

Prevention of Trafficking and the Care and Support of Trafficked Persons

*In the Context of an Emerging HIV/AIDS
Epidemic in Nepal*

- **Policy analysis**
- **Documentation of current intervention models**
- **Community-based study of trafficking**



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February 2001

Published by:

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This publication was made possible through support from the Office of Health, Nutrition and Population, Global Bureau, U.S. Agency for International Development, under the terms of HRN-A-00-97-00012-00. The opinions expressed herein are those of the authors and do not necessarily reflect the views of the U.S. Agency for International Development.

Acknowledgements

This report was compiled by Dr. Celine Costello Daly, Horizons Project, Population Council, New Delhi, India, based on three reports prepared by The Asia Foundation and the Horizons Project, Population Council:

- i. Jyoti Sanghera, Ratna Kapur, Celine Costello Daly, Vaishali Sharma Mahendra, Pankaja Bhattarai and Nick Langton. Trafficking in Nepal. An Assessment of Laws and Policies for the Prevention and Control of Trafficking in Nepal. December 2000.
- ii. Catrin Evans, Pankaja Bhattarai, Celine Costello Daly, Vaishali Sharma Mahendra and Nick Langton. A Comparative Analysis of Anti-Trafficking Intervention Approaches in Nepal. December 2000.
- iii. Vaishali Sharma Mahendra, Dilli Ram Dahal, Siobhan Crowley, Pankaja Bhattarai, Celine Costello Daly and Nick Langton. Community Perceptions of Trafficking and its determinants in Nepal. February 2001.

These reports are available on request from The Asia Foundation, Kathmandu.

We gratefully acknowledge all those who contributed their time and knowledge during interviews for these reports in Kathmandu. (see Appendix 1 for list). In addition to these contributions, Dr. Isabelle De Zoysa (Horizons Project, Population Council, New Delhi, India), and Mr. Taufiqur Rahman, (The Asia Foundation, Kathmandu, Nepal) developed the original project proposal and worked on initial phases of the project.

Contents

Acknowledgements.....	4
Contents.....	5
Glossary.....	7
1. Introduction.....	8
2. Objectives.....	10
3. Conceptual Framework: What Is Trafficking?	13
3.1 Definition	13
3.2 Trafficking and prostitution.....	13
3.3 Trafficking and migration.....	15
3.4 Women vs. children: issues of consent and choice.....	16
3.5 Trafficking and HIV.....	17
4. Causes and Context.....	19
4.1 Magnitude of trafficking in Nepal.....	19
5. Policy Analysis.....	22
5.1 General description of the law and policy environment.....	22
5.2 Focus on trafficking in Nepal.....	23
5.3 Definition of trafficking.....	25
5.4 Trafficking and prostitution.....	25
5.5 Migration law.....	26
5.6 Women’s rights	27
5.7 Other rights issues.....	28
5.8 Focus on rescue and rehabilitation.....	29
5.9 Interface with HIV/AIDS policy.....	29
5.10 Conclusions.....	30
6. Documentation and Analysis of Current Intervention Models	32
6.1 Overview of activities.....	33
6.2 Definition of trafficking	33
6.3 Prevention activities.....	34
6.3.1 General description.....	34
6.3.2 Prevention activities.....	35
6.4 Care and Support Activities.....	38
6.4.1 General description.....	39
6.4.2 Activities	42
6.5 Advocacy and Networking.....	43
6.6 Monitoring and Evaluation.....	43
6.7 Conclusions.....	45
6.8 Potentially innovative intervention approaches	45
6.8.1 Prevention.....	46
6.8.2 Care and support.....	46
7. Field Research.....	47
7.1 Background information.....	47
7.1.1 Age and ethnicity.....	47
7.1.2 Family composition.....	48
7.1.3 Education.....	49
7.1.4 Work experience.....	50
7.1.5 Social environment.....	51
7.1.6 Aspirations.....	52

7.2	Mobility and migration.....	53
7.2.1	Current mobility.....	53
7.2.2	Knowledge of migration.....	53
7.2.3	Aspirations to migrate.....	54
7.2.4	Decision-making for migration.....	54
7.3	Trafficking.....	54
7.3.1	Knowledge of trafficking.....	54
7.4	HIV/AIDS.....	57
7.4.1	Awareness and knowledge.....	58
7.4.2	Stigma for persons living with HIV/AIDS.....	59
7.5	Conclusions.....	60
8.	Recommendations.....	61
8.1	Conceptual clarity.....	61
8.1.1	Prostitution.....	61
8.1.2	Migration.....	61
8.1.3	Women vs. children: issues of consent.....	62
8.2	Protection of rights.....	62
8.3	HIV/AIDS policy as a model	62
8.4	Rescue, repatriation and rehabilitation	62
8.5	Sustainable alternatives	63
8.6	Interventions.....	63
8.7	Advocacy and networking.....	63
8.8	Monitoring and evaluation.....	63
8.9	Empirical research	63
	References	66
	Appendices.....	70

Glossary

AATWIN	Alliance Against Trafficking in Women and Children in Nepal
ATSEC	Alliance Against Trafficking and Sexual Exploitation of Children
BCC	Behavior Change Communication
CAR	Children At Risk (Network)
CATW	Coalition Against Trafficking in Women
CBO	Community-Based Organization
CEDAW	Convention for the Elimination of All Forms of Discrimination Against Women
CeLRRd	Centre for Legal Research and Resource Development
CRC	Child Rights Convention
CWIN	Child Workers in Nepal Concerned Centre
DDC	District Development Committee
GAATW	Global Alliance Against Trafficking in Women
GO	Governmental Organization
HMG/N	His Majesty's Government of Nepal
ICCPR	International Convention on Civil and Political Rights
IEC	Information, Education and Communication
ILO	International Labor Organization
INGO	International Non-Governmental Organization
IOM	International Organization for Migration
IPEC	International Program on the Elimination of Child Labor
MOWCSW	Ministry of Women, Children and Social Welfare
NGO	Non-Governmental Organization
NNAGT	National Network Against Girl Trafficking
OHCHR	Office of the High Commissioner for Human Rights
PCRW	Production Credit for Rural Women
SAARC	South Asian Association for Regional Cooperation
SFDP	Small Farmers' Development Project
UNDP	United Nations Development Program
USAID	United States Agency for International Development
VDC	Village Development Committee
WOREC	Women's Rehabilitation Center
WDD	Women Development Division

1. Introduction

In recent years, millions of women and girls have been trafficked across borders and within countries. The global trafficking industry generates an estimated five to seven billion U.S. dollars each year, more than the profits generated by the arms and narcotics trades (Widgren 1994).

Over the last decade, the growing trafficking problem in South Asia has been recognized. Nepal and Bangladesh have been designated as “sending” countries or countries of origin in the regional web of trafficking. India and Pakistan are usually referred to as countries of “transit” or “destination.” Girls and women are trafficked within country boundaries, to other countries within the region, and across regions and continents beyond South Asia.

The problem is particularly acute in Nepal, one of the least developed countries of the world. This agrarian nation lacks sufficient economic capital, infrastructure, and developed human resources. Ninety percent of its 21 million inhabitants rely on subsistence agriculture. Adult literacy is as low as 23 percent for females and 57 percent for males. Infant and maternal mortality rates are among the highest in the world. Historically, economic pressures have created a high level of migration in search of sustainable livelihood options outside Nepal. That migration level is escalating, particularly among men and women of prime productive and reproductive age in certain districts (Sanghera 2000).

The effort to abolish trafficking in Nepal intensified after a multi-party democracy was established in 1990.¹ At that time, trafficking of women and girls was identified as a priority issue.² Within five years, non-governmental organizations (NGOs) and community-based organizations (CBOs) began to address and combat the problem through expanded social, cultural, and economic programs. The international donor community, including the United Nations, bilateral and multilateral donors, increased funding for many social issues that had been relegated to the background, including issues related to women, children, bonded labor and human rights. His Majesty’s Government of Nepal (HMG/N) established the Ministry of Women, Children and Social Welfare (MOWCSW), and began to formulate national policies and plans to integrate women and children into the national development process.

A watershed event occurred in February 1996 when the Indian government tried to forcibly repatriate two hundred Nepali women from brothels in Mumbai. The government of Nepal initially refused to repatriate these “rescued” women. The emergency was somewhat diffused when a group of seven Kathmandu-based NGOs intervened, organizing repatriation of the victims and their subsequent care (ABC Nepal 1996; Pradhan 1996). This event drew considerable media attention, especially when a number of the girls were forcibly tested for HIV – and found positive. Challenged by the immense need of these victims, many NGOs developed anti-trafficking programs, attracting considerable support from international donor agencies. Awareness of the HIV pandemic added a sense of urgency, since the social and economic processes underlying trafficking are in many ways similar to those fueling the spread of HIV (AIDS Action 1998; UNDP 2000).

¹ In 1990, the Nepal’s *panchayat* system of government was converted to multi-party democracy, resulting in a new constitution that respects popular will and accords various fundamental rights to the people. See P.M Sharma and B.P. Bhandari, *An Assessment of Policies and Legislative Measures for Prevention and Control of Trafficking in Nepal*, (ed., The Asia Foundation) Pro Public, Kathmandu, 2000.

² In 1991, significant media coverage appeared on trafficking. One of the first major conferences on trafficking as a national issue was held in the first half of 1991 under the sponsorship of ABC Nepal.

In 1997, Nepal's Ministry of Women, Children and Social Welfare formed a National Task Force on Trafficking, with support from the United Nations Children's Fund (UNICEF) and the International Labor Organization (ILO). Under this initiative, District Task Forces were established in 26 districts of Nepal, and a National Policy and Plan of Action to Combat Trafficking were formulated. In 1998, an inter-agency United Nations Task Force on Trafficking was set up in Nepal, under the coordination of the United Nations Development Programme.

In March 1999, the Office of the High Commissioner for Human Rights (OHCHR) Trafficking Program identified Nepal as one of the key countries for intervention, and organized two national workshops. Currently, pilot projects have been initiated in cooperation with the United Nations Task Force. The High Commissioner is also examining the South Asian Association for Regional Cooperation (SAARC) Draft Convention on Trafficking from the standpoint of human rights. The United Nations Special Rapporteur on Violence against Women selected Nepal as a focal country for a report on trafficking submitted to the Human Rights Commission in April 2000.

2. Objectives

This study is a collaborative effort between The Asia Foundation (Kathmandu) and the Horizons Project of the Population Council (New Delhi). The objectives and related research questions of the study are as follows:

1. To assess the policy context that underpins intervention activities for the prevention of trafficking and the care and support of trafficked persons.

Related research questions:

- How is the policy and legal environment in Nepal shaping strategic alliances, funding opportunities, program priorities, and intervention design for the prevention of trafficking and the care and support of trafficked persons?
- How do policy and program priorities and strategies for the control of trafficking interface with those for the control of HIV/AIDS in Nepal?

2. To document and analyze current intervention models for the prevention of trafficking, and the care and support of trafficked persons.

Related research questions:

- What are existing intervention models for the control of trafficking? What are their underlying values and assumptions? What do we know about their feasibility, acceptability, coverage, and effectiveness?
- What are promising models for addressing trafficking in this setting?

3. To assess the features and determinants of vulnerability of girls and women to trafficking, as part of the larger problems of gender-based violence, migration for economic reasons and labor exploitation.

Related research questions:

- What are the processes of trafficking at the community level and what is the understanding of community members about this issue?
- Who is most vulnerable to trafficking? Why are they vulnerable?

4. To conceptualize the links between trafficking and HIV/AIDS.

5. To recommend approaches to strengthen interventions to prevent trafficking and provide care and support to trafficked persons, and propose supporting research and evaluation activities.

Human Rights Focus

The analysis in this report considers trafficking as an abuse of human rights, as trafficking involves deception, brokering of human beings for profit, and forced labor. Commonly, active efforts to protect the right to freedom of movement (migration) and freedom to earn a livelihood through the work of one's choice are not included in anti-trafficking law, policy and intervention strategies.

“Well-meaning initiatives may be compromising rights rather than building the capacity of trafficked persons and vulnerable communities to overcome their social, economic, and political marginalization. Innovative and sustainable approaches incorporate rights, participation, and advocacy into anti-trafficking efforts.” (USAID 1999)

To address the human rights component of trafficking, the three components of this study focus on the rights and needs of trafficked persons as well as those who are vulnerable to trafficking. An analysis and assessment of the effectiveness of laws, policies, and interventions in the apprehension, prosecution, and conviction of alleged traffickers is not included in the scope of this project.

Study Components

- 1. Policy analysis:** A rapid assessment of the policy context that underpins efforts to control trafficking in Nepal.

This assessment examines the forces that influence strategic approaches, program priorities, intervention design, and funding opportunities for the prevention of trafficking and the care and support of trafficked persons. The methods included documentation review and interviews with key policy-makers, program managers, and activists in Nepal.

- 2. Documentation of current intervention models:** An assessment and analysis of existing, “on-the-ground” intervention programs for the control of trafficking in Nepal.

This analysis develops a typology of the major intervention approaches and is not intended to be an inventory of intervention programs being implemented by different organizations. The existing documentation, although incomplete, highlights that these programs vary considerably in their approach, the gender and age of populations targeted, and the abuses covered. This analysis pays particular attention to the operating values, goals and strategies of the different intervention types that are identified. It highlights their assumptions with respect to the underlying determinants of trafficking, and the means of prevention and assistance to trafficked persons. Finally, information about methods and results of program monitoring and evaluation has been collected. While systematic evaluation efforts have been scant, all available information was examined to discuss issues of feasibility, acceptability, coverage, and effectiveness related to the different intervention models, and to identify areas of innovation and particular constraints.

3. Community-based study on trafficking: Primary field-based data collection using both qualitative and quantitative research methods.

This study identifies perceptions, knowledge, and attitudes of community members about the roles and opportunities ascribed to women, the need and benefits of migration to seek work, and the existence of trafficking. Participants include girls and their families, and key gatekeepers and decision-makers at the community level. The field research approaches the issue of trafficking from the broader perspective of gender roles, social structures, and economic problems that underlie prevalent gender power differentials and increase the vulnerability of girls and women to trafficking, sexual violence, and HIV/AIDS in Nepali communities. It also examines attitudes and practices related to the reintegration of persons who have been or may have been trafficked, with an eye to identifying and understanding instances of stigmatization and discrimination against such persons.

3. Conceptual Framework: What Is Trafficking?

3.1 Definition

Even after many years of discussion and creation of numerous laws, policies, and programs designed to prevent trafficking, there is no international consensus on the definition of trafficking. The term has been used to describe a vast array of activities; including voluntary facilitated migration, voluntary prostitution, and forced non-sexual labor. However, there is increasing recognition of trafficking as a dynamic concept, which encapsulates a process of recruitment (involving coercion and/or deception), transport, and exploitative labor conditions.

For the purpose of this report, we have adopted the definition proposed by the United Nations Special Rapporteur in a recent report to the United Nations Commission on Human Rights (Coomaraswamy 2000):

“Trafficking in persons means the recruitment, transportation, purchase, sale, transfer, harboring or receipt of persons by threat or use of violence, abduction, force, fraud, deception or coercion (including the abuse of authority), or debt bondage, for the purpose of placing or holding such person, whether for pay or not, in forced labor or slavery-like practices, in a community other than the one in which such person lived at the time of the original act described.”

The United States government definition of trafficking is similar to the United Nations definition as follows:

“The recruitment, transport, or sale of persons across international borders or within a country through fraud, coercion, or force for purposes of forced labor or services, including forced prostitution, domestic servitude, debt bondage, or other slavery-like practices.”³ (USAID 1999)

Both these definitions recognize that trafficking takes place within countries, as well as across national borders. In addition, both definitions refer to “trafficked persons” without reference to age or gender. However, the United Nations definition more explicitly establishes a trafficking chain that includes both those persons at the beginning of the chain who recruit and/or sell the trafficked person, and those at the end of the chain who receive and/or purchase the person and hold him/her in forced labor or abusive conditions. It is the combination of both ends of the chain that makes trafficking a distinct violation.

3.2 Trafficking and prostitution

Many laws, policies, and interventions limit the definition of trafficking to only those acts involving prostitution. These deny protection and assistance to the large numbers of persons trafficked for other purposes, such as other forms of forced labor and forced marriages. This focus dates back to the United Nations 1949 Convention for the Suppression of the Traffic in Persons and the Exploitation of the Prostitution of Others, which still stands as the sole

³ Extract from President Clinton’s Executive Memorandum, March 1998.

international treaty on trafficking (Coomaraswamy 2000). By focusing solely on the outcome of trafficking, such definitions fail to take into account and protect against the abuse and human rights violations committed during the entire process of recruitment, transport, and confinement to exploitative labor conditions.

This focus on the end point of forced prostitution has prompted some organizations to advocate the abolition of prostitution as a means to control trafficking. Discussion of the control of trafficking is often side tracked into the debate over whether or not prostitution should be criminalized.

The movement to abolish prostitution is led internationally by the Coalition Against Trafficking in Women (CATW) and within Nepal by the National Network Against Girl Trafficking (NNAGT). It is based on a belief that trafficking and prostitution are an abrogation of women's rights and a violation of their dignity. However, recent declarations by CATW are framed within a human rights paradigm and recognize the difficulties of eliminating prostitution altogether. Hence, while this remains a long-term goal, CATW also strongly stresses the need to "provide rights and protection for women in conditions of sex trafficking and prostitution" (CATW 1999).

Organizations that argue against abolition and criminalization of prostitution include the Global Alliance Against Traffic in Women (GAATW) and allied groups, including the Alliance Against Trafficking in Women and Children in Nepal (AATWIN). In their view, it is the right of adult women to choose to engage in sex work.

"It is not prostitution that the anti-trafficking framework opposes but the violation of rights that may occur while involved in that work. Although a woman may enter into prostitution by choice, she does not choose the exploitative conditions she is forced to endure. It is therefore the exploitative conditions and not the sex work itself that need to be targeted."
(WOREC/CEDPA 1999)

Advocates on both sides of criminalization issue agree on the urgent need to address the exploitative conditions inherent in the sex trade and to protect the rights of women involved in sex work. Moreover, although GAATW advocates a woman's right to 'choose' sex work, they recognize that this 'choice' may be little more than a response to the limited options available to disadvantaged women, echoing the position taken by CATW.

