

RECOVERING CHILDHOODS

COMBATING CHILD TRAFFICKING IN NORTHERN INDIA



OCTOBER 2005

FREE THE SLAVES

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CURRENCY EQUIVALENTS

as of August 2005

Indian Currency Unit – Indian Rupee

Rs. 1.00 = US\$ 0.02

US\$ 1.00 = Rs. 43.57

ABBREVIATIONS

ADM	Assistant District Magistrate
ALC	Assistant Labour Commissioner
ASO	Assistant Police Station Officer in Charge
BLA	Bonded Labor System (Abolition) Act, 1976
CLA	Child Labor (Prohibition and Regulation) Act, 1986
CrPC/CPC	Criminal Procedures Code
DLC	Deputy Labour Commissioner
DM	District Magistrate
Dy SP	Deputy Superintendent of Police
FIR	First Information Report
GCA	Goa Children's Act, 2003
GO	Government Order
ILO	International Labour Organization
IO	Investigating Officer
IPC	Indian Penal Code
IPEC	International Programme on the Elimination of Child Labour
ITPA	Immoral Traffic (Prevention) Act, 1956
JJ Act	Juvenile Justice (Care and Protection of Children) Act, 2000
LEO	Labour Enforcement Officer
NCLP	National Child Labor Project
NCRB	National Crime Records Bureau
NCW	National Commission for Women
NGO	Non-governmental organization
NHRC	National Human Rights Commission
OBC	Other Backward Caste
SC/ST	Scheduled Caste/Scheduled Tribe
SDM	Sub-Divisional Magistrate
SO	Police Station Officer in Charge
SP	Superintendent of Police
SSP	Senior Superintendent of Police
UN	United Nations
UNDP	United Nations Development Program
U.P.	Uttar Pradesh
U.S.	United States

HINDI WORDS

<i>annpura yojna</i>	food grains scheme
<i>ashram</i>	residential place of study or spiritual center
<i>bidi</i>	hand-rolled cigarette
<i>block</i>	grouping of villages for administrative purposes
<i>daba</i>	roadside restaurant
<i>dalal</i>	middleman, criminal (Bihar)
<i>dalit</i>	member of Scheduled Caste/Scheduled Tribe (formerly, “Untouchable”)
<i>devadasi</i>	a girl or woman dedicated to the service of a deity, idol, object of worship, temple, or religious institution
<i>gram</i>	village
<i>indira awas yojna</i>	government low-income housing scheme
<i>mukhia</i>	head of village government (Bihar)
<i>panchayat</i>	village government
<i>pradhan</i>	head of village government (U.P.)
<i>sari</i>	long piece of cloth, which Indian women wear draped around the body and over one shoulder
<i>tehsil</i>	sub-division headquarters for the District Magistrate
<i>tehsildar</i>	regional revenues collector (acts as Assistant SDM in SDM’s absence)

Executive Summary

Free the Slaves carried out research on child trafficking in northern India at an important time: While we carried out our interviews with officials, police, non-governmental organizations, as well as parents and their trafficked children, we recognized the urgent need for evidence-based recommendations in a time of change. It would seem that for the families and communities at the heart of the problem, evidently abandoned to a life of relentless hunger in some of the world's poorest villages, the factors that propel their children into slavery have simply intensified over time.

Yet many of the forces that challenge child trafficking in India are gaining momentum:

- Some NGOs are starting to tackle the problem at its roots, and are developing a presence alongside these impoverished communities. Their fresh insights are leading to better solutions to trafficking.
- The explosive growth in the Indian economy means that the stark realities of human rights abuses, rooted in poverty, are more visible. At the same time, the resources generated by economic growth can be used to address the threat of human trafficking.
- Despite the isolation and economic disconnection of the communities with a high level of trafficking, the NGOs who are working with them now have access to communications. It is no longer possible for the public conscience to be ignorant of the child trafficking.
- And finally, there is pressure from the global community. World opinion is focusing on states and regions where large-scale human trafficking persists, and there are explicit demands and significant resources being directed towards ending trafficking.

At the same time, we found two main challenges to uprooting trafficking in these local contexts:

- In this part of India, our research shows a combination of political inertia with the dominance of economic groupings which still retain an interest in the availability of forced, unpaid labor. This combination has generated a mindset in many locations in which the worst

forms of child labor are normalized, and indeed so commonplace as to become almost invisible even to those directly exploiting that labor.

