministers Meeting held in June, 2010.

The work plan would be addressing thematic areas of early marriage, sexual abuse and exploitation, child labour, corporal punishment and trafficking. It is expected that, each country in the region will develop its own work plan based on the framework provided.

The work plan is available at: <http://saievac.info>

UN Study on Violence Against Children

In 2001, on the request of the General Assembly and by the UN Committee on the Rights of the Child, the UN Secretary-General in 2003, appointed Professor Paulo Sérgio Pinheiro as the independent expert to conduct an in-depth study on Violence against Children. The Study focused on the nature and extent of violence against children in five settings, the home and family, schools and educational settings, other institutional settings, work situations and the community, and on the streets.

In 2006, Professor Pinheiro submitted his report 'UN Study on Violence against Children' to the General Assembly. The Study makes recommendations for each of the five settings on which it focuses.

The study is available at:

<http://www.unviolencestudy.org/>

UNICEF Child Protection Strategy

According to UNICEF, National Child Protection Systems comprise of elements for which the State bears primary responsibility for action: government commitment, legislation, service provision, monitoring, and building human capacity.

Further, that responsibility is often spread across government agencies, with services delivered by local authorities, non-State providers, and community groups making coordination between sectors and levels including referral systems.

The strategy is available at:

http://www.unicef.org/protection/files/CP_Strategy_English.pdf

Integrated Strategy Against Violence

The Council of Europe Policy guidelines on integrated national strategies for the protection of children from violence aim to promote the development and implementation of a holistic national framework to safeguard the rights of the child and to eradicate violence against children.

The guidelines are based on eight general principles – protection against violence, the right to life and maximum survival and development, non-discrimination, gender equality, child participation, a State's obligations, other actors' obligations and participation, best interests of the child – and four operative principles: multi-dimensional nature, integrated approach, cross-sectoral cooperation and multi-stakeholder approach.

The guidelines encourage setting up of child-friendly services and mechanisms and call for the mandatory reporting by all relevant professionals of incidents of violence against children.

The Strategy is available at:

www.coe.int/.../children/.../Guidelines/Recommendation%20CM%20A4%20protection%20of%20children%20

Child Rights Information Network (CRIN)

The Child Rights Information Network (CRIN) is an independent, non-religious, non-political forum committed to facilitating information exchange between child rights professionals in different parts of the world. CRIN aims to collect and disseminate information on child rights in order to promote the implementation of the UN Convention on the Rights of the Child ([UNCRC](#)).

CRIN seeks to empower the child rights community and to accelerate the implementation of the UN Convention on the Rights of the Child. CRIN has a membership of over 1,500 organizations in over 130 countries. About 84 per cent of our members are NGOs; and 60 per cent are in the South (including over a quarter each in Africa and Asia). For subscribing to CRINMAIL, please visit: <http://www.crin.org/email/>.

Some important resources (not exhaustive list) that are available on CRIN are as follows:

- Campaign for a complaints procedure under the CRC: Sign the petition (<http://www.crin.org/violence/petitions/petition.asp?PetID=1007>)
- Global: Campaign for universal ratification of UN Optional Protocols on children's rights (<http://www.crin.org/violence/search/closeup.asp?infoid=22559>)
- Regional Mechanisms Introduction to Regional Mechanisms for child rights (<http://www.crin.org/resources/infoDetail.asp?ID=18055&flag=report>)
- Child Rights and National Human Rights Institutions and Ombudspersons (<http://www.crin.org/resources/infoDetail.asp?ID=18060&flag=report>)
- Final Draft Guidelines on Child-Friendly Justice, Published by Council of Europe (<http://www.coe.int/t/dghl/standardsetting/childjustice/CJ-S-CH%202010%20E%20-%20FINAL%20DRAFT%20%5BRECOMMENDATION%20CONTAINING%5D%20GUIDELINES%20ON%20CHILD-FRIENDLY%20JUSTICE.pdf>)
- Children and Violence—this website offers a shared platform for civil society on the follow-up to the UN Secretary-General's Study on Violence Against Children of 2006. This platform aims to support strong and effective follow-up to the Study recommendations. (<http://www.crin.org/violence/>).
- The General Comment for Article 19 (the right to protection from violence and maltreatment) of the UN Convention on the Rights of the Child is in the process of being drafted by the UN Committee on the Rights of the Child. A General Comment for Article 19 has the potential to meaningfully contribute toward advances in securing the safety, well-being, development, and futures of children, worldwide.