Two-thirds of sex workers in Nepal state that they entered sex work by choice, while 38% cited influence by female friends, 9% by other family members, 6% by pimps, 4% by brothel owners and 4% by mothers.⁴ However, the distinction between entry into sex work via trafficking and coercion versus voluntary entry is often not clear. The same set of social, familial, and economic circumstances that lead women to a decision to enter sex work increase their likelihood of being trafficked. Even when women enter sex work by "choice," they may not know beforehand exactly what this work entails and may be unprepared for its exploitative nature. Depending on the context, they may become embroiled in the same

⁴ Presented by UNICEF at the consultative workshop for the development of the National Plan of Action Against Trafficking in Children and their Commercial Sexual Exploitation, 1998.

processes of slavery-like conditions or debt-bondage as trafficked women and as unable to escape. Conversely, women who enter sex work through trafficking may conclude that this represents a profitable livelihood strategy and may not necessarily wish to be “rescued” (Frederick 1998, Doezema 1999).

Another effect of the focus on prostitution in trafficking is that women in prostitution are divided into two types: innocent victims of trafficking and immoral voluntary prostitutes (Kempadoo and Doezema 1998). Most women in sex work suffer rights abuses and abusive working conditions and deserve protection. While various international conventions now acknowledge the need to protect the rights of trafficked prostitutes,⁵ not a single convention promotes the rights of *all* women involved in sex work. Indeed, many states place the distinction between guilty and innocent women at the heart of their legislation on prostitution and trafficking. In Germany for example, the penalty for trafficking is reduced in cases where the person knew she was going to be a prostitute. Likewise, in countries such as Colombia, Uganda, Brazil, Canada, and Japan, the use of violence to force a person into prostitution is only prohibited in cases where the woman concerned is of “undisputed virtue.” (Doezema 1998)

3.3 Trafficking and migration

While all trafficking involves migration, not all migration is trafficking. Many women voluntarily choose to migrate. If such migration is not accompanied by coercion or deception and does not result in forced labor or slavery-like conditions, it is not trafficking.

Women migrate for many reasons, both economic and social. Their right to move must be protected and maintained within anti-trafficking efforts. Many laws, policies, and interventions fail to distinguish between migration and trafficking. This has resulted in laws, predominantly directed against women, which limit the freedom to migrate and interventions that view all migrating women and girls as victims of trafficking.

For example, some intervention programs in Nepal measure success by the degree of reduction in migration of women at the village level. There have also been reported instances of women and girls who have been prevented from crossing the border of Nepal despite their vehement protestations that they are traveling of their own free will (see Section 6 for more detailed discussion of interventions).

The boundary between migration and trafficking is not always clear. Even when there is an element of deception present in migration, it is not recognizable as trafficking until the destination is reached and the deception is revealed. Until then, the journey is indistinguishable from legal and voluntary migration, making it nearly impossible to intercept traffickers at the border while respecting the rights of migrating women.

In addition, women are sometimes trafficked *after* migration in a two-step process. For example, women are trafficked from carpet factories in Kathmandu after voluntarily migrating to the city from their villages for economic reasons. Therefore, attempts to control trafficking by curbing migration at the village level are misplaced and may serve to restrict women’s rights to seek better livelihood opportunities outside the village.

⁵ 1992 Convention for the Elimination of Violence Against Women; 1993 World Conference on Human Rights; 1995 Beijing World Conference on Women.

Blocking migration not only impinges on the rights of citizens, it is not an effective anti-trafficking intervention. Many believe that restriction of migration will simply drive trafficking further underground, rendering it still more invisible and difficult to identify. This lesson has been learned repeatedly from other states that have enforced increasingly stringent immigration control as a response to heightened trafficking in persons and narcotics (Altink 1995, Azize-Vargus 1996, Barry 1996, Johnston and Khan 1998). Even in the course of legal migration, women are frequently subject to violence and abuse when traveling, in proportion to their degree of social, economic, and gender disadvantage. When forced to migrate illegally, their vulnerability to violence, abuse, and presumably trafficking increases in an environment lacking state protection.

“Closing borders and limiting movement of women does not end trafficking. First, it fails to address the largest number of victims – those trafficked within their own country. Secondly, in today’s era of growing economic inequality, people often need to migrate to urban areas or richer countries in order to earn a livelihood. When borders are closed, desperation and desire will drive victims into the arms of traffickers. In fact, a victim’s status as an illegal migrant is often a very effective tool in the hands of traffickers, leaving the migrant vulnerable to further coercion and abuse.” (USAID 1999)

The major international anti-trafficking networks Global Alliance Against Trafficking in Women (GAATW) and Coalition Against Trafficking in Women (CATW), advocate interventions that focus on addressing the abuse of human rights occurring during migration or at the workplace, rather than hindering migration per se. This focus is echoed by an NGO in Nepal:

“With the traditional subsistence culture no longer a viable means of livelihood, women often migrate for their own survival. It is therefore imperative that a woman’s right to mobility not be impinged upon but rather that the human rights of those who choose to migrate be secured.” (WOREC/CEDPA 1999)

It is important to focus on safe migration, rather than attempting to block all migration. The forces driving people, including women, to migrate continue to operate despite efforts to stop migration. If migration laws limit legal options for international movement, women will find ways to migrate illegally, no longer under protection of the law.

3.4 Women vs. children: issues of consent and choice

Policy and interventions need to clearly distinguish between the control of trafficking for adults versus that for children. When there is no clear distinction, women are infantilized, and considered in need of paternalistic protection. There must be recognition of an adult woman’s right to make her own decisions, even if this includes, for example, migrating to work in the sex trade. Women may also choose to remain in sex work after being “rescued” from trafficking.

In contrast, the issue of consent is not relevant to a discussion on trafficking in children. There is international agreement that child trafficking and child prostitution of any kind is a criminal violation of a child's rights. Children should always be removed from exploitative situations.

3.5 Trafficking and HIV

The most frequently highlighted association between trafficking and HIV is the increased likelihood of HIV infection in women and children trafficked for purposes of prostitution. Rates of HIV infection among sex workers in urban areas range from 17% in Nepal (UNAIDS 2000) to as high as 72% in sex workers under 18 years of age in Mumbai, India (Salunke et al, 1998). A study of sex workers in the Terai found that 4% of sex workers overall were HIV infected while 17% of those who had worked in India were HIV-positive. Fifty percent (8 out of 16) of those who had worked in Mumbai were found to be HIV-positive (FHI 2000a).

Although there are no available data on the rate of HIV among trafficked women and children, it is reasonable to conclude that those trafficked for prostitution would assume the same prevalence of HIV as the sex workers in the area in which they are held. A study in Thailand found the highest incidence for HIV seroconversion to be in the first six months of sex work. (Kilmarx et al 1998) The authors postulated that this was due to customers who perceived new sex workers to be at low risk of infection and therefore did not use condoms and/or the relative lack of experience and skill among new sex workers to negotiate for condom use. Both would apply to young, trafficked Nepali girls. In addition, trafficked girls and women are presumably less likely to be beneficiaries of sex worker interventions and empowerment movements due to their forced working conditions, debt bondage, and language barriers.

Even those women and children who are trafficked for purposes other than prostitution are subject to sexual abuse and are therefore at increased risk of contracting HIV. Trafficked women and children are not able to control even the most basic aspects of their lives, least of all to negotiate safe sexual relations. As seen in other migrant groups, language barriers and displacement from family and community support systems increase vulnerability and subsequent risk of HIV infection (Guest 2000, AIDS Action 1998). In addition, those who are trafficked internationally are usually classified as illegal immigrants in their country of destination and further marginalized with less access to education, services, and protection. If they seek help, they may be subject to prosecution for the crime of illegal immigration, rather than assisted as victims of trafficking (Wijers and Lap-Chew 1997).

Although trafficked persons assume the risk of HIV associated with disenfranchised mobile populations and/or sex workers, emphasis on this risk in prevention and education programs may not be in their best interest. Messages that highlight the risk of HIV associated with migration and trafficking increase stigma, both for returned victims and other migrants. In the past, women who left sex work could reintegrate into their communities with relatively few problems, especially if they returned with some wealth. The current panic associated with the AIDS epidemic in Nepal is such that women returning from India are stigmatized as carriers of HIV, regardless of whether they have been engaged in sex work. In many districts, the

common perception is that “a returnee from Mumbai is a carrier of AIDS.”⁶

While the increased risk of HIV infection as a result of trafficking should not be over-emphasized at the community intervention level, there is much to be gained from examining the HIV/AIDS control experience to inform the anti-trafficking movement at the policy and planning level. HIV/AIDS and trafficking have similar determinants, present similar processes, and require similar rights-based responses. Both affect vulnerable and disempowered populations, often associated with poverty and gender discrimination. Both are associated with migration and with sex work. Finally, both involve stigma and discrimination against affected and infected persons.

⁶ Personal communication with Dr. Renu Rajbhandari, WOREC, Kathmandu, Nepal, September, 2000 and confirmed by further interviews in Kathmandu.

4. Causes and Context

4.1 Magnitude of trafficking in Nepal

Due to the clandestine nature of trafficking and the lack of consensus on its definition, there are essentially no reliable data on the magnitude of the trafficking problem in Nepal. It is widely believed, however, that 1) trafficking in both Nepal and South Asia is on the increase; 2) most women and girls are trafficked into the sex industry; and 3) increasingly younger girls are being trafficked to brothels.

The most widely quoted statistics are that five to seven thousand Nepali girls are trafficked for prostitution per year and that 200,000 Nepali girls and women are currently working in the sex industry in India. These numbers were first quoted as an unsubstantiated estimate in 1986 and have been quoted without alteration over the ensuing fifteen-year period.

The use of these figures to estimate the magnitude of trafficking in Nepal is based on several false assumptions. Firstly, none of the quoted statistics on Nepali girls and women in sex work outside Nepal are based on systematic studies. Secondly, estimating the number of Nepali girls/women in sex work is not the same as estimating the number of trafficked Nepali girls/women since a substantial but unknown proportion of Nepali sex workers are not victims of trafficking. Thirdly, such figures do not take into account those who were trafficked for purposes other than prostitution or trafficked in-country or to foreign destinations other than India.

Another approach to estimating the number of trafficked women is to measure the number of “missing” women in villages. Once again, this is not an accurate method since it does not take voluntary migration into account and consequently inflates estimates of trafficked women.

4.2. Determinants of trafficking

There is a consensus among groups internationally and within Nepal that female trafficking is a complex multi-causal phenomenon (O’Dea 1993; Acharya 1998; ILO/IPEC 1998; ABC Nepal 1996; Rajbhandari 1996; Sanghera 2000). At the local level, trafficking involves deep-rooted processes of gender discrimination, lack of female education, ignorance and naiveté of rural populations, poverty and lack of economic opportunities in rural areas with consequent marginalization of particular social groups. These local level processes are in turn shaped by macro-level economic and social changes that are changing the way markets operate and the kind of labor that is required. Many of the factors contributing to trafficking are aggravated by national and local level political apathy and lack of law enforcement mechanisms.

These factors, combined with modern marketing techniques, are also changing (and perhaps unrealistically raising) people’s fundamental expectations of life and what ‘basic needs’ are. While some of these proposed causes can be said to increase vulnerability specifically to trafficking (e.g. women’s lack of empowerment or lack of information about what may happen if she migrates), the rest are a part of changes happening globally that are leading both to the increased feminization of poverty and to increased female migration. They are factors that lead to the desire or need to migrate. It is misleading to single out these factors as being fundamental causes of trafficking per se. These factors underlie the phenomenon of increased migration, with some people being trafficked as a result.

Although there are no studies to support the correlation of these factors with trafficking, there is general agreement among those working in trafficking prevention that these factors are responsible for increasing rates of both trafficking and voluntary migration (legal and illegal). To a woman living in an environment of restricted rights and freedoms with few employment opportunities open to her, a trafficker offering a chance for economic independence may be seen as the only opportunity to improve her situation (UNDP 1999).

Migration is playing an increasingly important part in Nepal's economy and social structure. Based on the 1996 National Living Standards Survey, 24% of rural households receive remittances, mostly from other places in Nepal and from India, accounting for 25% of their total household income. (Seddon et al 1999) As these factors lead to an increase in migration, more people may be trafficked in the process (O'Dea 1993, Acharya 1998, ILO/IPEC 1998, ABC Nepal 1996, Rajbhandari 1996, Sanghera 2000).

It is not clear to what extent migration in Nepal involves women. The report by Seddon et al (1999) found that 23% of registered migrants were women, but suggests that the great majority of female migrants are likely to be unrecorded because female labor is mainly concentrated in the informal, unregulated economic sectors. Girls and women are often relegated to the informal, unprotected and often-illegal labor sectors, where poor labor standards create the conditions for abusive recruitment practices and exploitative working conditions.

The nature of the vulnerability to being trafficked (as opposed to migrating safely) has not been explored in any depth in Nepal. Dominant representations of trafficked "victims" in Nepal usually depict a happy, innocent, and naïve village girl who is suddenly tricked or kidnapped by a stranger and sold into sexual slavery. Some authors (Frederick 1998; Frederick and Kelly 2000) have challenged this picture as a myth and question the assumptions of village and family life underlying many representations of trafficking. Their work and the little research that exists seem to indicate that many (though not all) women are trafficked by people known to them. Like other women in prostitution, many come from disturbed and difficult family circumstances, including divorce, alcoholism, sexual, physical or emotional abuse, or death of a breadwinner (Sanghera 2000; ABC Nepal 1998; Pradhan 1996). Lacking crucial social supports, such women may be particularly desperate to change their situation.

Reports from NGOs in the anti-trafficking field (Rajbhandari 1996; Pradhan 1996; ABC Nepal 1996; Acharya 1998) suggest that both trafficking and migration operate primarily through personal connections and social networks (such as an aunt who returns to the village and takes her niece back to the city), and through unregistered brokers who may or may not be strangers to the locality. They report that women and girls are attracted by reports of the wealth and fun to be had in the city and are easily duped into trusting the mediator. Likewise, some women are deceived into false marriages with the broker and are subsequently sold into the sex industry.

NGOs also report that brokers are increasingly operating within organized trafficking networks that cover large tracts of Nepal and use sophisticated methods. For example, it is becoming increasingly common for trafficking to take part in stages, with women moved around to work in different sites before finally being sold into sex work. Carpet factories in

Kathmandu are a common transit point. However, determining the extent to which trafficking is organized through formal networks, and the exact methods used require further research.

The extent of familial involvement in trafficking is cause for much controversy in Nepal. In certain communities (such as the *Badi* and the *Deuki*), sex work is a customary practice and continues to this day. In other communities in a few districts (notably Nuwakot and Sindupalchowk), there has likewise been a tradition of sending girls to “service” the ruling classes in Kathmandu, which, in time, has changed into involvement in commercial sex. In these communities, female involvement in sex work is common knowledge and an important source of income. In most cases, however, it is suggested that although parents may sanction a daughter’s migration and may even accept money in advance for her labor, they do not fully understand her risk of entering the sex trade (or of otherwise being exploited). Likewise, parents may accompany daughters to the carpet factories in Kathmandu but may not be aware of, or involved in, any subsequent trafficking.

Our knowledge of the causes and processes of trafficking is based on the field experience of the NGOs in Nepal who are active in the anti-trafficking field. However, systematic, comprehensive, and reliable research in this area is required to inform the development of effective anti-trafficking interventions.

5. Policy Analysis

Although government policy does not necessarily determine the field realities of NGO programs, it does determine the environment within which the donors and NGOs operate. In order to define the policy environment, national policy and domestic laws on trafficking in Nepal were analyzed and assessed in light of the theoretical framework laid out in Section 4. In addition, relevant international conventions signed and/or ratified by Nepal were examined. Laws relating to migration are also included in this analysis, as they determine the environment for legal migration as it relates to trafficking. The policy, legislation, and international obligations governing the current policy environment in Nepal that were considered in this analysis are outlined in Table 1.

The national policies and plans on HIV/AIDS were also considered, both in terms of how trafficking initiatives fit in with HIV/AIDS policy and as an example of a rights-based policy on an issue that affects many of the same population groups considered vulnerable to trafficking.

In accordance with the policy of His Majesty's Government of Nepal (HMG/N) to "protect human rights and the rights of women,"⁷ this analysis is based on a human rights framework. The analysis focuses on how legal and policy efforts to control trafficking impact on the rights of trafficked persons and those, especially women and children, who are vulnerable to trafficking. The effectiveness of the current laws in the prosecution and punishment of alleged traffickers is not within the scope of this analysis.

Methodology

English translations of the laws and policies were reviewed in detail. In addition, personal interviews were conducted in September 2000 with key informants, representatives of government, police, donor agencies, SAARC, and international and national NGOs, and community-based organizations. These are listed in Appendix 1.

5.1 General description of the law and policy environment

The first domestic law specifically targeting trafficking in Nepal is the Traffic in Human (Control) Act in 1986. The New *Muluki Ain* (Code of Law of the Land) dating from 1964 already outlawed taking persons across the Nepal border for the purpose of selling them, although it did not use the term "trafficking." In addition, the 1964 code outlawed slavery, bonded labor, and separating minors from their guardians without consent.

The 1986 Traffic in Human (Control) Act replaced the New *Muluki Ain* for issues relating to the control of trafficking. It is widely considered to be ineffective due to a combination of factors, including the complex and lengthy legal procedures required for prosecution under the law and lack of political and judiciary will to enforce it. It is considered one of the most poorly enforced acts in Nepal (CeLRRd 2000).

In recognition of the ineffectiveness of the current act against trafficking, three proposals have been proposed to reform the existing law. The first two reform proposals are:

⁷ In *National Policy to Combat Women and Child Trafficking and Their Sexual Exploitation*, MOWCSW, 1999.

- a) *The Human Trafficking Activities Eradication Act, 2056* developed by the Center for Legal Research and Resource Development, and
- b) *A Bill Made to Provide for the Elimination of the Offences of Traffic in Persons (Crime and Punishment) Act, 2056* developed by the Nepal Police.

After reviewing these proposals, the HMG/N Ministry of Women, Children and Social Welfare (MOWCSW) produced a third proposed bill entitled, *The Traffic in Human Beings (Offences and Penalties) Act, 1999*. Only this proposal will be presented at the forthcoming session of the Parliament of Nepal.

The legal environment on trafficking is also determined by other domestic laws, including the Constitution of Nepal, The Foreign Employment Act (1985), and the Open Border Agreement (1950), as well as regional and international obligations (Table 1).

5.2 Focus on trafficking in Nepal

Governments of the South Asian region have acknowledged the problem of trafficking of women and girls under combined pressure from international organizations and civil society groups, and have demonstrated varying degrees of commitment at national and regional levels to combat the problem. Countries of origin, such as Nepal and Bangladesh, have exhibited greater proactive initiative to address the issue as compared to their neighbors in the region.