- Even more painful, we found a barrier to change in the psychology of these poorest communities, who over the decades have come to believe that the hemorrhaging of their children into slavery in distant places is beyond their power to stop. Trafficking persists because these home communities have not been able to actively withdraw their consent. Unless the material and mental determinants of this outlook can be overcome in substantive ways, then other measures against child trafficking will be ephemeral and possibly irrelevant.

Between these dominant powers in rural areas and the poorest rural populations, we find a grim, unspoken consensus about the inevitability of child trafficking. It is this consensus that must be broken in order to create a context of human rights for these children.

In the increasing competition of trafficking and anti-trafficking forces at this time in northern India, our research has therefore found that one key component stands out as having decisive potential: The presence of determined, risk-taking and well-resourced organizations that are putting down roots in communities that are the source or the destination of these trafficked children. These organizations have a growing ability to see trafficking from the point of view of the victimized children, their families and communities. It is a perspective that privileges their human rights and day-to-day needs—rather than seeing their exploitation as simply normal. This perspective can point us to effective strategies.

In this report, we highlight some of the stark realities that underpin trafficking today in northern India, and some recommendations for bringing it to an end. We are clear that child trafficking is not an intractable problem, but it is one that deserves and requires focused and well-informed long-term strategies. This is a crucial time for change: this can and must be the last generation of children trafficked into slavery, denied their right to growth, development and dignity.

1. Focus and methods of the research

Our team of four researchers, two from India and two from the United States, worked together to explore the obstacles that have prevented effective prosecutions of traffickers. The researchers also examined the factors that have contributed to successful prosecutions. We examined child trafficking from villages in the Indian state of Bihar to a variety of forms of slavery in the neighboring state of Uttar Pradesh. These are both states with a severe problem of trafficking in women and children. The researchers interviewed 155 persons: trafficked children, families of missing children, police and criminal justice officials, labor inspectors and representatives of NGOs. We also joined in dozens of village meetings, we arrived unannounced in sheds where adults and children sat weaving carpets for the international market, we sat in police stations, and we observed in government offices. We reviewed relevant legal cases. Avoiding the “shocking case study” approach to research, we analyzed our data with the purpose of perceiving the patterns and factors that sustain child trafficking as a systemic problem. We followed internationally-recognized definitions of trafficking, bonded labor and child labor (see full report for these definitions).

2. The socio-economic context in source communities

The idea that poverty makes families vulnerable to trafficking is well-understood. But the reality of the poverty we witnessed exceeded any of our previous understandings: families in Bihar living in huts clinging to roadsides that are washed away several months of each year, with no chance to build up assets; no resources to make a living except for their raw labor; and when their labor power has no usefulness to landowners, whole families are reduced to subsisting on roots and snails. For such families, the possibility of money arriving from a family member who has gone to work in another state can mean the difference between life and death.

We identified eight main “push” factors driving trafficking from this region, and have targeted recommendations to address these factors:

Landlessness and insecurity of access to productive land are the key obstacles to overcoming hunger in these Bihari villages. Most rural families have to work on someone else’s land or have to pay for informal use

of land. In much of Bihar and Uttar Pradesh, these same landlords are also the local moneylenders. So in times of crisis and hunger, the families go to the landlords for loans, and their labor (including the children’s labor) becomes collateral for repayment of debts. The cycle of poverty and indebtedness continues, with families lacking regular sources of income or the ability to build up any assets.

Existing land redistribution legislation (such as the Bihar Land Reform Act of 1950) should be implemented, monitored by locally-based NGOs and central government agencies. Rural poor communities should learn how to pursue their claims to different forms of land and should be able to access legal loans and credits to invest in land productivity and food security. Village micro-credit schemes should give access to fair credit.

Over-reliance on agricultural employment is a major problem especially in Bihar. Agricultural labor provides part-time work—sometimes paid only in grain—for only six months a year. The lack of work during the flood season is a direct cause of child trafficking, since mothers are unable to feed themselves or their children at that time.

Innovative non-agricultural work projects, including asset-creating public works programs, should be established. It should be a high priority to implement the National Employment Guarantee Act, offering 100 days of employment to unemployed adults, in these source communities. Monitoring by local NGOs would be necessary to prevent corruption of such schemes. In addition, cooperatives, self-help groups and income-generation schemes should be established to diversify away from sole dependence on agriculture.