16. Appendix 2

Save the Children and Child Protection

Save the Children fights for children's rights to protection. Save the Children defines child protection as measures and structures to prevent and respond to abuse, neglect, exploitation and violence affecting children.

An Introduction to Child Protection

The goal of child protection is to promote, protect and fulfil children's rights to protection from abuse, neglect, exploitation and violence as expressed in the UN Convention on the Rights of the Child (see the box below) and other human rights, humanitarian and refugee treaties and conventions, as well as national laws.

Children's Rights to Protection from Abuse, Neglect, Exploitation and Violence

Key child protection articles in the UN Convention on the Rights of the Child are Articles 9 (family separation), 10 (family reunification across borders), 11 (illicit transfer of children), 16 (right to privacy, honour and reputation), 19 (protection from violence, injury, abuse, neglect, maltreatment or exploitation), 20 (alternative care), 21 (adoption), 22 (refugee children), 23 (disabled children), 24 (harmful practices), 25 (periodic review of alternative care), 32 (economic exploitation), 34 (sexual abuse and exploitation), 35 (abduction, sale or trafficking of children), 36 (other forms of exploitation), 37 (juvenile justice and protection from torture or other cruel, inhuman or degrading treatment or punishment), 38 (protection in armed conflict), 39 (recovery and reintegration) and 40 (children in conflict with the law).

Articles that are not protection rights but represent important approaches to securing children's protection rights include Articles 5 (support for the parent, extended family and community); 7 (birth registration and protection of identity), 18 (parental responsibility), 26 (social security), 27 (adequate standard of living and social protection), 28 & 29 (education), and 31 (play and leisure). In addition, Articles 2 (non-discrimination), 3 (the best interests of the child), 4 (accountability), 6 (survival and development) and 12 (children's right to be heard) are all essential complements to the above articles.

Child protection work aims to prevent, respond to, and resolve the abuse, neglect, exploitation and violence experienced by children in all settings. It is a specialist sector in its own right but of necessity works very closely with other sectors.

It requires a multi-disciplinary and multi-sectoral approach (linking closely, for example, with work in education, health and criminal justice). Increasing the effective protection of children also involves working with a wide range of formal and informal bodies, including governments, multilateral agencies, donors, communities, carers, and families.

Importantly it also requires close partnership with children, including initiatives to strengthen their capacity to protect themselves. Child protection work aims to strengthen the capacity of all these actors to protect children and to develop systems and mechanisms that provide meaningful protection for all

children in the longer term. It seeks to address the root causes of child protection failures such as chronic poverty, insecurity, power imbalances and harmful traditional attitudes and behaviours.

The State has the main responsibility for the fulfilment of children's protection rights and should establish a national and community-based child protection system with a coordinated and holistic approach, integrating the contributions of the different sectors and actors. Such a system should be based on a combination of law and knowledge (in line with human rights standards), and include well-trained staff, children's participation and awareness raising on the nature and response to child protection concerns. The accountability of the State for such a system is essential for its effectiveness and sustainability. In situations of conflict and disaster where the State is unable or unwilling to ensure the protection of children, international bodies need to take on the responsibility for the fulfilment of children's protection rights.

Child protection is an important component of broader protection activities aiming to ensure the care and protection of vulnerable population groups such as elderly persons, disabled persons, and the chronically ill, as well as children. This includes emergency settings where child protection practitioners work with others to provide a specialist component of overall humanitarian protection for displaced and refugee populations.