Mounting concerns over the trafficking of women and girls in Nepal have spurred considerable activity to address the problem. Several anti-trafficking interventions are underway in the country. In 1998, the HMG/N Ministry of Women, Children and Social Welfare (MOWCSW) with support from the International Programme on the Elimination of Child Labor and the International Labor Organization (ILO-IPEC), developed a comprehensive thirteen-point strategy for the prevention of trafficking. HMG/N has also initiated steps to address the problems of gender discrimination, violation of child rights, and increased out-migration. MOWCSW has hosted several consultative workshops on trafficking and actively provided a forum for national and international NGOs, government organizations, community-based organizations, policy-makers, women's groups, and members of the civil society. The United Nations Children's Fund (UNICEF) and the United States Agency for International Development (USAID) have provided support to several organizations, including the Department of Police, to intensify their anti-trafficking initiatives. HMG/N has ratified several United Nations Conventions that deal, directly or indirectly, with the issue of trafficking.

Table 1. Law and Policy Environment in Nepal.

Domestic Anti-Trafficking Law:

Traffic in Human (Control) Act (1986)	Currently in effect.
The Traffic in Human Beings (Offences and Penalties) Act, MOWCSW, 1999	Proposed reform to replace 1986 Act.

Domestic Anti-Trafficking Policy:

Combat Against Trafficking in Women and Children for Commercial Sexual Exploitation (1999):	Designates MOWCSW as government focal point
i) National Policy	
ii) National Plan of Action	
iii) Institutional Mechanisms	

Related Domestic Laws/Policy:

New <i>Muluki Ain</i> (Code of Law of the Land) (1964)	Prohibits slavery, bonded labor, separating minors from guardian without consent Replaced by 1986 Trafficking Bill in matters relating to trafficking
Constitution of Nepal (1990)	Prohibits traffic in human beings, slavery, serfdom, or forced labor
The Foreign Employment Act (1985)	Limits migration, especially for women.
Open Border Agreement (1950)	Open Indo-Nepal border for citizens.

Regional Conventions:

SAARC Convention for Preventing and Combating Trafficking in Women and Children	Nepal is a participating country. Still in draft form.
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International Obligations:

The 1949 Convention for the Suppression of the Traffic in Persons and the Exploitation of the Prostitution of Others (ratified 1995)	
The 1957 Supplementary Convention on the Abolition of Slavery, Slave Trade and Institutions and Practices Similar to Slavery (accession 1963)	
The 1966 International Convention on Civil and Political Rights (ICCPR) (acceded 1991)	
The 1979 Convention for the Elimination of All Forms of Discrimination Against Women (CEDAW) (ratified 1991).	
The 1989 UN Convention on the Rights of the Child (ratified 1990).	

Recently, rising concern about the trafficking of Nepali women and children has inspired criticism of national and local level political apathy on the issue, and the chronic lack of law enforcement and political will to address this problem.⁸ While the government has expressed a commitment to gender and child rights issues, most of these programs are conducted in isolation (UNDP 1999). Although the government of Nepal has begun several concrete activities that address trafficking, most of the initiatives are still either in the planning stages or awaiting financial commitments from various donors.

5.3. Definition of trafficking

The definition of trafficking varies considerably between documents within Nepal and across the region. The National Policy and Plan of Action on trafficking (MOWCSW) in Nepal does not define trafficking within the document. However, the title of the document, “Combat Against Trafficking in Women and Children for Commercial Sexual Exploitation,” suggests that it is concerned only with trafficking for the purpose of prostitution. There are no provisions within the policy to specifically address the abuses faced by those who are trafficked for other purposes.

The 1986 Traffic in Human (Control) Act, which is currently in effect, defines trafficking in Article 4 of the act as: *“selling a person for any purpose; taking a person abroad with an intention of selling her/him; having a woman engage in prostitution by persuasion, enticement, deception, fraud or pressure, or to encourage anyone to be engaged in such acts; or making an attempt to commit or rendering assistance to commit such acts.”* This covers some of the components defined by the United Nations Special Rapporteur, including the concepts of transfer (sale), movement, and coercion, but does not require all of them to be present for an act to be considered trafficking. Selling persons for “any purpose” is included, whether or not it is associated with movement or travel. On the other hand, “taking a person abroad” with the intention of selling him/her is included, suggesting that when travel is involved in trafficking, it is international cross-border movement.

In addition, the 1986 Act only addresses the outcomes of trafficking that relate to prostitution. “Encouraging” or “persuading” a woman to engage in prostitution is considered trafficking, even if it occurs with her full knowledge and consent, in her community of origin, and she is not held in forced labor or slavery-like conditions. Conversely, recruitment by deception for the purpose of bonded labor in carpet factories, circuses, or other types of employment is not covered under this act unless there is an explicit “sale.”

Overall, the 1986 Traffic in Human (Control) Act does not add any protection against trafficking over and above the 1964 New *Muluki Ain*, while adding further confusion by defining “encouraging a woman to engage in prostitution” as trafficking.

The definition of trafficking is broadened beyond all internationally recognized definitions in the MOWCSW proposed act to reform the 1986 anti-trafficking law. This draft bill defines *“offences relating to traffic in human beings”* as:

- buying and selling human beings with any motive
- enslaving anyone, or keeping them as bonded labor
- engaging in or instigating others to engage in prostitution
- to have sexual intercourse with prostitutes

⁸ In the recent past, this critique has been voiced in numerous reports and proceedings. See also Sanghera, 1999.

- separating a minor or insane person from his/her guardian without the guardian's consent
- sexually abusing a minor or instigating anyone to abuse a minor
- to force any woman to become pregnant or render her incapable of becoming pregnant against her will, or through inducements
- to kidnap a person as a hostage
- being an accomplice in any of the above acts

In addition, the proposed bill also prohibits operating a brothel and producing or distributing pornography. The bill addresses a vast array of issues in one general law – including rape, child sexual abuse, pornography, kidnapping, trafficking, and prostitution – and defines them all as “trafficking.” Each of these issues raises distinct and separate concerns and requires clear, precise, and elaborate definitions and rules of procedure and practice. Separate pieces of legislation should be drafted for each, as is the case in many other countries.

At the regional level, the current draft of the “SAARC Convention for Preventing and Combating Trafficking in Women and Children” defines trafficking as “*moving, selling, buying, kidnapping or fraudulent marriage of women and children within or outside a country for monetary or other considerations with or without the consent of such person.*” This definition does not include exploitative labor conditions as a component of trafficking. In addition, it includes simple movement of persons for any “consideration,” even with their consent. Individual components of this definition will be further discussed in the relevant sections below.

5.4 Trafficking and prostitution

Although the current trafficking bill (1986) and the National Policy and Plan of Action (2000) tend to focus on trafficking for the purpose of prostitution, the proposed MOWCSW reform bill takes this one step further. It includes both engaging in prostitution and having sexual intercourse with a prostitute as an “*offense related to trafficking of human beings,*” whether or not a component of deception/coercion, movement from community of origin, or being held in forced labor or slavery-like conditions is present. Therefore, it would effectively criminalize prostitution, whether or not it is a result of trafficking, for the first time in Nepal.

By criminalizing prostitution, the bill would result in denial of redress to victims of trafficking for the purpose of prostitution. In such cases, the victim risks impugning herself in the course of filing a complaint against a trafficker on the grounds that she, herself, is involved in a criminal activity. This undermines the intent of the bill, which is to prosecute traffickers and protect victims of trafficking.

This movement towards increasing association between trafficking and prostitution is not seen in the draft SAARC Convention. Although a previous version defined trafficking in terms of forced prostitution, that reference has been deleted in the current draft.

5.5 Migration law

Several laws and orders⁹ in Nepal restrict women's options for legal international migration:

⁹ An Order is a government directive and is less binding than a law.

- The Foreign Employment Act was enacted in 1985 in response to the increasing numbers of Nepalese who were migrating from the country in search of employment abroad. It requires licensure of foreign employment agencies and specifies which countries can recruit Nepali workers.
- In 1998, Section 12 of the Foreign Employment Act was amended to prohibit the provision of foreign employment to women and minors without the permission of the government and his/her guardians.
- A Foreign Employment Order issued by the Ministry of Labor further limits the overseas travel of women under 35 years of age, unless they are accompanied by a relative or can show proof of consent from their guardian.
- The Passport Order requires women to show permission letters from their fathers or husbands, even for travel to India. This was issued despite the Open Border Agreement of 1950 that effectively allows citizens of India and Nepal to travel freely between the two countries without displaying passports or visas. The order is not legally stipulated but is widely implemented by immigration authorities, especially in the case of young women, single women or women from disadvantaged social groups.

Current and proposed anti-trafficking laws and policies in Nepal are generally silent on migration. However, the current draft of the SAARC Convention includes *moving... women and children within or outside a country for monetary or other considerations with or without the consent of such person* within the definition of trafficking. This would effectively include any assistance given to a woman to migrate as trafficking.

5.6 Women's rights

Women vs. children: The National Plan of Action in Nepal is largely derived from a consultative workshop with the International Labor Organization and the International Programme on the Elimination of Child Labor (ILO-IPEC) (MOWSW et al 1998). A large proportion of its recommendations focus on the trafficking of children. When the issues of trafficking in women are considered together with those of children, the specific needs of neither group receive adequate attention, curtailing women's rights to movement and to earn a livelihood.

The major issue differentiating the prevention and control of trafficking in women vs. children is the role of consent. It is important that definitions of trafficking include an element of deception and/or coercion: in other words, a lack of informed consent. Otherwise, assisted voluntary migration becomes a trafficking offense.

The issue of consent is not addressed in the laws currently in effect or proposed in Nepal. The SAARC Convention specifically includes the clause, "with or without the consent of such person" in its definition of trafficking. However, there is ambiguity in the convention, as in a later section (Article 1(5)), it defines "persons subjected to trafficking" as "*women and children forced into trafficking by deception, threat, coercion, kidnapping, sale, fraudulent marriage, or any other unlawful means.*"

Gender Discrimination: The 1990 Constitution of Nepal protects the fundamental rights of its citizens, including the right to equality. Under Article 11 (3) the government can enact special provisions for the benefit of women and children. In addition, Article 26 (9) requires the State to adopt a policy to take special measures to promote the education and social security of women.

Recognizing that gender discrimination contributes to trafficking in women and children, the National Policy on combating trafficking includes commitments by HMG/N to 1) remove laws that discriminate against women, 2) take all necessary measures to protect human rights, including the rights of women, and 3) take steps to alleviate poverty and provide employment opportunities to women. In addition, the National Plan of Action proposes training programs for behavior and attitude change on gender issues and trafficking.

The commitment to remove laws that discriminate against women complies with the obligations of the government of Nepal under the Convention for the Elimination of All Forms of Discrimination Against Women (CEDAW), which was ratified by Nepal in 1991. However, the National Policy does not specify which laws should be repealed or amended. Currently, there are several domestic laws that discriminate against Nepali women, especially in the area of property and inheritance. A legal environment that limits options and redress for women in difficult marital and financial situations may force them to migrate, legally or illegally, increasing their vulnerability to trafficking.

Section 12 of the Foreign Employment Act limits employment opportunities for women by limiting their migration. This is also inconsistent with Nepal's commitments under the International Convention on Civil and Political Rights (ICCPR), which require the State to protect a persons "*right to work, which includes the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts.*"

The draft SAARC Convention on trafficking also specifies that "*State parties shall take steps to eliminate economic, social and political causes which contribute to the trafficking in women and children,*" and calls for States to enact legislation and policies in line with standards set in CEDAW and the Child Rights Convention (CRC).

5.7 Other rights issues

Right to due process: Article 14(2) of the International Covenant on Civil and Political Rights (ICCPR) provides that anyone "*charged with a criminal offence shall have the right to be presumed innocent until proved guilty according to law.*" The 1986 anti-trafficking law, currently in effect, denies this right in the case of a person other than a "close relative" (undefined) or guardian who is accused of taking a woman outside of Nepal by shifting the burden of proof to the accused. The proposed MOWCSW reform bill also shifts the burden of proof onto the defendant in the context of certain offences, including compelling a woman to sit in a brothel in return for economic benefit, taking a person out of Nepal through intimidation, pressure, or other forms of coercion, or having sex with a minor.

In addition, the proposed reform bill grants the state power to search without a warrant. There are no limits stipulated in the bill on the exercise of this power, the way in which such operations should be conducted, or the degree of force that the police may use to effect entry.

On the other hand, in an effort to protect victims of trafficking, the proposed reform bill (MOCWSW 2000) does contain provisions for free legal aid, compensation in the amount of 50% of the fines collected from the convicted trafficker, and protection from publicity.

Right to housing: The MOWCSW draft bill prohibits renting or hiring property to anyone known to have committed an offence related to trafficking. According to the definition of

trafficking in this bill, this includes anyone engaging in prostitution. Such a provision would ensure that all sex workers and former sex workers would be denied the right to housing.

Right to free speech: The MOWCSW draft bill also prohibits the production and distribution of “vulgar” materials with the intention of indulging in or instigating others to indulge in “sexual abuses.” The term “vulgar” is not defined in the bill, nor is the term “sexual abuses”. A broad interpretation of these terms would effectively impinge on the right to free speech and expression.

5.8 Focus on rescue and rehabilitation

The MOWCSW consistently emphasizes rescue and rehabilitation operations and income generation schemes in both the National Plan of Action and in their proposed reform bill, although both approaches have been criticized for their ineffectiveness and paternalistic approach to trafficked persons and those vulnerable to trafficking (Ramanathan 1996, Bruce and Dwyer 1989, Kabeer 1995, Tinker 1990, Rogers 1980).

Both the National Plan of Action and the proposed anti-trafficking reform bill include provisions for the establishment of rehabilitation centers for victims of trafficking. The National Plan directs these services at “*helpless women who have been subjected to prostitution*” or have been “*rescued from a brothel.*” Neither the National Plan of Action nor the proposed anti-trafficking bill specifies the desired outcome or content of such programs or the duration of stay at such centers. Moreover, no provision is made for persons who may be rescued from trafficking for other purposes. For a more detailed discussion of the care and support of trafficked persons, see Section 6.

5.9 Interface with HIV/AIDS policy

The National Policy on AIDS and STD Control and the Strategic Plan for HIV and AIDS in Nepal, 1997-2001, have been issued by the National Center for AIDS and STD Control of the HMG/N Ministry of Health, Department of Health Services. These documents are based on a pro-rights framework, while at the same time addressing those factors that render persons more vulnerable to HIV/AIDS. Many of the features of the anti-trafficking laws and policies are in direct conflict with the HIV/AIDS policy in Nepal. This is most striking in the areas of prostitution, migration, care and support, and monitoring and evaluation.

Prostitution: The HIV/AIDS Strategic Plan recognizes that that the HIV epidemic has raised a number of human rights concerns. Those most relevant to trafficking are the issues of workplace discrimination and the legal regulation of prostitution. Although the Strategic Plan makes no specific recommendations for legal reform, it does provide that legal reform be based on non-discrimination in order to produce an “enabling environment.” At no point does it call for limitation or criminalization of prostitution as a strategy for controlling HIV .

Migration: The HIV/AIDS Strategic Plan explicitly recognizes that the population in Nepal is “highly mobile,” and that both domestic and international mobility opens up sexual and other networks, thereby creating conditions for the spread of HIV. It recognizes that “*movement of young people to towns has its origin in the poverty and harshness of rural living,*” and calls for interventions to effectively address the spread of HIV without compromising the right to freedom of movement and the right to seek a better standard of living. The Strategic Plan bases its interventions on the stated premise that improvement of living conditions (including

education and primary health care) may reduce internal and external mobility, without making suggestions for the implementation of laws to limit migration.

Care and Support: The HIV/AIDS Strategic Plan highlights the need to ensure the continuity of employment of HIV-infected persons, to ensure that persons living with HIV/AIDS receive medical treatment and access to services without discrimination, and that counseling is provided to positive persons as well as to their families. Similarly, the National Plan on trafficking calls for counseling of the victim, her family and community of origin, legal assistance, use of victims as peer educators, and the establishment of a “*system for ongoing mobilization and advocating for victim, family, and community, ongoing health and counseling programs, and privacy protection.*”

However, the National Plan of Action for trafficking also calls for identifying and rescuing sex workers, setting up monitoring systems to “*keep records of the progress of the victims,*” and the establishment of “*transit homes,*” without specific statements to protect against potential rights violations in the implementation of such recommendations.

Monitoring and Evaluation: Although monitoring and evaluation are addressed in the National Plan of Action to Combat Trafficking, it is in a limited and disjointed fashion. Only three separate and unconnected items out of the total of seventy-nine listed activities are relevant and include:

- Conduct action-oriented research for identification of sustainable community based solutions.
- Carry out impact studies on the various interventions.
- Train the MOWCSW personnel in the design, implementation, monitoring and evaluation of programs on trafficking

In contrast, an entire section in the HIV/AIDS Strategic Plan is entitled “Follow-up and Evaluation.” It calls for the coordination, follow-up and evaluation of HIV/AIDS and STD prevention activities in both governmental and non-governmental sectors, and the provision of adequate financial and technical resources to carry out those activities.

5.10 Conclusions

His Majesty’s Government of Nepal has made considerable effort to develop policies and laws that specifically address the problem of trafficking. In addition, it has designated the Ministry of Women, Children, and Social Welfare as a clear focal point within the government for anti-trafficking initiatives and developed a National Policy and Plan of Action to control trafficking.

However, current law and policy documents in Nepal and in the region are not based on a clear and consistent definition of trafficking that encompasses the entire process of recruitment, deception, transport, and exploitative labor conditions. The current law and policy in Nepal focuses on trafficking for the purpose of prostitution. By emphasizing the endpoint, the violence and abuse of human rights that occurs during the process of trafficking for all purposes are not addressed. The MOWCSW proposed reform bill would take this one step further, effectively criminalizing prostitution, and thereby denying redress for women trafficked into prostitution.

The proposed MOWCSW legislation uses the platform of trafficking to establish laws to “maintain the good conduct, morality and etiquette of the public.” How best to approach such issues from a law and order standpoint is beyond the scope of this discussion, except to say that they are separate from a discussion on trafficking and should therefore be kept separate from legislation on trafficking. Trafficking is a human rights issue, not a moral issue.

In the bid to control trafficking, it is essential to consider law and policy from the point of view of the impact on the human rights of trafficked persons. Anti-trafficking policy and laws that are proposed or are currently in effect impact negatively on women by denying access to services, housing, and redress under the law for women in sex work, and denying the right to voluntary migration (with or without assistance). In addition, they do not specifically protect a trafficked person’s rights during rescue, rehabilitation, and reintegration interventions. Finally, the alleged traffickers are also not protected since they are considered guilty until proven innocent and the power of search and seizure without warrant is granted to the police.

Despite national policy to repeal all laws that discriminate against women, several laws contributing to gender discrimination remain in effect in Nepal. These presumably contribute to the “push” factors for trafficking. Those that most directly affect trafficking include legislation pertaining to international migration, employment, property, and inheritance.