Vital food relief is not distributed properly. When we asked parents why their children had left for work, the most common reply was not only lack of income, but that during times of hunger, the statutory right to food relief was not available to these families. In the government food-grains supply schemes, all families below the poverty line should receive rations, with the amounts varying by family size. Yet typically, the most needy landless laborers have no Ration ID cards. Local landowners and leaders of local government become responsible for distribution of food, and we were told that rations rarely reached beyond the favorites and family members of these individuals.

NGOs and community organizations need to monitor food distribution, especially during food shortages and low-work seasons. They need close communication with district government in order to report abuses. All families below poverty line should have a Ration ID, and these rations should include protein sources, as well as grains.

Child trafficking is part of wider patterns of inter-state labor migration, which make it harder to identify and address. In the absence of paid work in these villages in Bihar, migration of millions of people to Uttar Pradesh and other locations is a long-time pattern. Migrant laborers are away for 5–8 months, returning to home villages in Bihar for a few months before leaving again. Traffickers can easily take advantage of children's expectations that as they grow up, they will be migrating for work.

Inadequate or non-existent schools contribute to vulnerability to trafficking. Families are more ready to send a child away with a labor recruiter if they are told that the child will be placed in school at least some of the time. Children not in school are much harder to monitor and protect. Likewise, the persistent failure of the education system means most parents do not expect school attendance to contribute to the family's survival. It is then important to parents that their child enters the workplace at the earliest possible age. Across Bihar, in 2000, according to UNDP, only around half of primary school age children were in school.

Villages known to be a source of trafficked children should be prioritized for improvement of educational facilities. Government allowances related to school attendance for the poorest children and those vulnerable to child labor should be fully implemented. Midday meals should be provided at school for all children. In the higher grade-levels, the school curriculum should include elements with obvious future income-earning value.

Gender roles that disadvantage women economically increase the vulnerability of children to trafficking (as well as the vulnerability of the women themselves). When women are paid (rather than receiving grain for their work), they are paid less than men. Other work opportunities away from the village are also less available. So when men leave the family, cannot work, or when they fail to send money home, women have great difficulty supporting their families. If going with a trafficker seems to be the only hope for

a child to be fed, these women feel there is no choice but to let them go. We found a further gender dimension to trafficking: Most anti-trafficking outreach is carried out by male workers who, within this culture, have minimal access to female village residents. Another finding was that male respondents tended to know that children had been sold to traffickers, whereas females in the same families sometimes were unaware that money had been taken in exchange for the children.

NGOs should prioritize organizing women to reduce their power imbalance and economic disadvantage. Women should be included in all anti-trafficking outreach teams.

Nearly all children who are trafficked come from the most discriminated castes and religions. Traffickers tend to come from the same or slightly "higher" groupings.

Globalization is a factor which in some ways promotes trafficking. Further investigation is needed to understand how the globalization of India's economy may be driving demand for trafficked children in some export industries, such as rug weaving. One specific element of globalization - the Indian government's implementation of Structural Adjustment Program - is clearly driving trafficking through curtailing the level of investment in education, health, and economic development that would protect the poorest from vulnerability.

All these factors add up to a reality in which allowing children to be taken away is a tragedy that parents silently cope with on their own. It is just one more circumstance that is beyond their control. While parents (and the children themselves) cannot imagine that anything can be worse than the situation in home villages, they will not put up effective resistance to children being taken away. In these villages, families believe they know exactly what the child's bleak future will be, and the broker then arrives as a source of hope.

Anti-trafficking interventions need to focus above all on giving these families very substantial and specific grounds for hope for something better: tangible changes that outbid the false promises of the traffickers.

3. Trafficking patterns and public awareness

This research did not attempt to add to the variety of overall estimates on the scale of the problem of

trafficking in India. However, we reviewed estimates from reputable NGOs and printed sources regarding levels of bonded child labor within the affected districts. All these estimates indicated that the problem affects tens of thousands of children in these districts (see full report for details on these estimates). Without improvements in levels of reporting and more consistent governmental focus on trafficking, attempts to put a definitive number on levels of child trafficking are unlikely to be accurate.