Child protection should not be confused with the protection of all children's rights, which is the responsibility of everyone working with children. Similarly, child protection is related to – but distinct from – the organizational protocols, policies and procedures aiming to ensure that every child with whom Save the Children and its partners works is safe while they are in our care.

What Does Save The Children Mean By ...?

Abuse

A deliberate act of ill treatment that can harm or is likely to cause harm to a child's safety, well-being, dignity and development. Abuse includes all forms of physical, sexual, psychological or emotional ill treatment.

The term 'abuse' is, in some contexts, used to refer primarily to such acts when committed 'in the context of a relationship of responsibility, trust, or power' such as by someone who has the care of the child including parent(s), legal guardian(s) or any other person who has the care of the child even temporarily such as a teacher, a community worker, a babysitter or nanny, etc. In most contexts though, 'child abuse' is understood to refer to all such acts of ill treatment including when committed by a stranger.

Child abuse will be committed regardless of any justification or reason that may be provided for the ill treatment including discipline, legal sanction, economic necessity, the child's own consent to it, or in the name of cultural and religious practice.

Examples:

Physical Abuse involves the use of violent physical force so as to cause actual or likely physical injury or suffering, (e.g. hitting, shaking, burning, female genital mutilation, torture)

Emotional or psychological abuse includes humiliating and degrading treatment such as bad name calling, constant criticism, belittling, persistent shaming, solitary confinement and isolation)

Sexual Abuse includes all forms of sexual violence including incest, early and forced marriage, rape, involvement in pornography, and sexual slavery. Child sexual abuse may also include indecent touching or exposure, using sexually explicit language towards a child and showing children pornographic material.

Neglect

Deliberately, or through carelessness or negligence, failing to provide for, or secure for a child, their rights to physical safety and development.

Neglect is sometimes called the ‘passive’ form of abuse in that it relates to the failure to carry out some key aspect of the care and protection of children which results in significant impairment of the child’s health or development including a failure to thrive emotionally and socially.

Evidence is usually needed of persistent or severe neglect (repeated failures or a failure that is in itself so serious that it severely endangers the child)

Examples: Neglect includes abandonment, the failure to properly supervise and protect children from harm as much as is feasible, the deliberate failure to carry out important aspects of care which results or is likely to result in harm to the child, the deliberate failure to provide medical care or carelessly exposing a child to harm for examples can amount to neglect.

Exploitation

Child exploitation refers to the use of children for someone else’s advantage, gratification or profit often resulting in unjust, cruel and harmful treatment of the child. These activities are to the detriment of the child’s physical or mental health, education, moral or social-emotional development and cover situations of manipulation, misuse, abuse, victimization, oppression or ill-treatment.

There are two main forms of child exploitation that are recognized:

Sexual exploitation: the abuse of a position of vulnerability, differential power, or trust for sexual purposes; this includes profiting monetarily, socially or politically from the exploitation of another as well as personal sexual gratification.

Examples: Child prostitution, trafficking of children for sexual abuse and exploitation, child pornography, sexual slavery.

Economic exploitation: the use of the child in work or other activities for the benefit of others. This includes, but is not limited to, child labour.

Economic exploitation implies the idea of a certain gain or profit through the production, distribution and consumption of goods and services. This material interest has an impact on the economy of a certain unit, be it the State, the community or the family.

Examples: Child domestic work, child soldiers and the recruitment and involvement of children in armed conflict, child bondage, the use of children from criminal activities including the sale and distribution of narcotics, the involvement of children in any harmful or hazardous work.

Violence

There are a number of definitions of violence used depending on the focus and approach taken to it. For example, whether it is defined for legal, medical or sociological purposes.

The UN Study on Violence Against Children (2006) definition of violence draws on Article 19 of the Convention on the Rights of the Child: **‘all forms of physical or mental violence, injury and abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse’** as well as the definition used by WHO in the World Report on Violence and Health (2002): **‘the intentional use of physical force or power, threatened or actual, against a child, by an individual or group, that**

either results in or has a high likelihood of resulting in actual or potential harm to the child's health, survival, development or dignity.'