Lessons can be learned from HIV/AIDS control programs that directly apply to the control of trafficking. The HIV/AIDS Strategic Plan devotes an entire section to the “Legal, Ethical, and Human Rights Aspects of the HIV Epidemic” and aspires to the creation of an “*enabling environment*.” Although mobile populations and sex workers are known to be at increased risk for HIV infection, HIV control efforts have not called for the restriction of migration and prostitution. Instead, the focus has been on information, education, and empowerment of those populations to prevent transmission. Efforts have also focused on reducing stigma and discrimination towards those already infected, as well as on their empowerment through PLHA networks. PLHA have also become involved in advocacy, policy development, and interventions to control the spread of HIV/AIDS and improve treatment and services for those already infected. The focus on monitoring, evaluation and impact assessment applied to HIV/AIDS interventions should also be applied to anti-trafficking activities.

6. Documentation and Analysis of Current Intervention Models

During the past decade, both the scale of trafficking in Nepal and public awareness about the problem has increased. Various international donor agencies have supported anti-trafficking programs, which have become a high priority issue for many donors. However, there has been very little documentation, monitoring, or evaluation of the effectiveness, feasibility or sustainability of current intervention approaches. Existing interventions have been reviewed many times as part of broad-brush anti-trafficking strategy development activities, but their individual components have rarely been examined in-depth. Given the likelihood of increased funding for anti-trafficking work, a thorough understanding of how different approaches may (or may not) be working, what lessons have been learned, and which areas require further in-depth study is crucial. This section analyzes the different approaches adopted by NGOs and NGO networks to address the problem of trafficking in women and girls in Nepal.

The focus of the research is to understand the perceptions of trafficking and the assumptions that explicitly or implicitly inform different types of intervention approaches.

Intervention approaches were assessed according to the conceptual framework outlined in Section 3, with attention to issues of coverage, feasibility, sustainability, and effectiveness. Intervention approaches were assessed both in terms of content (e.g. what kind of anti-trafficking messages or advice were they giving out?) and in terms of process (e.g. how was a particular approach operationalized?). Activities and efforts to prosecute and convict traffickers were not considered: the analysis focused on intervention approaches that impact directly on trafficked persons and those at risk of being trafficked.

Methodology

During August-September 2000, the researchers interviewed key organizations and individuals who are involved in anti-trafficking activities in Nepal (see Appendix 1 for a list of informants). These included one donor agency that has been involved in funding NGOs and in developing anti-trafficking strategies in Nepal, and four other key informants (selected because of their extensive knowledge and experience in anti-trafficking work in Nepal). In addition, ten organizations (eight NGOs and two INGOs) were interviewed, and key project documents and IEC (Information, Education and Communication) materials were reviewed. The work of the two Nepal-based anti-trafficking networks, Alliance Against Trafficking in Women and Children in Nepal (AATWIN) and National Network Against Girl Trafficking (NNAGT) was also considered.

The organizations selected for this analysis were chosen to reflect different approaches and foci so that a comparison could be made. The selected organizations are also the five NGOs that are currently taking the lead in anti-trafficking work in Nepal. Of the ten organizations interviewed for this analysis, three approached trafficking as an independent issue. The others incorporated trafficking interventions into programs on child rights, HIV prevention, legal and human rights, community development and women's empowerment.

6.1 Overview of activities

Interventions were classified into three main categories: a) prevention of trafficking, b) care and support of trafficked women and girls, and c) networking and advocacy. The main activities in each category are listed in Table 2.

Table 2: Overview of Intervention Models

Prevention Activities:

- Awareness raising, advice giving, and social mobilization
- Improvement of livelihood opportunities
- Interception of suspected trafficking victims

Care and Support Activities:

- Care and support for women and girls who return home
- Residential care for women and girls who do not or cannot return home
- Care and support of HIV-positive women and girls
- Brothel-based rescue of trafficked women and girls
- Legal assistance for trafficked women and girls

Advocacy and Networking:

Three major networks: Alliance Against Trafficking in Women and Children in Nepal (AATWIN), National Network Against Girl Trafficking (NNAGT) and Children At Risk (CAR)

6.2 Definition of trafficking

Trafficking may involve a number of different processes. This is important for understanding the links between trafficking and related concepts such as legal or illegal migration and sex work. At present, there is no universally recognized definition of trafficking among NGOs and INGOs in Nepal. Although three NGOs cite a definition based on that of the United Nations Special Rapporteur (Coomaraswamy 2000), most interviewed NGOs define trafficking as the buying and selling of girls/women for the purpose of prostitution. For example, one NGO defines trafficking as “*girls sold into the sex industry against their will,*” while another defines it as “*a trade involving the buying and selling of girls and women and their movement and transportation for sexual purposes.*”

Most NGOs used the Nepali term for trafficking in their IEC (Information, Education and Communication) materials – “*cheli beti ko bech bikhan*” – literally, girls and women being bought and sold. A potential limitation of this term is that communities may not recognize that trafficking that occurs without direct sale. For example, families receiving a salary advance for their daughters’ bonded labor may not consider it to be “selling.” They may also not recognize that trafficking can occur after the first step of voluntary consensual migration: many families send their daughters to work in carpet factories in Kathmandu where traffickers may subsequently recruit them.

6.3 Prevention activities

6.3.1 General description

Prevention activities fall into three main categories, as detailed in Table 3.

Target groups

Several groups are targeted in trafficking prevention activities, including powerful stakeholders (local leaders, police, district and village officials), teachers/schools, general population (men, women and children), as well as disenfranchised groups (low caste or landless groups and city migrants).

Four NGOs focus programs on “vulnerable girls.” Activities in such interventions include vocational training, skills building, micro-credit, and support for formal or non-formal education. Commonly identified groups include low caste women and girls, out-of-school youth, impoverished women and girls, unmarried young girls, and those with a relative working in India. Due to a lack of research on vulnerability, identification of vulnerable groups is based on a common sense approach. Broad population groups are usually targeted, without attempting to identify family and household level vulnerability according to presence of difficult family circumstances such as alcoholism or abuse. Further research is required to clarify the determinants of vulnerability and identify the most appropriate focus for targeted interventions.

Approach

Although there is some overlap, programs can be broadly classified as: a) those that take a top-down approach with a welfare-orientation and b) those that take a bottom-up (or community-based) approach and have an empowerment orientation. The top-down/welfare-oriented programs are generally one-time activities that concentrate on raising awareness, with only minimal follow-up or subsequent community-level support. They tend to be prescriptive (telling people what to do) rather than facilitating a process of informed decision-making. Bottom-up empowerment-oriented programs tend to be rooted in communities and usually address trafficking in the context of other needs and priorities with empowerment as an overall aim. They also tend to establish community or group support systems to help those in difficult circumstances and to address trafficking from a position of collective strength.

Site

Most interventions are concentrated in rural areas. However, NGOs report increases in the number of women being trafficked from carpet factories or other urban places of employment.

To date, urban workplace interventions have not been a major focus of the NGO efforts. This has been a gap in Nepal’s current anti-trafficking strategies, although a few organizations have now begun to address this area.

Table 3: Prevention activities

<u>Awareness raising, advice giving, and social mobilization</u>	
<ul style="list-style-type: none"> • Rallies • Seminars • Workshops • Street theater • IEC materials • Peer education in carpet factories 	<ul style="list-style-type: none"> • Prevention camps • Group formation with capacity building (leadership, gender, legal and human rights) • Community support systems for people in difficult circumstances
<u>Improvement of livelihood opportunities</u>	
<ul style="list-style-type: none"> • Income generation • Micro-credit 	<ul style="list-style-type: none"> • Vocational training
<u>Interception of suspected trafficking victims</u>	
<ul style="list-style-type: none"> • Community surveillance 	<ul style="list-style-type: none"> • Border rescue

6.3.2 Prevention activities

Awareness raising, advice giving, and social mobilization

Activities that raise awareness, give advice, and provide social mobilization (see Table 3) operate with an underlying assumption that information and education leads to desired behavior change. Five NGOs made IEC materials available for review and the following observations on the content of IEC materials are based on those materials.

Trafficking and prostitution: In line with the common definition of trafficking, all IEC materials available for review equated trafficking with sex work. Many are fear-based with gruesome descriptions of suffering due to sex work. Such messages neglect trafficking for all other purposes. In addition, by giving the message that all trafficked women are sex workers, the stigma for returnees may be inadvertently increased. However, materials from two NGOs attempt to address this by actively promoting tolerance and acceptance of returned trafficked sex workers.

Trafficking and migration: Most IEC materials encourage girls to stay in their villages, while providing little information on safe migration. By equating migration with trafficking (and therefore with sex work), the stigma for all returning migrant women, not just those who were trafficked, is increased. NGOs report that some families are afraid to allow their migrant daughters to return to their villages for fear that they may be prevented from leaving again, be arrested as potential traffickers, or face stigma as sex workers.

The message in many IEC materials is that trafficking is due to a girl's extravagant wish for a modern life and more money. They urge girls "not to be so modern, work hard, be patient and stay at home." These messages are not relevant to the realities of women's lives at the village level. They assume that home and village life is a good place to be, but that is not always the case, as discussed in Section 2. Some NGO informants noted the conflict between women's empowerment messages and educational activities that encourage women to dream and have aspirations, and anti-trafficking messages that encourage the opposite.

Only three organizations gave advice for women on what to do if approached by someone to leave their homes for work or marriage. The advice included suggestions such as:

- *Before marriage, inquire about the family, address, and work of the boy.*
- *Before starting work, inquire about the full address of the work place and the employer.*
- *Guardians should accompany girls to their jobs.*
- *Before deciding about marriage or taking a job, discuss this with others.*
- *Be careful of strangers – men and women.*

While such advice takes the first step of acknowledging that women and girls migrate, it may not be enough to safeguard them. In cases where women are trafficked by those known to them, they may trust them and not perceive a risk at all. In addition, it is not known how often family and community members are involved in trafficking. Most IEC materials portray traffickers only as strangers, although the materials of two NGOs feature friends or stepfathers as traffickers. Accompanying girls to a workplace, or taking down the address of the workplace, may not in itself prevent onward trafficking from the work site (which, according to the NGOs, is a growing trend in Nepal). Evaluation of these messages and development and evaluation of new messages are urgently required to safeguard women and girls while migrating. In addition, establishment of networks for support for women at their destinations may be needed to provide meaningful protection.

Trafficking and HIV infection: Many IEC messages emphasize the link between trafficking and HIV infection. Examples of messages (from three different organizations) are as follows:

- *Girls return, their youth destroyed, most come back with AIDS and die.*
- *Because of trafficking, AIDS in Nepal is increasing daily.*
- *This crime not only stigmatizes our village, our household, but also our national prestige because these girls, after being tortured, also bring back AIDS and are destined to die.*
- *When you send your girls to India, they will not only bring back money but they may also get AIDS.*

According to one NGO, it is already common knowledge among truck drivers and other male clients in Nepal that “India girls” have HIV. These messages lead to the stigmatization of women who have worked in India and a sense that AIDS is a problem of India, not of Nepal. Moreover, some organizations suggest that preventing trafficking would greatly help to prevent AIDS in Nepal.

Urban work place interventions: One NGO currently works in carpet factories in Kathmandu. This intervention involves forming workers groups and involving peer educators. However, the project has been temporarily suspended due to the difficulties of establishing a community base and initiating a collective empowerment process among a mobile, heterogeneous and relatively powerless population. Another NGO has plans to start urban workplace interventions including raising awareness of young girls in migrant colonies near Kathmandu, a shelter for women in need, and work with domestic servants.

Improvement of livelihood activities

Some form of income generation, micro-credit, or vocational training is a feature of most community-based and targeted interventions. Common activities include animal husbandry, credit for buying goats/chickens, developing vegetable gardens, setting up tea shops, bee-keeping, sewing/tailoring, credit to buy sewing machines, etc.

The underlying assumption of such activities is that improved economic opportunities in the rural areas will prevent women and girls from needing to migrate and from being trafficked in the process. They can therefore be more accurately described as a migration or community development strategy with indirect or incidental effects on trafficking. The utility and profitability of these skills are unclear and these interventions have not been evaluated for effectiveness for either migration or trafficking prevention.

Interception strategies

Two strategies for intercepting potentially trafficked girls and women were identified: community surveillance and border-based rescue programs.

Community surveillance: Community surveillance is a feature of most community-based interventions and allows communities to take substantive action. Several NGOs report that surveillance is effective, citing numerous examples where groups intercepted brokers accompanying girls or where they could report that no girls left or went missing from a community. However, no documentation is available on the number or authenticity of such cases and further evaluation is necessary to determine the effectiveness of this approach.

However, there have been reports from NGOs that this strategy has been used by some members of the community to accuse and arrest political rivals. The possibility for false accusation is particularly problematic in light of current and proposed anti-trafficking laws that shift the burden of proof onto the accused (see Section 5).

Border-based rescue: One NGO actively attempts to intercept girls and women at border points between Nepal and India. In collaboration with the police, trafficking survivors are posted at border stations to intercept women and girls crossing in suspicious circumstances. If any doubt about their circumstances remains after questioning by the police, they are held in a transit home until a guardian is contacted or, if they do not wish to return home, they are referred to a Kathmandu shelter run by the same NGO.

In this intervention program, trafficking is suspected in cases where the suspected victim gives hesitant or conflicting answers to questioning. This strategy has not been systematically evaluated for accuracy and, indeed, there have been reported instances of women and girls who have been prevented from crossing the border of Nepal despite their vehement protestations that they are traveling of their own free will. NGO workers admitted that sometimes they have to “be harsh with them to make them understand.”

In addition, attempts to intercept trafficked persons at the border cannot cover all border points. The current program covers only three of the 26 Indo-Nepal border posts and it seems likely that traffickers would simply shift their operations to the border crossings that are not monitored.

At present, no data are available on the accuracy of the methods for identifying trafficked persons or the proportion of intercepted women who are trafficked again later. An in-depth evaluation of the effectiveness and appropriateness of these anti-trafficking strategies must be carried out before any conclusions can be drawn.

6.4 Care and support activities

In 1996, 124 Nepali sex workers were returned to Nepal from India in a widely publicized brothel rescue. Several NGOs took on the responsibility of their care and many have continued to work in care and support activities since.

6.4.1 General description

The range of activities is shown in Table 4.

Target Groups

Of the interviewed NGOs working in the area of care and support, only one works exclusively in trafficking. The others include care and support activities along with other organizational foci. Interventions target trafficking survivors, their families, their communities, and health workers.

Approach

As in prevention activities, care and support interventions can be classified according to their approach. Some NGOs adopt a welfare approach in which girls and families are given prescriptive advice about future options and a return to the status quo is advocated. Others aim to empower trafficking survivors and engage in a dialogue with women and girls about their futures.

All NGOs agreed that a primary aim of care and support should be to reunite girls with their families and communities. All acknowledged, however, that this was difficult and that in certain circumstances it was neither possible nor desirable. NGOs noted that, given the stigma associated with sex work and with HIV in Nepal and the increasing publicity (often by the NGOs themselves) given to the link between working in India and having HIV, communities may refuse to accept girls back when their history is known. Families themselves may also be reluctant to take girls back, fearing social censure or ostracism from the wider community. In addition, families may (with some justification) worry that any loss of prestige would affect the marriage chances of other children. They may also fear retribution from the broker from whom they may have received money. The girls themselves may worry about the extra burden they will place upon their parents, especially if they are HIV positive or if they are unlikely to marry subsequently, and be reluctant to return home.

The case studies of twelve trafficked girls (ABC Nepal 1998) clearly illustrate that some trafficked girls come from difficult or dysfunctional family environments. In these situations,

the family may not be interested in taking the girl back or she herself may not want to go back. The concerned NGOs may first have to assess whether or not it would be in a girl's best interests for her to return home in order to best serve her needs.

Site

Most interventions are based in Kathmandu, with one brothel-based rescue program operating in Mumbai, India.

Table 4. Care and support activities.

Care and support for girls who return home

- | | |
|------------------------------------|------------------------------|
| • Residential care | • Non-formal education |
| • Individual counseling | • Skills training |
| • Family assessment and counseling | • Seed money for return home |
| • Medical checkup | • Community advocacy |

Residential care for girls who do not or cannot return home

- | | |
|------------------------------|-------------------------------------|
| • Long-term residential care | • Job placement |
| • Medical care | • Arranged marriages |
| • Skills training | • Self-organization (e.g. form NGO) |

Care and support of HIV-positive girls

- | | |
|-----------------------------|----------------|
| • Community/family advocacy | • AIDS hospice |
| • Medical treatment | |

Brothel-based rescue of trafficked women and girls

- Rescue

Legal assistance for trafficked women/girls

- | | |
|--------------------|--|
| • Residential care | • Assistance through judiciary process |
|--------------------|--|
-

6.4.2 Activities

Returning Girls and Women to their Families: Current Practices

Once a girl has been delivered into their care, most NGOs undertake a process of initial medical checks and counseling. Some enroll girls into vocational training programs with the aim of ultimately providing them with skills that they can use in their villages. At some point in this process, attempts are made to contact families. Depending upon available resources, some NGOs visit the family and community (sometimes repeatedly). Others just write to them and invite them to come to Kathmandu. If families come to the shelter and if both parties are ready and willing, the girl may be sent home with them. Most NGOs provide seed money for setting up a small business.

Counseling is seen as essential by all NGOs. They noted that it was common for girls to initially be extremely depressed and to display disruptive or inappropriate behavior. Only some NGOs had trained counselors available, however. Others did their best, but some organizations appeared to use directive approaches (suggesting to women and girls what was

good for them) as opposed to an interactive process enabling them to work through their experiences and reach a decision about their future.

Family counseling is provided to families who visit the shelter. However, this is also generally a directive in approach, encouraging the families to take the girl back and fostering acceptance of her. Although NGOs acknowledged that it is not always desirable to send a girl back to the family situation, there was little apparent emphasis on working with families to discuss why a girl may have runaway or migrated in the first place, what the problem might be, and how one could possibly resolve this. Hence, in spite of theoretically recognizing the problems that some girls had at home, some NGOs appeared ambivalent about the extent to which they accepted, in practice, that families could be unsafe and unhappy places for the girls in their care. For example, the same NGO that published the twelve case studies of trafficked girls (in which some very unhappy circumstances were detailed), nevertheless maintained that family reunions invariably represented a 'happy ending' for the girls:

"They had every right to return to their home . . . it was the duty of everyone to welcome them and give them sympathy and love . . . The response of the parents and family members to the girls was very positive . . . The majority of the parents wanted to take their daughters home as soon as possible . . . The parents were so glad"
(ABC Nepal 1998:4).

Overall, NGOs do not follow a systematic process for follow-up after the girls and women return home. This is in part due to a lack of resources and work force, as girls come from different regions across the country. However, some NGOs conduct community follow-up visits on an ad hoc basis, especially when there is a high degree of community censure.