Despite this lack of accuracy in any estimates of the problem, it is easy to find children who are being forced to labor under violence and threats in this part of India. We witnessed trafficked and bonded children working in the following industries: forced prostitution; carpet weaving and finishing; brick kilns; stone quarries; domestic service; *sari* weaving and finishing; and agriculture. Children are working in hundreds of other types of dangerous and damaging forms of labor across this region and in other states of India.

Industries known to use illegal child and bonded labor should be targeted for special industry-wide systems of monitoring, with NGO collaboration.

We explored in depth the methods traffickers used to recruit children. We discovered the following:

- Middlemen are trusted in the source communities. They are often related to someone in the village; they use these connections to reassure families of the children they want.
- Traffickers sometimes give cash advances to parents and consistently deceive them about the nature of the work and access to education. The work is nearly always described as “light work” such as domestic service or animal husbandry—and of course in the case of girls, the parents are not told she will be forced into prostitution. Parents are often promised further payments for their child’s work. Typical of such deception was the following quote from a released bonded child laborer: “He said that if I came with him to work, I would just cut paddy or do petty agricultural work.... So I went, but when I got there I was beaten and put to work in a loom.”
- Traffickers prey on young people’s desire to get ahead, to contribute to family income, and

especially in the case of girls, to escape the limitations of life in their home village.

- Trafficking victims are kept and controlled in slavery through three inter-related mechanisms: firstly, creating a sense that the worker has a debt that they must pay off; secondly, the direct use of violence, and thirdly, the improbability of any effective application of India’s laws by police or labor inspectors.

Community outreach should be increased to origin villages to educate parents and adolescents about the following topics: common recruiting deceptions; the risks of migration, even when children are sent with known individuals; labor rights, including the right to be paid and the illegality of debt bondage; laws on child employment. More employment opportunities for women should be created so they have safe ways to improve their lives.

The progress of anti-trafficking initiatives in this part of India is very mixed. There are few significant results of anti-trafficking efforts to reduce child prostitution in these two states, but, by contrast, it is clear that slaveholders in carpet-making and brick kilns are under pressure from such initiatives. One sign of this is the movement of such industries from traditional areas to new locations, as well as increasing use of local rather than imported child laborers. Progress against trafficking is limited by the low level of awareness and understanding of the issue by officials, the public and even NGOs. Some government officials we interviewed tended to deny the existence of child trafficking altogether, and some thought only in terms of forced prostitution, rather than the many other industries for which children are recruited.

Public media should be used to disseminate information on the prevalence and illegality of child trafficking. Government employees should be given official directives alerting them to prevalent trafficking patterns and requiring them to take appropriate actions.

4. The Legal Context

India has considerable legislation relating to this issue (e.g., prohibiting slavery, trafficking for commercial sexual exploitation, and exploitation of migrant labor), but it lacks a comprehensive human trafficking law.

- India’s Penal Code is one source of punishing traffickers for offenses such as kidnapping,

slave trading and trafficking for prostitution, but in many cases, the punishment is not commensurate with the severity of the crime.

- The Immoral Traffic (Prevention) Act 1956 makes trafficking of children and women for commercial sexual exploitation an offense, but although it could be used to prosecute brothel owners, it is women and girls who have been forced into prostitution who are routinely arrested on charges of seduction or soliciting, while pimps and brothel keepers are rarely booked. *The ITPA should be used against those controlling the sex industry, rather than further victimizing the women and children. In addition, there should be regular inspection visits to licensed entertainment venues, in order to prevent such venues from being used as a cover for forced prostitution.*
- The Bonded Labor (Abolition) Act 1976 provides for punishment for individuals exploiting bonded laborers. However, its penalties are lenient (maximum of three years imprisonment or a fine of up to 2,000 rupees, approximately US\$44). Also, evidence under the Act is hard to gather, and the Act's effectiveness is inhibited because implementation relies on state governments. The Supreme Court in 1996 gave a landmark ruling relating to this Act, specifying a compensation package valued at 25,000 rupees to be provided to every child illegally employed. *There should be improved national laws pertaining to rehabilitation of trafficking victims and their families.*
- The Child Labor Act 1986 prohibits employment of children under 14 years in certain hazardous industries. It regulates hours of work and time off for children under this age who are working in industries deemed non-hazardous. Any individual can file a complaint about children suspected of working in ways prohibited under the Act. However, penalties for breaking these laws do not amount to a deterrent. A difficulty in implementation is related to obtaining confirmation of a child's age. We found repeated complaints of pressure being put on medical officers to find that children are older than they really are. Prosecutors are not legally entitled to seek verification from another source about the child's age. *Further legislation should enable*

second medical opinions to be sought where there is doubt about a child's age.