Violence can be committed by individuals or by the State as well as groups and organizations through their members and their policies. It results not only in fear of / actual injury but also in fundamental interference with personal freedom.

WHO has identified 3 types of violence:

- 1) Self directed violence
- 2) Interpersonal violence
- 3) Collective violence

Examples:

Self directed violence: *suicide and self mutilation.*

Interpersonal violence: *All forms of physical, sexual and psychological abuse, neglect and exploitation including domestic violence and other forms of gender based violence.*

Collective violence: *State violence is one of the primary forms of collective violence and is understood as violence committed, condoned or allowed by the State and its representatives. It includes violence by the armed forces, law enforcement officers and security forces of all kinds but also violence committed by any other State agent. State violence against children include the use of the death penalty and other cruel, inhuman and degrading treatment including Torture, forced displacement, unlawful imprisonment, extra-judicial killings and executions, enforced disappearances, all forms of violence against children living under the care of the State including children living in institutions and children in detention and penal facilities among other examples.*

Other forms of collective violence would include violence resulting from internal and international armed conflicts, terrorism, organized crime, but also collective forms of violence targeting specific groups of people such as child infanticide, honour killings, gang violence.

Corporal or physical punishment (and the threat of it)

This includes hitting the child with the hand or with an object (such as a cane, belt, whip, shoe, etc); kicking, shaking, or throwing the child, pinching or pulling their hair; forcing a child to stay in uncomfortable or undignified positions, or to take excessive physical exercise; and burning or scarring the child.

Humiliating or degrading punishment

This takes various forms such as psychological punishment, verbal abuse, ridicule, isolation, and ignoring the child.

Harm

Harm is the result of the exploitation, violence, abuse and neglect of children and can take many forms, including impacts on children's physical, emotional and behavioural development, their general health, their family and social relationships, their self-esteem, their educational attainment and their aspirations.

In some contexts, the term 'significant harm' is used within the protection system to determine the threshold of harm required before intervention by protection services can be undertaken. This approach seeks to balance the potential risk posed to the child facing the protection issue with the real risks that may come with the intervention itself.

Emergencies

Situations where the survival, physical or mental well-being, or development opportunities for children are threatened as a result of armed conflict, the breakdown of social or legal order or a natural disaster.

In the context of an emergency, pre-existing child protection concerns are likely to persist and possibly be worsened by the emergency situation. At the same time a range of new concerns, some specific to the situation itself and others relating to the response to that crisis will need to be understood and addressed. This means that an effective child protection response in an emergency should be both informed and based on the pre-existing situation and concerns while also attempting to prevent, reduce and respond to the new issues created by the crisis.

A cautionary note to the reader on definitions

Different languages and different professional fields can use different terminology to refer to all the issues above. Save the Children uses the definitions set out above.

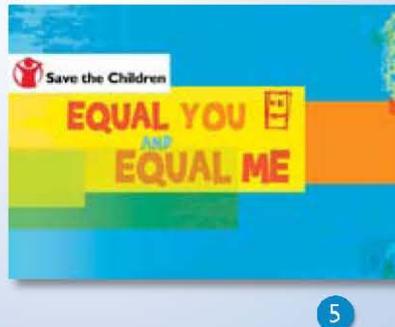
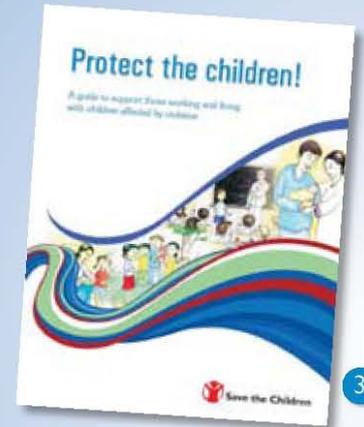
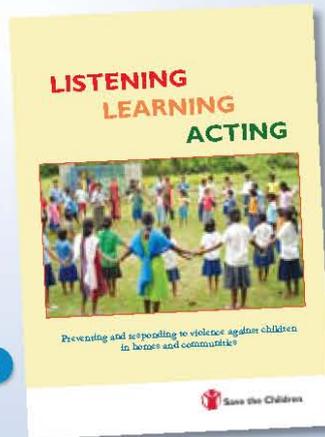
In some contexts the term *child maltreatment* is used to refer to all forms of abuse, neglect and exploitation carried out by a parent or carer. In other context, the term *child abuse* is used as the generic term that includes physical, sexual and psychological abuse as well as neglect and exploitation. For some people *violence* is the generic term that covers all these forms of harm.