Most girls are provided with skills training before returning home, usually in traditional skills such as sewing, knitting, and animal husbandry. There are no follow-up data to assess whether women have been able to put these skills to profitable use in the village. Two NGOs have started training in non-traditional skills, such as village health worker training and computer training but note that finding jobs in non-traditional sectors is difficult for women. One of these NGOs encouraged a group of returning girls to set up their own NGO, which is currently working on trafficking and women's rights in Kathmandu.

Care and support for girls and women who do not or cannot go home

Women and girls who cannot or do not want to return home have very few options. The only option at present seems to be living long term in a residential home. Some of the girls who were returned in 1996 are, five years later, still in homes in Kathmandu and elsewhere. Here they contribute towards their keep through undertaking traditional handicrafts or farming. Some have been employed by the NGOs as wardens in the homes and some are employed at the borders to help intercept trafficked girls. However, there does not appear to be any long-term strategy worked out for their futures. This again, is related to a lack of capacity and resources among the NGOs who are caring for them. Some girls were only teenagers when they returned to Nepal.

The present situation in which these girls must face a lifetime in residential care is clearly unacceptable, though the NGOs are doing their best. Undeniably, it is extremely difficult for a young, poor, single woman to forge an independent life for herself in the South Asian context. However, NGOs in other countries have considerable experience of supporting

women and children in such situations and may have important lessons to share. For example, these include providing useful (non-traditional) training, assisting with job hunting, supporting more independent living (in a hostel or group accommodation), and helping with arranging marriages (source: personal communication). There is clearly a need to support NGOs in their work in this area and to formulate a strategy of long-term support for girls who do not return home.

Care and support of HIV-positive trafficked women and girls

A sizable percentage of the girls who returned to Nepal from Mumbai in 1996 were found to be HIV positive (exact figures are not available). Some required medical treatment for HIV-related and other illnesses. NGOs report that a great deal of advocacy work was required with health services to obtain this treatment. Stigmatization and reluctance to take on HIV positive patients are reportedly still problems. There is no comprehensive follow-up information on the condition of these girls. However, NGOs report that considerable effort was required to convince families and communities to accept them back (Bhatt 1996). Those girls who could not return home remained with the NGOs.

One NGO has dealt with the issue by opening a separate “AIDS Hospice” in a remote district far from Kathmandu. Approximately thirty HIV positive girls have been sent to live there under the care of a staff nurse. Here the girls participate in agriculture, animal husbandry, and kitchen gardens. However, there appears to be no long-term program worked out for them.

The rationale given for the special home was that the girls could receive better care than that available in Kathmandu. However, for girls who become acutely sick with HIV-related illnesses, Kathmandu offers far better medical treatment options than a remote district, and has a greater number of NGOs offering HIV-related services.

Brothel-based rescue of trafficked women and girls

As noted in Section 6.3, one NGO actively attempts to intercept women and girls who are potentially being trafficked at the borders. The same NGO has opened a branch in Mumbai and is actively developing a strategy of raids and rescues in the city’s brothels.

One NGO is conducting another type of rescue program that works primarily on child rights and child labor issues in Kathmandu, but the NGO has also been involved in supporting trafficking survivors since 1996. As part of their child-focused work, they have arranged with other NGOs that any incidents of child abuse (which may or may not include trafficking) could be reported to them and they would take action. They also run a shelter for children who need to be removed from difficult situations. With such a strategy, coverage and detection of abuse may not necessarily be systematic but the organization’s links and good relationships with other NGOs ensure a greater potential for coverage than could be achieved by working alone. The NGO also operates a telephone help line.

Legal assistance

Two NGOs are currently working to prosecute traffickers and assist trafficking victims to present their cases in court. One is an anti-trafficking NGO and started its legal aid section, which is staffed by one full-time advocate, in 1997. This organization has registered and

followed up almost a hundred cases all over the country. They are currently monitoring cases of girls rescued in the course of their other trafficking interventions.

The second NGO is a legal organization with more lawyers. They have about 25 cases in Kathmandu and approximately 200 cases that their branch organizations (with trained lawyers) in the districts are representing. They assist women who are referred from other organizations, women involved in cases in the districts in which they are working, and those cases that advance to the Supreme Court in Kathmandu. Assistance currently focuses on victim support (financial and moral through presence at the hearings) and helping the government attorney in arguing the case and providing guidance in the investigation. Another major emphasis is on surveillance of suspicious movement in their project areas. They plan to open a separate section with a violence and trafficking hotline that will offer counseling and advice on court representation.

According to the sources interviewed, victims are much more comfortable receiving support from a female rather than a male lawyer and more female support staff are needed to escort victims to the court hearings in different parts of the country. A lack of capacity to record statements and court rulings makes it difficult to adequately prosecute cases to the end. Other constraints include corruption and complicity of judges, lawyers and other court employees and a generally hostile courtroom environment that is quite intimidating. The judges and even the government advocates often seem unsympathetic toward the women, as indicated by these court interactions:

“You are a bad charactered girl. Why did you go to Bombay without seeking your parents permission?” (Judge)

“A girl who ate only millet rice, was brought to Kathmandu, was given good meat to eat, kept in a lodge for a few days and given a good chance to enjoy life, but look she has filed a case against the poor man now.” (Supreme Court government advocate fighting a victim’s case)

“Did you go by your own will/willingly? If so you are not trafficked!” said a judge. Lawyers objected because the girl was misled about the ultimate destination.

An average case stretches from two to five years, and NGOs need to remain in contact with and support the women throughout this period. One NGO recommended that victims should be kept in safe shelter homes for the period of the court case to alleviate community and family pressure on the girls and ensure regular follow-up.

The other organization reported that keeping these girls in a shelter for the entire court hearing was not feasible. Therefore, they limit their assistance to monitoring cases in the initial critical phase for girls who seek assistance at the central or state level. Though they help in monitoring the proceeding, the responsibility to keep in contact rests with the girls and not the NGO.

6.5 Advocacy and networking

At present, three networks in Nepal potentially concern themselves with trafficking. Two of these, the Alliance Against Trafficking in Women and Children in Nepal (AATWIN), and the National Network Against Girl Trafficking (NNAGT), are focused only on trafficking, whereas a third, Children at Risk (CAR), is focused on ‘children at risk’, but includes

trafficking in its activities. At the time of the research, one NGO was planning to align itself primarily to another regional network, the Alliance Against Trafficking and Sexual Exploitation of Children (ATSEC). In the presence of so many networks, there is clearly some potential for overlap and duplication of activities. This has implications both in terms of efficient use of resources and in terms of the effectiveness of the activities. Three networks, NNAGT, AATWIN, and ATSEC, appear to be split by ideological and political differences. These differences reflect those between the two global anti-trafficking alliances, the Coalition Against Trafficking in Women (CATW), and the Global Alliance Against Trafficking in Women (GAATW) (see Section 4). NNAGT and ATSEC equate trafficking with sex work and migration and take a welfare approach, including advocating tighter legal restrictions on women's travel. In contrast, AATWIN de-links trafficking from sex work, migration and HIV and is beginning to develop a safe migration emphasis. Both networks are engaged in awareness and advocacy activities with the same target groups (e.g., parliamentarians or the police), resulting in conflicting messages and inconsistent advice.

6.6 Monitoring and evaluation

No definitive assessment of the effectiveness of intervention models, activities and approaches can be made since current trafficking interventions lack comprehensive and systematic monitoring and documentation. Essentially no program evaluation and/or impact assessment has been carried out to date.

In the area of prevention, the limited documentation that exists generally focuses on process monitoring. Examples include records of the number of rallies held by women's groups, the number of times that women's groups discuss trafficking, the number of participants in prevention activities, the number of IEC materials produced and distributed, and the number of women and girls intercepted through border rescue or community surveillance strategies.

In an effort to measure outcome, some NGOs monitor the number of women and girls leaving the village. However, such indicators are not able to distinguish between trafficking and legitimate migration and therefore do not accurately measure the desired outcome of reduction in trafficking at the village level. More information is needed on the process of both trafficking and migration in order to develop indicators that can distinguish between the two. For example, an intervention that emphasizes safe migration could measure changes in the process of migration rather than in the number of women migrating.

The cumulative experience of the NGOs working in care and support has also not been documented. Although each NGO has kept records (to some degree) of the girls and women in their care, these have not been collated to build a comprehensive picture of the determinants and processes trafficking in Nepal or of the issues and lessons learned for reintegration.

6.7 Conclusions

A great deal of trafficking prevention work is currently being undertaken in Nepal. The present study found that there is still a need for conceptual clarity to be developed on trafficking among some of the NGOs and by implication, among the donors who fund them. Interventions that fail to distinguish between trafficking and both sex work and migration and those that take a welfare approach may inadvertently compromise women's rights and may not address the reality of their lives (in particular, the need to migrate due to poverty or to

escape intolerable home situations). In addition, they may also inadvertently fuel the social stigma against sex workers and those living with HIV, and may make reintegration of returned women more difficult than it already is. Lack of conceptual clarity affects all phases of a project, including monitoring and evaluation. It is also important in terms of understanding how 'vulnerability' to trafficking is conceived and, consequently it has implications for the way in which some programs target 'at risk' groups. Key gaps, findings, and recommendations are summarized in Appendix 2.

Many of the messages in the IEC materials reviewed are fear-based, highlighting the suffering due to sex work and HIV infection. Most of the messages are prescriptive and tell women and girls what is good for them. This has been shown to be ineffective and sometimes generates resistance from local populations or drives the problem underground (Brandt 1988, Walkowitz 1980). Furthermore, this approach does not provide any help or suggestions for women and children in difficult circumstances.

An emphasis on women's empowerment, community development, conditions at the work place and safe migration appears to hold the most promise in terms of promoting the rights of women and girls and realistically addressing their needs. Of these, a focus on safe migration in particular seems to be of utmost significance. In this respect, organizations currently restrict themselves to warning women about the dangers of trafficking or giving limited advice on how to protect themselves (e.g., "note the address of the workplace"). This advice alone is unlikely to prevent trafficking. Interventions should consider developing other mechanisms to protect women who want and/or need to migrate. These could include, for example, setting up employment agencies, fostering links with urban NGOs that can be referred to in time of difficulty, formulating work place programs or setting up drop-in centers where a range of advice could be available. These programs need to be based both in rural areas (where most organizations are currently active), and in city work places since these appear increasingly to be used as trafficking transit points.

The experience of NGOs shows that care and support cannot automatically be equated with return to the family or community. This raises the questions of, where appropriate, how a return to the community can best be facilitated and, if inappropriate, what to do for girls who are unable or unwilling to return.

The best approach for family reintegration is still unknown. More research and resources are required to determine the situation of returned girls and to determine the most effective strategies. This includes assessing the nature of support that NGOs or other agencies require to most effectively help women and girls in need. Current strategies are developed from a welfare orientation in which girls are given traditional skills, told what to do, and the only option presented to them is to return home or remain in residential care. Two organizations have begun to develop alternative ways of supporting trafficking survivors that emphasizes building self-esteem and fostering independent living, but no impact evaluation has yet been carried out.

The present strategy of segregating HIV positive victims when providing care and support needs further investigation. Community-based care is difficult, but NGOs have shown it to be possible. While rescue and interception strategies are necessary, they must be predicated upon a clear understanding of 'trafficking' (as opposed to voluntary sex work or migration) and must include facilities to provide subsequent care and support. NGOs working in legal

assistance require more resources. The cases they handle should be documented and the problems this highlights should be used in advocacy work with the judiciary.

Efforts should be made to help the various networks come closer together and to develop a more common platform. An emphasis on the generic protection of human rights (as opposed to discussing the moral rights and wrongs of sex work or migration) may assist in bridging current ideological gaps. Likewise, networking and advocacy activities should be coordinated to avoid unnecessary duplication or confusion.

Overall, the lack of meaningful impact assessment makes it impossible to assess the effectiveness of current interventions. In general, organizations need technical support to develop appropriate impact and process indicators that take into account issues of conceptual clarity (discussed in Section 3). This may require initial formative research since little is known about the determinants and processes of trafficking, community perceptions of trafficking, and the needs of returned trafficked persons. Some NGOs also pointed out that trafficking prevention takes place within the context of overall community economic and social development, especially in rural communities. This is a long-term process in which trafficking-specific indicators or outputs may be difficult to identify. In addition, NGOs may require further assistance to develop appropriate evaluation methodologies (some of which will require long-term follow-up) and carry out baseline and follow-up measurements of indicators.

In the provision of care and support programs, there is a need for monitoring the number of girls who are 'rescued' and the number of rescued girls who return home. There is a need for long-term follow-up of trafficking survivors as part of an overall evaluation to assess the appropriateness of current strategies and to develop better ones. In addition, evaluation of each component must be carried out, including individual and family counseling programs, family assessment strategies, skill training/income generation activities, follow-up strategies for girls who have returned home (to potentially difficult circumstances), and the appropriateness of current care and support for HIV positive girls, especially those in the AIDS hospice.

It is not known how many trafficked persons return without NGO assistance and what type of reintegration strategies they employ. There is anecdotal evidence that some women decide to settle in urban areas, setting up small businesses or, if they are a sex worker, staying in the sex trade directly or indirectly as a madam or broker (Frederick and Kelly 2000). Other anecdotal evidence suggests that women from communities where sex work is a common practice may find it easy to return home where they may marry and/or set up small businesses (Bhatt 1996). Further research on the coping and livelihood strategies employed by trafficked women would assist in development of more effective and meaningful reintegration strategies.

6.8 Potentially innovative intervention approaches

6.8.1 Prevention

- Community surveillance appears to be a good example of how community involvement, combined with outside support, may assist communities to establish systems that can take action in the event of suspected trafficking, and that can help those in difficulty. However, care must be taken not to equate women leaving the

village with trafficking. Similarly, care must be taken not to abuse the system, so that it does not become a mechanism for controlling women and girls.

- Establishing women's groups that can provide support and take action in the event of problems is also a promising anti-trafficking strategy. Such groups can be used as a forum for giving advice, and for support and shelter to those facing family or financial problems who might otherwise be tempted to run away or leave the village via an unsafe route (e.g., with an unknown broker).
- Working with children and young people through schools, teachers or child clubs appears to be an innovative anti-trafficking strategy. Peer support/influence is harnessed and the groups/clubs may act as neutral fora where children who are experiencing family problems can seek help.
- Involving trafficking survivors is another promising strategy. Their involvement may be useful in two ways. First, in order to make anti-trafficking messages more realistic and relevant to particular target groups. Experience in other fields has shown that people are more likely to identify with peer-led education rather than that given by social workers. Second, the example of one NGO, which helped trafficking survivors to set up their own organization, shows that their involvement can also play an important part in the re-building of their own self-esteem and confidence, and may act as an important capacity-building opportunity.
- The intervention in Kathmandu (run by the NGO formed by trafficking survivors) is also an innovative approach to preventing trafficking by trying to tackle the problem at a different and increasingly significant stage in the trafficking and migration process.

6.8.2 Care and support

- Interventions that aim to empower women and girls who have been trafficked, and that do so through an empathetic and dialogical process of counseling, and that offer a variety of future options (including non-traditional ones) appear to show the way forward for care and support (although implementation is acknowledged to be extremely difficult in the South Asian context). These interventions include supporting and encouraging trafficking survivors to be actively involved in gender rights programs and offering training and career options that raise self-esteem, build confidence and offer opportunities to break away from traditional gender stereotypes to enable a process of independent living.

7. Field Research

Most groups working in trafficking prevention and the care and support of trafficked persons agree that there is a need for an improved information base to support efforts to combat trafficking. At present, there are few empirical data available to inform intervention programs. In an effort to address this gap, this community-based study identifies perceptions, knowledge, and attitudes of adolescent girls and other community members about the social environment and aspirations of adolescent girls in terms of marriage, education, work, mobility, HIV/AIDS, and the existence and processes of trafficking.

Methodology

The study was carried out in two randomly chosen Village Development Committees (VDCs) in each of three districts. The districts were also randomly chosen from the 25 (out of a total of 75) districts that fit the study inclusion criteria: Jhapa District in the Eastern Development Region, Parsa District in the Central Development Region and Palpa District in the Western Development Region.

Using both qualitative and quantitative research methods, data were collected from March to June 2000. This included a survey of 1,269 randomly selected adolescent girls (ages 14-19) in the six VDCs. In addition, 43 focus group discussions were conducted. Participants in these discussion groups included adolescent girls (in-school, out-of-school, high caste, low caste) as well as their parents and other community members. In addition, Participatory Rural Appraisal/Participatory Learning and Action (PRA/PLA) techniques were carried out in one ward in each district, selected according to specific criteria.

A detailed description of the study methodology and selection criteria as well as more detailed research findings, especially from PRA/PLA process and focus group discussions, can be found in “Community Perceptions of Trafficking and its determinants in Nepal.”¹⁰ A summary of main findings is presented below.

7.1 Background information

7.1.1 Age and ethnicity

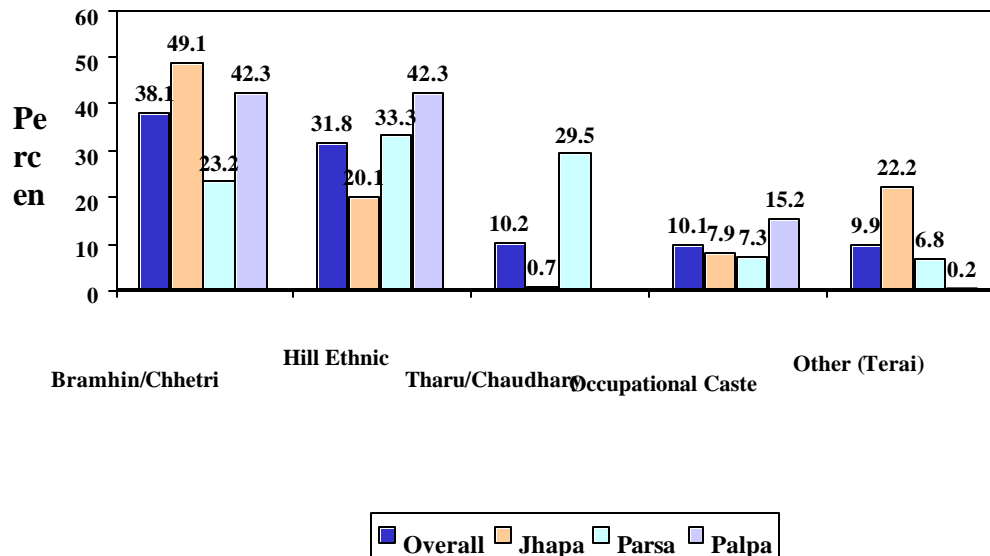
The survey included 1,269 adolescent girls from 14 to 19 years old. Overall, a greater proportion of girls were in the lower age ranges, with 42.1% aged 14 to 15 years, compared to 26.9% aged 18 to 19 years. See Table 5. Although about 30 ethnic groups were recorded, they were categorized into five broad groups¹¹. The major ethnic groups were Brahmin/Chhetri (38.1%) and Hill Ethnic (Hindus) (31.8%). There were statistically significant differences in ethnicity by district ($p < .001$). Most notably, the Tharu/Chaudhary groups, 10.2% of the overall sample, were found almost entirely in Parsa District (97.7%, 126/129), while the

¹⁰ Full report is available from The Asia Foundation, Kathmandu.