- The Juvenile Justice (Care and Protection) Act of 2000 makes states responsible for providing care and treatment of child victims of trafficking and other crimes. It calls for (but does not require) the establishment of Child Welfare Committees in every District and for states to provide children's homes. At the time of writing, neither U.P. nor Bihar had set up such committees. *An amendment should require states to take action on the mechanisms recommended under the Act.*
- In 1998, following two landmark cases, the resulting Committee on child prostitution and children of prostitutes prepared a Plan of Action against sexual exploitation of women and children. The Bihar and U.P. governments have yet to implement this Plan.

Criminal sanctions against human trafficking are often too lenient, scattered across many different laws, and largely underutilized by the states worst affected by trafficking. *The passage of unified, comprehensive legislation on human trafficking could be a platform for significant progress in the awareness of public officials. It could also serve as a clear tool for use by NGOs and human rights attorneys. Such legislation could either be passed at state level (the Goa Children's Act of 2003 might serve as a useful model) or at a national level. A key element of such legislation should be effective measures for protection of witnesses and victims, otherwise many prosecutions will continue to collapse due to witness tampering.*

In addition, interview data regarding the effectiveness of current laws converged around three specific improvements to India's laws pertaining to child trafficking:

- Even for those families successful in receiving compensation packages, there is a danger that they will pass these resources directly to the slaveholders for whom the family is working as a bonded laborer, rather than using the resources for sustainable income-generation. *District officials and NGOs need to work closely with such families to make sure these resources are used to prevent the children being re-enslaved.*
- *Registered NGOs should be given status to file legal cases against traffickers. Currently only*

individuals can do this, and this places individuals at risk of harassment and violence by the perpetrators. Also given how long these legal cases are held in the courts, individuals may not be available at the crucial time.

- *Securing justice for trafficking survivors would be enhanced by further legislation along the lines of the Delhi Right to Information Act.* Such legislation allows citizens to get information from local government officials about entitlements and administrative procedures.

5. Institutional Context

Traffickers keep and control child victims using debt bondage and violence, but weaknesses in the government's ability to enforce laws also contributes to this control and exploitation. The key element in this lack of consistent enforcement is that prosecution of trafficking cases, providing justice to the least powerful in society, is not given determined and continuous attention. Systems of criminal justice in all countries struggle to maintain integrity and to provide equal treatment under the law: Our researchers heard numerous allegations about influence on the justice system by powerful elements of society, often connected with the traffickers, as well as straight-forward taking of bribes. Insufficient training, absence of collaboration, and a dearth of law enforcement resources also contribute to weaknesses in the system, of which traffickers take full advantage. Where a lack of governmental integrity exists, we found that trafficking cases tended to be obstructed long before prosecution could take place. Labor officials, local police, medical officers, and witnesses were all susceptible to influence, and cases would be dropped in their early stages. *NGOs assisting victims should strengthen their capacity and expertise to enable them to be vigilant in ensuring these cases are pursued. NGOs should place as much emphasis on this as on rescue and rehabilitation activities.*

While many judges and other officials were aware of the vicious cycle of poverty, debt bondage, child trafficking, there is still a need for further awareness-raising in the judiciary. At present the training available at all levels, from the highest judges to the local police constables and villages officials is piecemeal and irregular. When training does occur, improvements are seen, but only a minority of those needing training has received it. It is critical that support and resources for

training come from the highest levels: many local officials felt that such awareness-raising would simply generate greater workloads. *Regular training workshops on different forms of child trafficking as well as updates on the law and joint planning of response to cases is needed, bringing together law enforcement, Labor Department and NGOs. The full report provides details about the content and participants for such training.*

Across the institutions of state, district, and local government, law enforcement, and the judiciary there is one critical overarching deficiency in response to child trafficking: These actors fail to share a common policy that puts the welfare of the child first and foremost. Evidence of systematic collaboration across government departments, across different regions and across the divide between government, NGOs and community will be one way by which progress in prioritizing the issue, above other considerations, can be measured. Our research revealed encouraging examples of the outcomes, when collaboration of this nature took place. *A consensus built around the immediate protection and care for child victims would unify the aims if not the roles of institutional actors.*