LISTEN AND ACT



Children have the right to be cared for and protected. Save the Children has therefore developed material for children to know their rights - and for child rights and frontline workers to know about child development and how to encourage, care for and protect children.

<http://resourcecentre.savethechildren.se>



1 Do's and Dont's for all ages

This is a package of three posters. One is intended to provide adults with the do's and don'ts for protecting children and respecting their rights. The remaining two posters send the message to children that violence is not ok, and provides them with practical do's and don'ts for dealing with violence.

[DOWNLOAD](#)

2 Listen, Learning and Acting

Staff in Save the Children and child rights workers wanting to know more about relevant measures to protect children will benefit from reading and using this book. The book discusses the consequences of violence against children, gives an update on the UN Study on Violence against Children and advice on how to act to promote the protection of children.

[DOWNLOAD](#)

3 Protect the Children!

This book is for front-line workers such as teachers, nurses, people working in shelter homes and institutions, members of protection committees and social workers - all those in direct contact with children, including parents. The book is easy to read and gives a background for understanding the child and practical advice on how to support the child.

[DOWNLOAD](#)

4 Safe You and Safe Me

This book is for children from 7 years and upwards to learn about the types of violence faced by children around the world, and gives ideas on how they can protect themselves. The book encourages children to ask questions and state their opinions.

[DOWNLOAD](#)

5 Equal you and Equal Me

Through this book children from 7 years can learn about the types of discrimination they may face in their day to day life and the many forms of discrimination faced by other children throughout the world.

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6 Listendoll Storybook

This is an illustrated storybook for children aged 4 and up who have suffered trauma and a difficult life situation. It is the story of a doll who faces a terrible wind that blows her life apart. She is taken by a wise bird to the forest where the trees tell her a secret. "Bad things happen, they just do, but you are still you." They teach her to listen in a new way that gives her strength and perspective.

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*Children and Young People's Statement at the First South Asia Forum
for Ending Violence Against Children
24-26 July 2006, Rawalpindi, Pakistan*

Poverty, unemployment and financial problems can increase violence. Some of the other causes of violence are lack of education and awareness and different treatment of girls and boys. Our traditional and cultural practices, not having proper laws and not following the ones that are there, also lead to violence against children.

We realize the horrible effects that physical and psychological punishment and early marriage have on our development and growth. Children get physically and mentally hurt which can lead to depression and even death. Education is affected as the child can lose interest and can drop out of school. Sometimes children also run away from home. This can result in child labour and criminal activities.

Early marriage allows for easy spread of diseases and increase in population. Another important point is that children cannot provide proper care and take the required responsibility for their babies.

We have come up with several recommendations for governments, parents, communities and many others, including children. We recommend the creation of laws, changing them if necessary to ban physical and psychological punishment and early marriage in all countries. We have to ensure that the laws are followed.

We would like to make everyone aware of child rights and laws protecting children, because laws are not important if they are not known and followed by the people. We believe that poverty can increase violence, so governments should provide jobs and other income generating programmes, which would decrease violence for some children.

Governments should ensure free, compulsory and quality education for all children. More importantly, no child should be put through physical and psychological punishment at school. When this is done, we believe children will develop their skills and reach their maximum potential.

We children are the base of our nations and have an important role to play in the development of the country. Such consultations are required because they help us to raise our voices to end violence against children. We once again request the governments to listen to our views seriously and act upon them.

Please do not raise our hopes by making promises if you cannot fulfill them.