¹¹ Ethnic group classifications used in this study were **Brahmin/Chhetri**; **Hill Ethnic (Hindus)** included Thakuri, Gurung, Magar, Tamang, Newar, Rai, Gandarba, Limbu; **Tharu/Chaudhary**; **Occupational Castes** included Kami, Damai, Sarki, Chamar, Batar, Musahar and Dom; and **Other (Terai)** including Rajbansi, Satar, Teli, Yadav, Gwala, Giri, Puri, Kurmi, Hajam, and Muslim. These classifications are based on work by Dr. Dilli Ram Dahal, Tribhuvan University, Kathmandu (Dahal, 1995).

“other” Terai groups, 9.9% of the overall sample, were nearly absent from Palpa District (0.8%, 1/125) and were mostly clustered in Jhapa District (76%, 95/125). See Figure 1.

Figure 1: Ethnicity by district (n=1269)



The older girls in the sample were more likely to be Brahmin/Chhetri, accounting for 42.2% of the 517 girls aged 17 to 19, as compared to 35.4% of the 752 girls aged 14 to 16 ($p < .01$).

7.1.2 Family composition

Over half (58.2%) of the 1,269 girls in the study lived in nuclear families (defined as parents and siblings only). Most of the others (39%) lived in extended families, defined as parents and married brothers and sisters and their families. In 48.2% of cases, there were reportedly four to six family members in the household. A family size of seven to nine persons was reported by an additional 35% of girls. See Table 5.

Overall, only 15.5% of girls were married. There were significant differences in the marriage rate between ethnic groups, with the highest rate among girls of the Tharu/Chaudhary ethnic groups (31.0%, 40/129) and the lowest among the Brahmin/Chhetri groups (7.4%, 36/484) ($p < .001$). One fifth (19.3%, 38/197) of marriages were conducted before the age of 13 years. Most marriages (81.7%) were arranged by the parents. 39.6% of marriages were arranged without the consent of the girls involved.

Food sufficiency was used as a proxy indicator for economic status. Year-round food sufficiency was reported by 62.5% of girls surveyed. This was highest in Parsa District (74.2%, 317), followed by Jhapa District (65.9%, 282) and Palpa District (46.9%, 194) ($p < .001$).

Table 5. Background information (N=1,269).

Age	
14-15	42.1%
16-17	31.1%
18-19	26.9%
Ethnicity	
Brahmin/Chhetri	38.1%
Hill Ethnic	31.8%
Tharu/Chaudhary	10.2%
Occupational Caste	10.1%
Other (Terai)	9.9%
Family Type	
Nuclear	58.2%
Extended	39.0%
Joint	2.8%
Family Size	
1-3	6.1%
4-6	48.2%
7-9	35.0%
> 10	10.7%
Food sufficiency	
Up to 3 months	9.5%
Up to 6 months	14.3%
Up to 9 months	13.6%
Year-round	62.5%
Married	15.5%

7.1.3 Education

Of the 1,269 girls interviewed, a high proportion (81.8%) reported being “able to read and write.” However, no confirmatory test of literacy was conducted. Literacy varied significantly by district with 92.8% (381/414) of girls in Palpa District reporting an ability to read and write, compared to 86.7% (371/428) in Jhapa District and 67% (286/427) in Parsa District ($p<.001$).

The highest level of education attained among the 1,038 literate girls was primary for 36.9% (383), secondary for 56.1% (582) and school leaving certificate (SLC) and above for 7% (73). Of the 27.8% (289) girls who reported leaving school, 63.6% (184/289) dropped out at primary level, 34.2% (99/289) at secondary level, and 2.1% (6/289) at SLC or above. Excess work at home was the most frequently cited reason for leaving school (49.8%, 144/289).

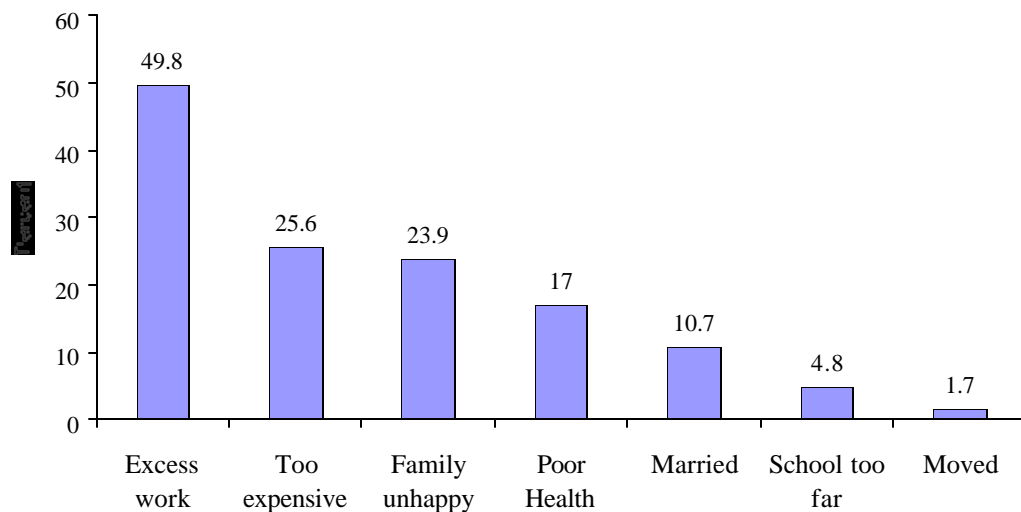
Other reasons for leaving school are shown in Figure 2. In focus group discussions, adolescent girls and their parents reported that pressures from home combined with low expectations for girls’ education caused many girls to leave school. Some comments from focus group discussions included:

“I stopped going to school because of work at home.” (Adolescent girls)

“I dropped out because my father said he won’t be able to fend for the family alone.” (Adolescent girls)

“We send them up to 5th class, they are not going to work in the office.” (Parents of adolescent girls)

Figure 2. Reasons for leaving school (n=289)



Most girls reported high aspirations for education. Of girls who reported leaving school, 71.3% (206/289) said they would have liked to continue with their studies while only 22.5% (65/289) said they wanted to leave school at the time they dropped out.

7.1.4 Work experience

Almost all (99.8%) of the girls surveyed help with household chores at home. This accounted for most of their waking hours, 14 to 16 hours per day, according to time charts generated by the PRA exercises. Boys spent less time, 11 to 12 hours per day, in household chores. See Table 6 for a sample time chart.

Table 6. Time charts for adolescent girls and boys in Thori VDC (Parsa District).

	Daily work	Study	Tend cattle	Work in the field	Domestic chores	Cleanliness	Rest	Play	Entertainment	Total hours	Total hours without play, entertainment, rest
School going girl	1	6	4	-	2	1	1	-	1	16	14
School going boy	1	5	4	-	-	1	2	1	2	16	11
Non-school going girl	2	-	2	4	8	1	-	-	-	17	17
Non-school going boy	1	-	3	6	-	1	2	-	2	16	12

The majority of girls (87.8%) reported involvement in agricultural work. There were statistically significant differences across districts. Almost all of the girls in Palpa District (97.6%, 404/414) reported working on farms, as compared to 87.6% (374/427) of girls in Parsa District, and 78.5% (336/428) in Jhapa District ($p < .001$).

Few adolescent girls are paid for their work. Only 10.9% (138) of girls reported receiving payment (either cash or in-kind) for their work. This was significantly higher in Jhapa District, where 18.5% (79/428) reported payment, compared to 7.5% (31/414) in Palpa District and 6.6% (28/427) in Parsa District ($p < .001$). Most girls receiving payment (89.9%, 124/138) earned less than 1,500 Nepalese rupees (about U.S.\$20) per month, while 43.5% (60/138) earned 1,000-1,500 Nepalese rupees (about \$US 14 to 20). In focus group discussions, girls reported that they contribute their earnings to the family. A typical statement was:

“My parents are poor, and I contribute my earnings to the family.”

Parents (or husbands) are usually involved in the decision-making about how to spend money earned by the girls. Overall, 49.3% (68/138) of girls said that the decision to spend their earned money was made by their parents, while 35.5% (49/138) said the decision to spend money was usually made jointly with their parents or husband. Only 15.2% (21/138) said the decision to spend money was entirely their own.

7.1.5 Social environment

Most of the girls reported feeling happy and supported in their home environment. Among unmarried girls, 97.9% (1050/1072) reported feeling close to their parents and 92.3% (990/1072) said they could share their ideas with their parents. Of the 197 married girls, 88.3% reported being happily married, 66.4% reported feeling close to their in-laws, and 76.6% said they could share ideas with them.

The adolescent girls reported that they discuss education, aspirations, and health-related problems most frequently with their mothers and mothers-in-law (54.2%) and female friends (20.6%). When the issues involve work or money, a similar proportion (57.1%) reported discussing them with their mothers and mothers-in-law. However, 28.0% reported that they discussed them with their fathers and fathers-in-law, and only 0.7% discussed them with friends.

In an effort to understand the nature of social participation of the adolescent girls in their communities, girls were asked about their involvement in local clubs or organizations. Only 9.1% (115) of the girls were members of any local organizations or clubs and only 8.5% (108) of girls had ever attended meetings organized by these clubs. Girls were also asked about their activities over the past three months. The most commonly cited activity was shopping or visiting a market place (60.9%). Other activities are shown in Figure 3. Focus group discussions suggested that the activities of girls are curbed for their protection:

“It is important to restrict their free time as it leads to whiling away their time and distorted thinking.” (Mothers of adolescent girls)

Figure 3. Reported activities of adolescent girls over the last 3 months (n=1,269)

7.1.6 Aspirations

When asked what they would like to be doing when they are 25 years old, 67.6% of the 1,269 girls surveyed indicated that they would like to be working. A somewhat lower percentage (57.2%, 726) indicated they would like to be married. The desire to attend school or college was cited by 42.9% (544) of girls. In addition, 70.1% (889) responded that they would like to have a lot of money. In focus group discussions, girls described a desire to marry only after completing other self-development activities:

“I would like to get a chance to study, develop some skill, take up a good job, and then marry.”

More than 80% of girls agreed with most statements on gender equality. However, only about one-quarter of girls felt that women should handle the family finances (see Table 7). Adolescent girls echoed these sentiments in focus group discussions:

“All girls have the right to grow, be educated, not be forced to leave school for the purpose of work.”

Table 7. Agreement with gender equality statements (n=1,269).

Statement	Agree
Girls and boys should have equal rights	98.7%
Equal time spent on household chores by both boys and girls	98.7%
Women should have equal opportunities as men to hold positions of leadership	95.6%
Girls should have the same right as boys to travel out of village	87.1%
Girls should marry at 18 years of age or older	80.5%
Women should handle family income and expenditure	27.5%

7.2 Mobility and migration

7.2.1 Current mobility

Over one quarter of the girls interviewed (26.3%, 334) reported that they had never left their villages. Among the 935 girls who had left the village, the most common reasons cited (in descending order) were to visit friends and relatives (93.6%), shopping and marketing (76.3%), for medical care (49.5%) and attending school (33.6%).

In focus group discussions, the relative lack of freedom of mobility accorded to adolescent girls was evident:

“We are not allowed any freedom of movement and at times when we do go out, people say evil things to us.” (Adolescent girls)

“Mobility may result in falling into bad company and disgracing the family. Therefore, parents should take adequate measures to restrict [girls] before things go bad.” (Mothers of adolescent girls)

7.2.2 Knowledge of migration

Most girls (92.3%) were aware that people move, with the most commonly cited reasons relating to economic opportunity. Of the girls surveyed, 31.7% had already moved at least once in their lives. A significantly higher proportion of married girls had lived elsewhere (43.1% (85/197) of married girls vs. 29.6% (317/1072) of unmarried girls; $p < .001$).

In focus group discussions, the community sanctioned migration for economic reasons, even for women:

“There are a few girls from here who have gone to study in different cities and some have taken up jobs.” (Adolescent girls)

“Those who aim to work and survive without putting their honor at risk can do so at any place.” (Community women)

7.2.3 Aspirations to migrate

Although the majority of girls surveyed indicated that they would like to stay in their villages, 39.5% indicated an interest in moving elsewhere. When asked specifically where they would like to “settle down in the future”, 59.3% indicated their current village or town, 20.2% said somewhere else, and 20.6% said they did not know. A desire to settle down in the same village or town was significantly associated with lower level of education (65.0% for girls at primary level vs. 49.3% for girls at SLC and above; $p=.001$)

Adolescent girls also expressed their desires to move in focus group discussions:

“Sometimes one feels like running away and washing dishes in a hotel and being independent.”

7.2.4 Decision-making for migration

If offered a job, 89.4% (1,135) of girls said they would discuss it with someone before making a decision. Most of them (99.4%, 1128/1135) would discuss it with family members in the household and 75.5% (857/1135) would discuss it with other relatives and friends.

Among the girls who indicated that they would like to move elsewhere, 97.4% (488/501) would seek help to move from their parents, while 93.4% (468/501) would seek help from other family members in the household, and 82.0% (411/501) would seek help from other relatives and female friends.

7.3 Trafficking

7.3.1 Knowledge of trafficking

All discussions of trafficking in this study were conducted using the common Nepali term for trafficking, “*cheli beti ko bech bikhan*,” which literally translates to “buying and selling of women and girls.” This term limits the scope of what is understood by trafficking and consequently limits the discussion of trafficking in this study in both the survey and the focus group discussion components.

When asked about “*cheli beti ko bech bikhan*” 72.1% of adolescent girls said they were familiar with trafficking. The response varied significantly across districts (85.1% [364/428] in Jhapa District vs. 59.5% [254/427] in Parsa District; $p<.001$), and by age group (77.1% [399/517] in girls aged 17 to 19 vs. 68.6% [516/752] of girls aged 14 to 16; $p<.01$). Girls who had previously lived elsewhere were more likely to have heard of trafficking (78.9% [317/402] vs. 69.0% [598/867] of those who had not previously moved; $p<.001$) as well as

those exposed to a greater number of information sources (77.5% [596/769] for two or more sources vs. 53.1% [102/192] for only one source; $p < .001$).

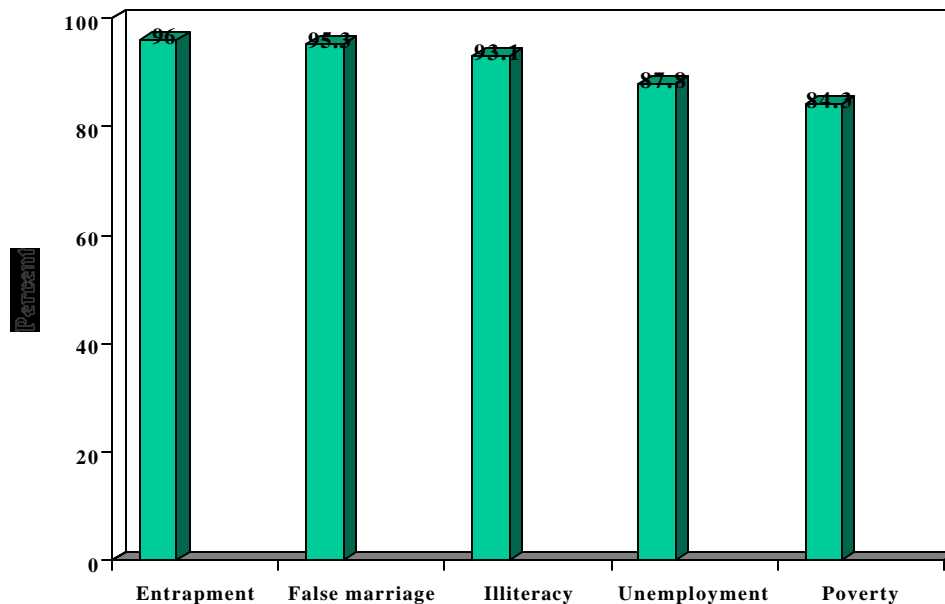
The causes of trafficking reported by the adolescent girls are shown in Figure 4. In addition, 69.8% (639/915) blamed the trafficked girls for “not discussing with anyone and deciding to go with the person who offered her a good life, employment or marriage” and 45.0% (412/915) blamed parents for not seeking enough information about the job and/or marriage. Focus group discussions also implicated the girl’s character as a cause of trafficking:

“Only those girls who are fast are sold” (Community women)

“Firstly girls are trafficked because of their own bad habits, some go because of poor economic conditions, and some are susceptible due to their ignorance, some in the hope for a good job.” (Adolescent girls)

“Those girls who move out seeking luxury will have to suffer the consequences however bad.” (Mothers of adolescent girls)

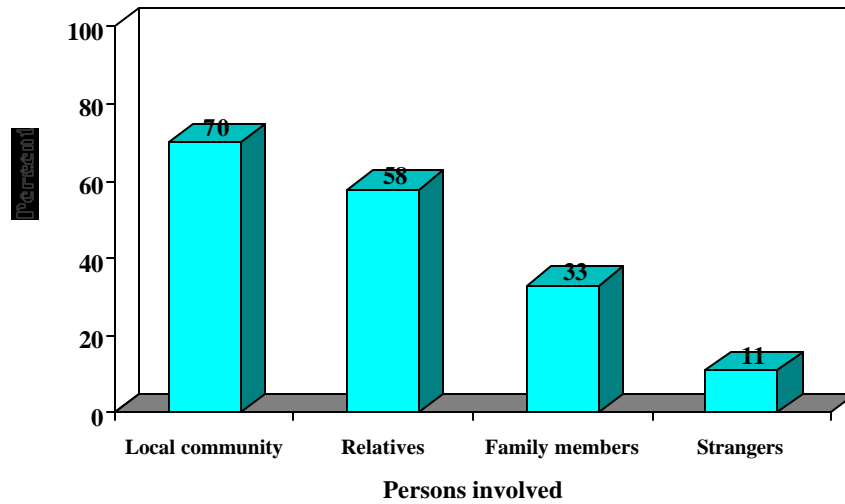
Figure 4. Causes of trafficking (n=915)



Most girls reported that family and community members are involved in the process of trafficking, with only 10.8% (99/915) citing strangers (see Figure 5). Community discussions verified the involvement of persons known to the girls:

“The girls are sold by their own [families].” (Community women)

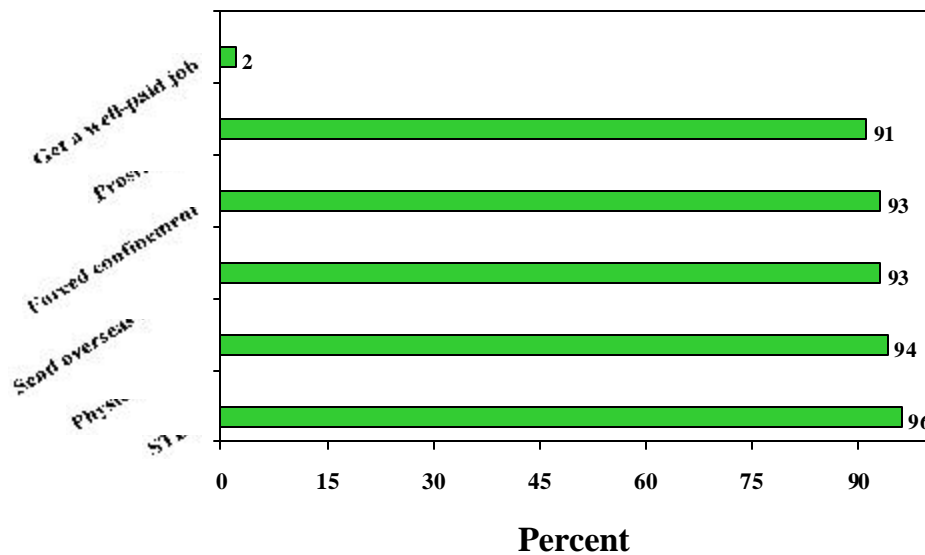
Figure 5. Description of persons involved in trafficking (n=915)



Most girls identified the outcomes of trafficking as involving prostitution, overseas travel and forced confinement (see Figure 6). However, in focus groups discussions with adolescent girls, it was apparent that not all girls understand what prostitution is:

“Those who are trafficked are made to clean utensils and have to do whatever the owner says. They are not allowed to return.”