6. Law Enforcement–Identification and Investigation

The desperation of destitute parents combined with the trickery of traffickers and the perception that it is normal for children to be recruited for work in other states means that child trafficking is rarely reported by the families affected. When local landowners cooperate with traffickers, and also exert influence over local law enforcement, the result is that when there are reports of child trafficking they are not acted on. At the same time, the cultural devaluation of women and girls results in their cases being even less likely to be reported. *Posting women police officers in every police station to receive reports of abuse could help with this problem.* A further factor reducing reporting of trafficking is the perception by parents that they depend on locally powerful people (often connected with the traffickers) in the delicate web of credit and subsistence in which they live. Also, the fact that many, if not most, parents of trafficked children are illiterate and ignorant of the law means that their concerns are easily thwarted. For this reason, reports of child trafficking made by non-governmental organizations on behalf of parents are more likely to be taken up. *There should be an*

increasing NGO outreach in villages to enable people to report missing, potentially trafficked children.

When cases are reported, two further obstructions reduce the number of traffickers brought to justice. Firstly, while the accused deploys a defense attorney during the investigation (prior to the prosecution), child trafficking victims cannot afford anyone to help them compile evidence or strengthen their initial testimony. The second obstruction, the poor quality of evidence collection by the Investigating Officers, reflects again the lack of institutional consensus. Those cases that have led to successful prosecutions seem to require both NGO participation and the pressing of the case with all institutional actors at once. Lacking a unified plan for response different agencies and levels of law enforcement are operating in parallel rather than in cooperation.

7. Law Enforcement–Prosecution

Following closely the process of prosecution, we identified seven key blockages or challenges that prevent traffickers coming to justice:

1. a reluctance to enforce anti-trafficking and related laws. With some important exceptions, local law enforcement, district administrators and state government in U.P. and Bihar seem insufficiently motivated to enforce child trafficking and bonded labor laws. A fundamental challenge is getting senior officials such as District Magistrates, Superintendents of Police, and Assistant Labor Commissioners to acknowledge the problem.
2. anti-trafficking and related laws are enforced selectively, and the most effective charges are not always used against traffickers. Selective enforcement is especially problematic when female trafficking victims, forced into prostitution, are themselves prosecuted for soliciting while their traffickers and pimps are not charged.
3. a simple lack of resources needed by law enforcement—vehicles, cameras, and funds for investigation expenses.
4. a fourth challenge exists in the current bureaucratic division between investigators and prosecutors: Once the investigator has completed their work, new evidence cannot be secured or used, and more appropriate charges cannot be brought.
5. a lack of training for police and judiciary represents the fifth challenge to successful prosecution. Some

- cases have fallen because current anti-trafficking and related laws were not well understood.
6. the lack of swift justice. Backlogs in the courts and other delays mean that a trafficking case typically takes five to seven years if the defendant is convicted and finally sentenced.
7. Witness tampering causes many trafficking cases to collapse. This takes place for a number of reasons including: insufficient police resources for protection of witnesses; breach of confidentiality of witness information; and corruption among public officials and police authorities.

To help overcome these challenges, NGOs must stay involved in pressing for effective prosecution of trafficking cases from rescue of the victims to conviction of the trafficker. This would mean, for example, that they would help ensure that all leads on evidence are followed in the initial stages. It would also require involvement of an independent lawyer to safeguard the interests of the victim. This has significant resource implications. Having witnesses give written testimony or give evidence in front of a magistrate at an early stage would help prevent witness tampering.

8. Rehabilitation and Reintegration

The rehabilitation and reintegration into society of trafficked children is the final step in the process, and works best when there is collaboration between NGOs, police, labor officials, and magistrates. In every case, children from Bihar rescued from trafficking in U.P. or other states faced difficulties during rehabilitation and reintegration. Most NGO workers see rehabilitation as a challenge in U.P. and Bihar due to inadequate legal support, improper implementation of official procedures, or in some cases government insensitivity.