Figure 6: Reported outcomes of trafficking (n=915)



7.3.2 Stigma for returned trafficked persons

High levels of stigma were associated with returned trafficked persons. Only 1.5% (14/915) indicated that returnees would be treated normally by the community (see Figure 7). Focus group discussions verified this finding:

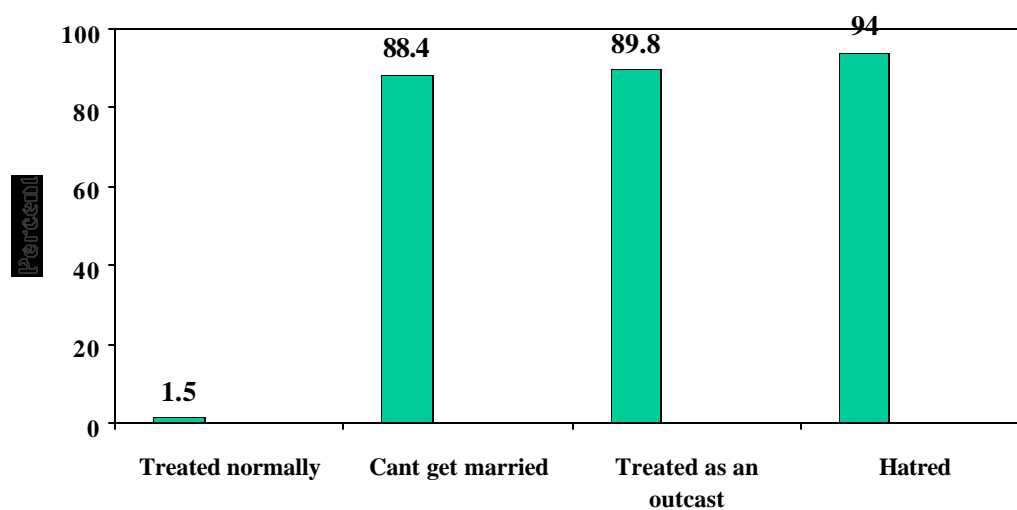
“These girls come back without any restrictions from India and spoil our daughters.”
(Focus group discussion, fathers)

“Even if one girl has been trafficked, it taints the character of other village girls, too, and restricts the search for a good groom.” (Mothers of adolescent girls)

“Our girls might be influenced by these girls, which is scary.” (Mothers of adolescent girls)

“As stigma is attached to them, rather than adjusting [trafficked girls] into society, they should be kept in a separate place and cared for by the government.” (Male community elders)

Figure 7. Attitudes toward returned trafficked girls (n=915).



7.4 HIV/AIDS

7.4.1 Awareness and knowledge

There was a high level of awareness of HIV/AIDS in the study population, with 73.0% of girls indicating that they had heard of HIV/AIDS. This varied significantly by district with the highest level of awareness in Jhapa District (82.0%, 351/428), and the lowest in Parsa District (60.4%, 258/427) ($p < .001$). Awareness of HIV/AIDS was also significantly associated with reported literacy (80.4% (835/1038) among literate girls vs. 39.4% (91/231) among illiterate girls; $p < .001$) and higher levels of education (89.8% (522/581) for secondary and above vs. 64.5% (247/383) for primary; $p < .001$).

Among the 926 girls who had heard of HIV/AIDS, 85.4% (791) reported that they knew of at least one mode of transmission (see Table 8). Most (>90%) were aware of sexual transmission and transmission by sharing syringes. However, many girls held misconceptions about modes of transmission, with over half believing that mosquitoes or other insects transmit HIV/AIDS, and a substantial percentage attributing transmission to food and water, kissing and touching.

Table 8. Knowledge of modes of transmission of HIV/AIDS (n=791)

Transmission mode	
Unprotected sex	99.0%
Multiple sexual partners	98.9%
Syringes used by various people	97.7%
Mother to child (breastfeeding)	85.8%
Mosquito or other insect bite	62.5%
Food or water	31.2%
Kissing	21.0%
Touching	17.5%

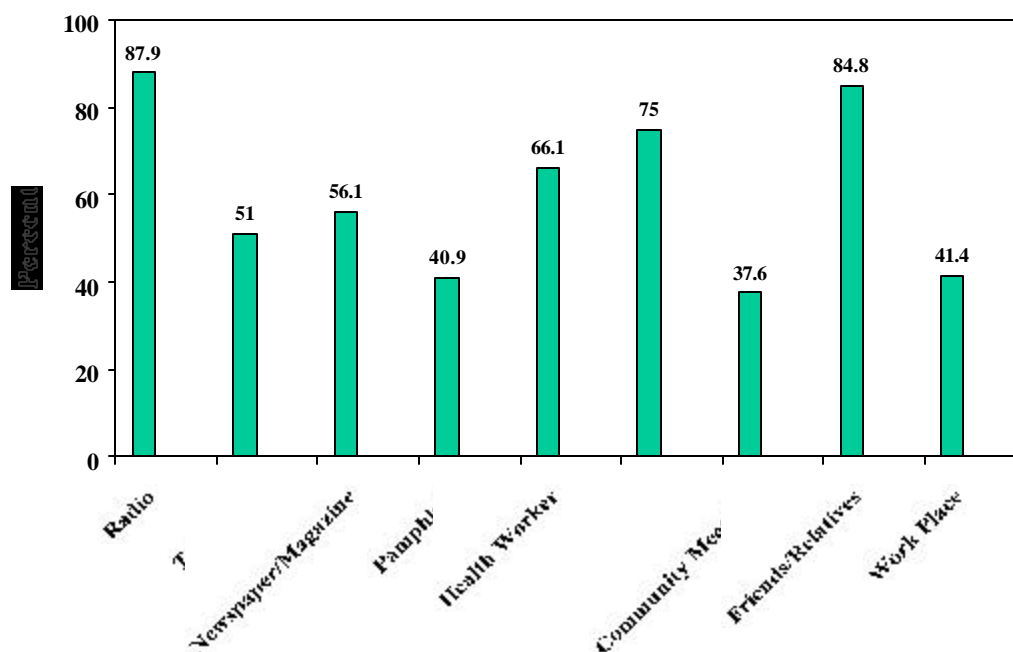
Knowledge of risk factors for HIV/AIDS is shown in Table 9. In addition, an open-ended question asked the girls to name two ways to prevent HIV transmission. Of the 1,263 girls who responded, “have only safe sex” was mentioned by 75.0% of the respondents, “use fresh syringe” by 13.3% (169/1263), “take safe tested blood” by 4.4% (56/1263), and “keep away from HIV/AIDS patients” by 3.1% (40/1263). Most girls (87.9%, 814/926) felt it was unlikely that a person who appeared healthy could be infected with HIV.

Table 9. Identification of high-risk behaviors for HIV/AIDS transmission (n=926)

Risk groups	
Men living in the community and having many sex partners	92.8%
Girls having more than one sex partner	92.3%
Men having sex with ‘prostitutes’	92.1%
A girl who was raped	88.0%
Frequent migratory male workers	81.4%
Married women	62.7%

Sources of information about HIV/AIDS are shown in Figure 8. Up to one source of information was reported by 45.9% of girls, two to three sources by 47.9% and four or more sources by 61.6%. The girls who reported four or more sources of information were likely to be those attending school (66.6% of girls in school vs. 46.3% of girls not attending school; $p<.001$) and those who had attained higher levels of education (86.3% of SLC and above as compared to 42.6% of primary level girls; $p<.001$).

Figure 8. Sources of information about HIV/AIDS (n=926)



7.4.2 Stigma for persons living with HIV/AIDS

High levels of stigma and discrimination against persons living with HIV/AIDS were found during focus group discussions. In the view of the community, HIV/AIDS is associated with unsafe sexual behavior and especially with sex workers. It is also regarded as a disease that has been brought into Nepal from other countries. Suggestions for HIV/AIDS control offered by the community include compulsory blood testing of returning migrants (without revealing the nature of the test), regulation of border entry of suspect women, maintenance of a list of vulnerable people for NGO interventions, and seclusion of infected persons. Illustrative statements from focus group discussions are presented below:

“There is a constant fear that my husband might give me AIDS. He will go away but if I am bedridden, and society will accuse me of being a prostitute who had sex with their sons, brothers and so on.” (Community women)

“The disease is from foreign lands.” (Adolescent males)

“Since it infects boys going to prostitutes, it will also infect us.” (Adolescent girls)

“Girls taken and sold into brothels catch this disease.” (Adolescent girls)

“AIDS is a disease of bad people and we consider those who have it as bad.” (Adolescent girls)

“Infected girls should be isolated in a separate house like lepers.” (Community men)

7.5 Conclusions

Most adolescent girls and other members of their communities associate trafficking primarily with prostitution and cross-border travel. However, the use of the Nepali term for trafficking “*cheli beti ko bech bikhan*,” literally “buying and selling of women and children,” may have affected their responses to questions regarding trafficking in this study. It is interesting to note that although all study areas had an NGO operating in that area, adolescent girls were largely unaware of NGO programs.

Although communities recognize the role of social and economic hardships in vulnerability to trafficking, blame was also placed on the trafficked girl herself and attributed to her immoral character. There was also a high degree of stigma and discrimination directed at returned victims, often tied to the perceived threat of HIV infection and prostitution. This has implications for care and support interventions for trafficked girls and women that focus on returning them to their families and communities. In addition, adolescent girls more frequently implicated family and community members in the process of trafficking than strangers. This also has direct implications for interventions in terms of the content of prevention messages.

Although migration is seen as a necessary livelihood strategy, even for women, the mobility of adolescent girls is limited in stark contrast to boys. Freedom of movement is believed to lead to the development of a “loose” character in girls. One-quarter of girls reported that they had never left their village and others left mostly in the company of friends and family. Adolescent girls spend much of their days studying and/or working in the household and on the farm, leaving them little time for developing social networks, exploration and travel. Overall, the emerging picture is one of adolescent girls who are somewhat protected from and inexperienced in navigating the world outside their villages.

Nevertheless, a high proportion of girls indicated that they would like to migrate out of their current villages, especially those with higher levels of education. An even higher proportion expressed the desire to travel to urban areas. This suggests that trafficking prevention messages that encourage adolescent girls to stay in the village may not be relevant to their needs and aspirations. Since many girls are likely to travel and/or migrate at some time in the future, it is essential to provide the information and skills necessary to navigate the outside world safely for gainful employment.

It must be recognized that the sample of girls surveyed in this study have a higher educational level and a lower marriage rate than reported in the most recent Nepal Family Health Survey (Ministry of Health 1996). While this survey found that 30% of the total sample of 1,269 girls had some primary education and 45% had some secondary education (assuming that reportedly “illiterate” girls have no education), the Family Health Survey (FHS 1996) found that only 20% of 15 to 19-year-old girls overall in Nepal had some primary education and 26% had some secondary education. In addition, the marriage rate in this study was substantially lower than in the Family Health Survey (16% in this study compared to 43% of 15-19 year old girls in the FHS). Some of this difference may be accounted for by variation between districts (as seen between districts in this study and in the FHS) as well as differences in the urban/rural distribution and the age distribution between the two studies. However, there may also be a sampling bias toward girls of higher educational levels and lower marriage rates.

8. Recommendations

8.1 Conceptual clarity

Conceptual clarity is needed in both policies and interventions on trafficking – in particular, in its relation to migration and sex work. Adopting a human rights framework and basing interventions on sound research may help to clarify current trafficking discourses.

8.1.1 Prostitution

Definition: Anti-trafficking policies and interventions that are based upon a definition of trafficking solely for the purpose of prostitution do not address trafficking for other purposes. The prevention of trafficking becomes synonymous with prevention of prostitution. Adoption of the trafficking definition of the United Nations Special Rapporteur would protect the rights of all trafficked persons, including those who are trafficked for purposes other than prostitution.

Criminalization of prostitution: No specific laws should be enacted to criminalize prostitution. The legal and constitutional rights of socially and sexually stigmatized communities, including those who are HIV positive or engaged in sex work need to be protected. Protecting and ensuring their legal rights are important and essential steps in countering the social stigmatization and marginalization and creating viable ways to exit sex work. Criminalization of prostitution and withholding protection to stigmatized communities from constant harassment by law enforcers and exploiters in the sex industry will further disempower these women, their families and communities.

8.1.2 Migration

Definition: Policy and legislative interventions must make clear distinctions between migration and trafficking. Simply controlling migration will not curb or prevent trafficking. The open-door agreement between Nepal and India should not be altered. Stricter border controls, such as instituting a passport system or more stringent border surveillance, will stop neither trafficking nor migration. Traffickers will merely devise increasingly innovative and underground ways of transporting women and girls across the border, and the victims will be rendered still more vulnerable due to their increased invisibility and illegality of movement. Furthermore, it will restrict the movement of genuine migrants and travelers by making travel procedures more cumbersome. Other South Asian neighbors, such as Bangladesh, have experimented with strict immigration control at the border and a passport system, yet the problem of trafficking is reportedly growing.

Interventions: Information, Education, and Communication (IEC) messages should be based on an informed understanding of local migration processes or on community needs and priorities. They need to be realistic and relevant and should include concrete relevant advice on how to migrate safely. There is also a need to establish support systems to enable safe migration and to help women once they are in the cities.

Current border-based prevention strategies require further assessment to determine their effectiveness and to ensure that women's right to mobility is not being breached.

8.1.3 Women vs. children: issues of consent

Many national laws and policies include the phrase “with or without consent” in their texts. While this may have some legitimate bearing in the case of children and victims under 18, consent must be included as a rights issue in the case of adult women. Admittedly, the issue of “consent” and “choice” are complicated issues in the context of the multiple disadvantages suffered by women and girls. Nevertheless, disregarding the will and choice of an adult and confining her to forcible protection or rescue is a violation of her human rights.

8.2 Protection of rights

Gender discrimination: As set out in its National Plan to Combat Trafficking, His Majesty’s Government of Nepal (HMG/N) must fulfill its commitment to repeal all laws that discriminate against women. This may require the government to adopt specific measures for women that are consistent with the equality provisions in the Nepal Constitution.

Principle of non-discrimination: Consistent with its international commitments, HMG/N must ensure that anti-trafficking interventions do not subject trafficked persons to discriminatory treatment in law or practice because of gender, race, color, sexual orientation, age, language, religion, age, cultural beliefs or practices, social origin, property, birth or other status, including their status as victims of trafficking or having worked in the sex industry.¹² Current laws and policies under discussion do not actively follow the principle of non-discrimination and include punitive measures for women who work in the sex industry either consensually or non-consensually.

8.3 HIV/AIDS policy as a model

Any legal or policy proposals on anti-trafficking formulated by the government, or recommended by non-state stakeholders or donors, should be modeled along the objectives of the National Strategic Plan on HIV/AIDS in Nepal, as it incorporates the key principles of the human rights approach. This policy explicitly protects and promotes the human rights of all those who may be vulnerable to HIV/AIDS as a result of their situations of poverty, migrancy and other factors identified in the strategic plan. Every policy must be evaluated against the objectives and concerns set out in this National Strategic Plan. Criminalizing any of the communities or individuals vulnerable to this disease will not facilitate education and awareness around the epidemic, and may actually intensify their vulnerability.

8.4 Rescue, repatriation and rehabilitation

There is a need to move from a paradigm of rescue, repatriation, and rehabilitation to an approach that protects and promotes the human rights of women both in countries of origin and destination. Certainly, some women and girls are traumatized by their experience and may require care and support services. However, an analytical evaluation of the problem in several countries and an assessment of the lessons learned teach us that “rehabilitation” is not what women need. Instead, they need support and sustainable incomes.¹³ Anti-trafficking strategies must shift from paternalistic approaches that seek to “protect” innocent women to

¹² UDHR 2; ICCPR 2.1; ICESCR 2.2, 3; CED AW 1,2, 16; CRC 2.

¹³ A recommendation echoing a similar principle is also included in the trafficking report of the United Nations Special Rapporteur on Violence Against Women

more holistic and participatory approaches that seek to protect and promote the human rights of all women including their civil, political, economic and social rights.

Donors can assist in providing funding for safe houses and halfway homes that women in distress can turn to on a voluntary basis. These houses must be based on a policy of openness and accountability. The State should provide soft loans, infrastructure support, and educational scholarships to women, including the women who have been or are engaged in prostitution, pursuant to the States constitutional obligation to institute welfare measures for its citizens.

Current evidence suggests that the care and support of rescued girls is a difficult and long-term process complicated by high levels of stigma directed at trafficked girls. NGOs engaged in this work require technical and financial support to develop systematic techniques for family assessment, counseling, intervention, and follow-up. Particular help is required to develop appropriate plans for girls who cannot return home, particularly in the area of sustainable livelihood development (see 8.5). There is an urgent need to develop strategies for the reintegration of HIV positive returnees. In particular, one current strategy of segregating HIV positive 'rescued' girls in a home in a remote district requires careful evaluation.

8.5 Sustainable alternatives

HMG/N should move beyond an income generation approach for the prevention of trafficking. This approach is not an adequate substitute for people seeking better economic opportunities in the city or across borders. In addition, anti-trafficking programs should provide viable economic alternatives to women who have chosen to leave prostitution. These programs must meet the needs of the individual woman as well as her family. State benefits, including legal rights that are available to all other families should be made available to mothers and their children, regardless of their work.

8.6 Interventions

Site

Current evidence suggests that trafficking of female and child migrants from urban work sites is common and increasing. However, most prevention work has been focused on rural areas. There is a need to broaden the focus of trafficking prevention efforts to include the cities and urban work places.

Process

Prevention: Evidence from this report and from experience in other fields suggests that interventions that work from the bottom up, involve communities, build capacities and aim to establish systems (e.g., women's groups) for providing support and taking action appear to hold greater promise for action and sustainability than top-down interventions that are characterized by one-time sensitization programs. Likewise, interventions that are empowerment-oriented and that, through a process of dialogue, aim to facilitate informed decision-making (e.g., on whether or not to migrate), are more likely to be relevant to community realities and to be accepted by target groups than those that are welfare-oriented and paternalistic in approach (telling people what is best for them).

Care and Support: Currently, most care and support programs are welfare-oriented in which women and girls are provided with limited options, given directive counseling, and given traditional skills training and jobs. However, some programs are empowerment-oriented and aim to provide a range of skills and options to enable independent living and to build up self-esteem. The latter appears to be a promising approach but NGOs require assistance to develop these programs further.

NGOs working to prosecute anti-trafficking cases require more support. The cases they pursue should be documented and used in advocacy work with the judiciary.

8.7 Advocacy and networking

There is a need for coordination and consistency in current advocacy work. An emphasis on promoting human rights and promoting safe migration may help to overcome some of the ideological differences (particularly with respect to sex work) that currently divide the field.

8.8 Monitoring and evaluation

Though a great deal of trafficking-related work is being done, most interventions have not been systematically documented or evaluated and on-going monitoring of programs is absent, *ad hoc*, or is insufficiently rigorous. Hence, at this stage, it is not possible to make informed judgments of an intervention's relative efficacy or sustainability. There is an urgent need to support NGOs to develop appropriate monitoring and evaluation mechanisms. Some formative research may first be required to develop appropriate process and impact indicators. Thorough documentation and sharing of experiences would greatly help to identify lessons learned and to build up a better understanding of which approaches work/do not work and why. This may be particularly useful for care and support strategies.

8.9 Empirical research

There is a serious lack of systematic research on the magnitude of trafficking in Nepal. The failure to distinguish between trafficking and both illegal migration and prostitution has seriously impeded this task. The current statistics reflect either numbers of women and girls who have migrated in general or are engaged in sex work. Even the estimated number of Nepali women and girls engaged in prostitution in Indian brothels has not been verified.

There is also a need for more research that informs intervention strategies and their subsequent monitoring and evaluation. Current information is largely anecdotal. Research should include:

- Analysis of the socio-economic context and process of female labor migration in Nepal and its linkages with trafficking. An understanding of this is fundamental to the development of appropriate intervention strategies.
- Documentation of known trafficking cases to develop a clearer picture of current trafficking methods, sites and processes, and also to develop a clearer picture of who is at risk and why and how to define vulnerability. This would assist the appropriate targeting of interventions.
- Documentation and follow-up of 'rescued' and 'intercepted' trafficked women/girls, including those who do and who do not return home to their families, and those who are

HIV positive. Again, this would help develop a better understanding of vulnerability and is important to inform and refine care and support strategies.

- Research on the livelihood and coping strategies of other sex workers and female migrants who have returned to Nepal. This would help to inform care and support strategies.
- Operations research to determine appropriate and effective strategies for both the prevention of trafficking and the care and support of trafficked persons.

Experience indicates that research specifically on trafficking is best conducted by NGOs that have a strong field presence and that have built up trust in their target communities.

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Appendices

Appendix 1

List of Persons Interviewed for Policy Analysis:

Ms. Alfhild Petren, Rights Protection, UNICEF-ROSA
Ms. Bharati Silawal, United Nations Development Programme
Ms. Catrin Evans, Independent Consultant
Ms. Catherine Thompson, Technical Advisor, USAID
Dr. Renu Rajbhandari, Executive Director, Women's Rehabilitation Centre (WOREC)
Mr. G.P. Thapa, Deputy, Inspector General of Police, Police Headquarters
Ms. Madhavi Singh, Project Coordinator, National Network Against Girl Trafficking
Ms. Meena Paudel, Director and Coordinator, OXFAM U.K.
Mr. Michael Hahn, UNAIDS
Mr. Sabin Gurung, and Mr. Bobby Chhetri, *Maiti Nepal*
Mr. Thinley Dorji, Director, Social Development, SAARC Secretariat
Ms. Tine Staermose, Chief Technical Adviser, South Asian Sub-Regional Program to Combat Trafficking in Children, ILO-IPEC
Ms. Urmila Shrestha, Secretary, Ministry of Women, Children and Social Welfare

List of Informants for Intervention Models

NGOs

1. General Welfare Prathisthan (GWP)
2. *Maiti Nepal*
3. ABC Nepal
4. Women's Rehabilitation Center (WOREC)
5. Centre for Legal Research and Resource Development (CeLRRd)
6. Child Workers in Nepal Concerned Centre (CWIN)
7. *Shakti Samuha*
8. Peace Rehabilitation Center

Networks

National Network Against Girl Trafficking (NNAGT)
Alliance Against Trafficking in Women and Children in Nepal (AATWIN)

INGOs

Save the Children-US
The Asia Foundation

Donor Agencies

United States Agency for International Development (USAID)

Other

Four Key Informants

Appendix 2: Summary of Key Gaps, Findings and

Recommendations for Trafficking Interventions

ISSUE	KEY GAP/FINDING	RECOMMENDATION
Conceptual Clarity	<ul style="list-style-type: none"> • Lack of clarity on meaning and process of trafficking and on vulnerability to trafficking • Some organizations wrongly mingle trafficking with sex work or migration – leads to intervention strategies which may (inadvertently) compromise women’s freedom and right to mobility • Method of defining ‘at risk’ groups for targeted interventions is unclear 	<ul style="list-style-type: none"> • Organizations need to develop conceptual clarity on trafficking • Adopting a human rights framework may clarify current points of confusion • Further research can help clarify the nature of vulnerability to trafficking and hence indicate the most appropriate points for targeting programs
Research	<ul style="list-style-type: none"> • Lack of research with which to develop informed intervention strategies 	<ul style="list-style-type: none"> • Need much more research on: <ul style="list-style-type: none"> - female labor migration and trafficking (processes, reasons, outcomes) within and outside Nepal - thorough documentation of existing trafficking cases - documentation/long-term follow-up of care and support strategies and outcomes for rescued women - existing coping strategies of returned sex workers / migrants • Research should be done by NGOs that have an established and trusted relationship with communities
Program Site	<ul style="list-style-type: none"> • Main focus of interventions is on rural areas. Evidence indicates that trafficking is increasingly becoming an urban phenomenon • Effectiveness of border-based interception strategies is unclear 	<ul style="list-style-type: none"> • Interventions should expand to cover city work places and to support female migrants • Needs further investigation
Program Content (a) prevention	<ul style="list-style-type: none"> • Overall lack of relevant, realistic IEC messages • Lack of information and support systems for safe migration 	<ul style="list-style-type: none"> • IEC should be based on research on migration, trafficking and community needs • Need to give advice on safe migration and set up mechanisms to promote safe migration and protect women’s rights
(b) care and support	<ul style="list-style-type: none"> • Lack of systematic care and support strategies, especially in counseling, family assessment, training, follow-up 	<ul style="list-style-type: none"> • Experiences to date of NGOs doing care and support should be documented and lessons

ISSUE	KEY GAP/FINDING	RECOMMENDATION
	<p>and care of HIV positive girls</p> <ul style="list-style-type: none"> • Current situation in which girls who cannot return home must reside for years (or indefinitely) in residential homes is unacceptable 	<p>learned identified</p> <ul style="list-style-type: none"> • Current strategies need further in-depth investigation to assess their appropriateness • NGOs require technical and financial support to develop their programs
<p>Program Process (a) prevention (b) care and support</p>	<ul style="list-style-type: none"> • Programs that are bottom-up, based in communities and empowerment oriented are more likely to be relevant, to promote human rights, to build capacities and to be sustainable • There is a complete lack of monitoring, evaluation or documentation of current programs. Hence it is difficult to make informed judgments about the relative advantages or disadvantages of different program processes 	<ul style="list-style-type: none"> • These kind of programs deserve further assessment and support • Monitoring, evaluation and documentation should be an integral part of future programs
<p>Monitoring and Evaluation</p>	<ul style="list-style-type: none"> • As above 	<ul style="list-style-type: none"> • As above • The development of appropriate process and outcome indicators may require some initial formative research
<p>Advocacy and Networking</p>	<ul style="list-style-type: none"> • Lack of coordination between different network activities • Inconsistent messages being given to same target groups • Ideological/political differences a barrier to building a common advocacy platform 	<ul style="list-style-type: none"> • Emphasis on human rights may help to breach present ideological divide

ISSUE	KEY GAP/FINDING	RECOMMENDATION
<p>Innovative Intervention Approaches</p> <p>(a) prevention</p> <p>(b) care and support</p>	<ul style="list-style-type: none"> • Promising trafficking prevention approaches include: <ul style="list-style-type: none"> - community surveillance - working with women’s groups - working with children’s groups (e.g., child clubs/schools) - involving trafficking survivors - working in urban work places - taking an empowerment-oriented approach • Promising care and support strategies include: <ul style="list-style-type: none"> - aiming to build self-esteem, self-confidence and capacities - promoting a range of life/career options - promoting non-traditional opportunities that may hold a greater chance for independent living 	<ul style="list-style-type: none"> • Strategies require technical support and on-going evaluation • Strategies require technical support and on-going evaluation

Participant Discussion Points from Dissemination Seminar January 2001

1. Policy Research

Comment: The draft bill has potentially negative implications, not only for those working to counter trafficking, but also those working on HIV/AIDS, because it conflicts with the national HIV/AIDS policy. There is a need to look again at the draft bill vis-a-vis its contradiction with present HIV/AIDS policy in Nepal.

Comment: We need a comprehensive act on migration that can clearly describe all such issues. We also hope that the Foundation will bring the findings to the notice of the Ministry for discussion before we rush to pass the existing trafficking bill and spend another four to five years to rectify it. We need to spend adequate time in critically looking at the law and ensuring passage of a very good bill. We should review this research and hold a constructive discussion based on the information.

Comment: ILO plans to conduct a consultation with the Ministry of Women, Children, and Social Welfare on the National Plan of Action, as well as conduct a consultative review of the draft bill.

Question: While talking about stopping trafficking (right to protection), we at times seem to be contradicting the constitutionally guaranteed fundamental rights like the "Right to Mobility." How do we maintain a balance in this regard?

Response: This is a complex issue. No model exists for protection of migration vs. protection against exploitation. We can give adequate information about safe migration, as it is a means to their livelihood. There is a need to look at how people can migrate in a safe manner as well as make information available to women to protect them from trafficking.

Question: Representation from relevant government agencies is very important on the subject and we wonder why they did not attend.

Response: Invitations were extended.

Comment: What we need is more research on trafficking with a special focus on causes of trafficking. Once the root causes are known, we will be able to stop trafficking and ensure optimal care and support for those who return by integrating them into their families.

Response: In fact, there is no baseline information and no particular research methodology to determine how we carry out a survey like this. In-depth findings on such subjects need a definite methodology. These days significant energy is being put into defining the causes of trafficking. Yet when we look for the causes they are mostly the same, including poverty, lack of education/awareness, and unemployment that leads to migration. These causes of trafficking are not very different from the causes of poverty and other issues that we have been focusing on for years.

Instead, we should be focusing on the process of trafficking, both before and after trafficking. We talk about re-integrating the victim back to the family, but it doesn't make sense. How can we imagine the girl going back to the same place that caused her to suffer? We should

look for alternative ways as to what is a sustainable livelihood. Research shows (as supported by the field data presented earlier) that most of the trafficking is caused by people whom they trust. If your family duped you, would you like to go back to the same place? We really need to look at the alternative ways where women can have a better life of their own and create choices.

2. Intervention Research

Comment: There are currently more than 20 organizations working on trafficking in Nepal. They need to coordinate their work to have an effective impact on trafficking. We also need to strengthen GO-NGO coordination, NGO-community coordination, and country-to-country coordination in this regard.

Comment: At the same time there is a need to be realistic about the existence of divergent discourses on trafficking. There are philosophical differences between organizations and networks. They will not always work together, which needs to be acknowledged.

Comment: Limited resources (financial and human) should not be devoted to duplicative research.

Comment: There is a need to look at how to prepare communities for the “inevitable” situation of people returning home to die from HIV/AIDS. We also need to consider alternative concepts of re-integration into communities.

Comment: For over a decade we’ve discussed trafficking without the existence of baseline information. We need to determine methodologies, perhaps drawing from fields such as HIV/AIDS, through which we can determine how to develop a baseline. Otherwise, we can never set performance indicators. We also need to prepare certain methodologies to outline causes of trafficking

Comment: A representative from NNAGT gave a brief introduction about the scope of work of NNAGT and emphasized the importance of networking among NGOs in countering trafficking. NNAGT currently has sixty NGO members, which is not enough. This effort should be extended, as the number of NGOs providing services is limited, considering the very strong and expanding trafficking racket. Currently there are two anti-trafficking networks in Nepal and efforts should be made to create coordination at all levels among them.

Issue: Philosophical differences of the networks and difficulties in working together emerged as an issue. A concern was raised that the two different networks may give inconsistent messages to the government for policy making

Question: First of all there is a need for more intensive efforts in further research on trafficking. During the research, did you include *Shakti Samuha*, an organization that is working on raising public awareness.

Response: The researchers mentioned that too many innovative urban-based approaches are in the initiation phase and need support. These approaches have been mentioned in detail in the report. *Shakti Samuha* was included

Question: What actually works in terms of stopping trafficking?

Other questions: Was The Asia Foundation, which has already published thousands of trafficking comic booklets, included in the research?

Response: Yes.

Comment: Many families accept returning victims of trafficking without any hesitation. There has been previous research on this topic, and ILO is already conducting further research. The participant expressed concern about the objectives of so many research studies and duplication, and mentioned the need for greater coordination among organizations to save time and money.

Response: Responding to the previous comment, an ILO participant expressed his satisfaction with the outcome of all the components of this research study and particularly with the research on the policy environment. The research that ILO is focusing on is different and looks at the returnees and tries to evaluate the reintegration process. He further elaborated that the field research study was valuable in providing an understanding of the perceptions and attitudes of communities towards the issues related to trafficking like understanding, stigma, and discrimination. They consider their research complementary to existing research, not duplication.

Question: What were the criteria for identifying the NGOs chosen for the research?

Response: NGOs were chosen to be representatives of the major approaches to the prevention of trafficking and the care and support of trafficked persons currently implemented in Nepal. A more detailed discussion can be found in the report.

Comment: As we are trying to stop abuse, information should be made available to stop unsafe migration. There is a need to develop a system for networking. Social workers in the trafficking field lack counseling skills and adequate program support. HIV could become the leading cause of death in Nepal. Communities need to accept that fact, and find a way for returnees to be accepted back in the society.

Comment: There is a need for coordination among donors in pursuing recommendations emanating from this research. A donor coordination meeting is held regularly, where both donors and technical experts can share their ideas.

3. Field Research

Question: The knowledge of HIV/AIDS among respondents in the field survey was relatively high. Is it possible to determine where they received their information? Is it possibly because only girls in school were interviewed? Did community respondents receive incorrect information/data from the media they referred to?

Response: The girls said that the information on HIV/AIDS was mainly from the mass media, especially radio and television. Although a higher proportion of girls in the sample were in school, non-students were also included. Having said that, there is a positive association between those girls who are in school and the exposure to more sources of

information on HIV/AIDS. Although many community respondents reported correct information, there was also a high incidence of misconceptions and incorrect information.

Question: Why were Brahmins and Chhetris considered as a single caste group when they are distinct? They should have been differentiated where possible.

Response: As more than twenty caste ethnic groups were surveyed, this categorization was used to consolidate the groups into smaller categories, a method commonly used in research in Nepal.

Question: We need to keep in mind that the findings were from a group of respondents with more education than the norm. The girls interviewed seem mainly literate/educated. This is very rare. How was the sampling done?

Response: The high level of literacy may be due to the broader definition of literacy used in this survey compared to the Family Health Survey (FHS). We simply asked girls if they were “able to read and write,” while the FHS verified their literacy with a writing sample. Nevertheless, the study also found a higher level of education than seen in the FHS. It is possible that there is a sampling bias due to relatively higher accessibility of more educated girls. It is possible that girls who are not in school would have been busy working in the fields or busy with household chores and difficult to access compared to the girls who attend school and get some time to rest after they return home.

Question: Why were districts surveyed where there is not a high incidence of trafficking?

Response: Random sampling of districts and VDCs was done according to the development zones. The high-incidence districts were deliberately excluded since they have already been “extensively-researched.”

Comment: The sample should be compared with demographics in the three districts surveyed to see if it was representative.

Question: Given the high percentage of literacy, and high aspiration towards gender equity among the adolescent girls interviewed, are we seeing any inter-generational change when compared to their mothers?

Response: Although the mothers were not specifically interviewed on all of the same aspects as the girls, it was quite obvious from their statements about gender issues (“*girls don’t need to study beyond primary, as they do not have to work in an office*”) that there is indeed some social change evident in terms of expression of thoughts, aspirations and educational levels over the generations.

4. Other recommendations

- There is need for country- to-country coordination and cross-border initiatives to break trafficking syndicates.
- More research is needed to determine how trafficking has been prevented, and victims reintegrated in cases where there were no program interventions.

- More research is needed on the growing incidence of internal trafficking.
- There is a need to ensure the right to “freedom from fear” in program responses.
- More research is needed on trafficking in children, both girls and boys, with consideration of issues related to child rights. In addition, the problem of pedophilia related to male sexual abuse should also be addressed.
- Conceptual clarity between reintegration and rehabilitation is required to design successful interventions.
- Sensitive follow -up is needed, which avoids “policing” and is conducted in a rights-based manner.
- There should be more focus on processes and less on causes.
- Let us not reinvent the wheel and look at causes rather address the present situation.
- Coordination is needed among NGOs, INGOs, government agencies, and the community in order to improve understanding of community needs.