At the most fundamental level, a holistic response is required to both rehabilitate and reintegrate trafficked children, and to prevent further trafficking and exploitation. We have found examples of very effective reintegration work. *In addition to the immediate care needs of the children (shelter, transitional education, counseling, medical care, identification of family members), we have identified key elements of their long-term rehabilitation, such as securing the compensation package to which their family is entitled; ensuring this compensation is invested in income-earning assets; that children are enrolled in school; and that the family benefits from housing schemes to which*

they are entitled. Currently, none of this is likely to take place without the constant attention of an NGO working with the family and with the authorities both in the area that the child has been trafficked to and where s/he is returning.

When NGOs, communities and the authorities join forces to carry out effective rehabilitation, the results have a much wider impact than on individual families. Above all, these same activities tend to create greater resilience to trafficking in the whole village. For example, a child cannot be rehabilitated through schooling, if the village school is not functioning; likewise, one cannot help a child have legal protection from future exploitation if no one else in the village knows how to assert their legal rights. *Rehabilitation happens best within a process that changes the overall context in the family and village.* Clearly, to address fundamental issues such as poverty, power, and gender imbalance is a much more complex and involved process, but the organizations that have done so within the area of this study show that it can be done effectively and relatively inexpensively.

9. Successes in Combating Child Trafficking

To better understand strategies and mechanisms that lead to successful prosecution of trafficking in India, we carefully examined four organizations with a good track record in combating trafficking. These were: *Sanlaap*, based in Kolkata, West Bengal; *Prerana*, based in Mumbai, Maharashtra; *Arz*, based in Vasco da Gama, Goa; and the *Uttaranchal Development Institute*, based in Banbasa, Uttaranchal. *A common element in all of their efforts was the building of consensual coalitions focused on combating child trafficking.* These took the shape of an anti-trafficking task force, a cross-border action committee, less formal but in-depth relationship building with law enforcement, or broad-based community organizing. In each locality the NGO formed the nucleus of a unified plan of action, as well as providing much of the work needed to bring about the prosecution of trafficking cases. *A challenge to the Indian government is the need for official and institutional leadership and a unified response where no NGO exists to fulfill that role.*

Chapter 1 - Introduction

1. Scope and intention of this study

The focus of this study was to research and describe the obstacles that have prevented effective prosecutions and convictions of traffickers, and conversely, the factors that have contributed to successful prosecutions. In northern India we examined trafficking of children from villages in Bihar to a variety of forms of slavery in Uttar Pradesh.

Reports from non-governmental organizations (NGOs) and the Indian central government provide inadequate information on such trafficking. Although government and NGO reports frequently cite ideas or put forth plans concerning what needs to be done, there is little or no evaluation of what is actually occurring. Through assessing the many factors supporting child trafficking, we hope to offer practical recommendations based on more solid evidence. We chose as our area of research two states: Uttar Pradesh and Bihar where trafficking of women and children is severe. In Uttar Pradesh and Bihar past efforts at resolving the issue have resulted only in changing the patterns of trafficking, but do not seem to have reduced the flow of children and women into slavery.

The intention was to give hope of constructive changes that would move toward the elimination of trafficking in children for bonded labor and sexual servitude or other slavery. It was necessary to quote directly from some interviews, and to summarize negative aspects of other interviews and observations, in order to present an honest picture. Although some of the material may seem unacceptable to those in sensitive or responsible positions, if we were to remove it then the report would not be effective. It is our hope that all concerned will recognize that by giving suitable suggestions, we attempt not only to point to areas of difficulty but also to help in identifying corrective measures.

2. Methods of research

We sought to answer these overarching questions:

- What conditions make families with children vulnerable to trafficking?
- What obstacles in the law enforcement and criminal justice processes prevent effective prosecutions and convictions of traffickers?

- What would make identification, investigation, prosecution and convictions of traffickers more likely?

The focus of this research is on children who have been trafficked. But in seeing that the trafficking of girls and boys differs, according to entrenched gender inequalities, we sought to bring a gender-based analysis to the question of vulnerability to trafficking. In this way we hope to gain a better understanding of the particular vulnerability to trafficking of girls and women, and the different ways in which they are exploited through slavery.

A team of four researchers, two from India and two from the United States collected the data through fieldwork between September 2004 and January 2005 in two states of northern India. In Bihar, the focus was on the source districts of Araria, Purnia, Katihar, Saharsa, and Khagaria. In Uttar Pradesh, the destination districts of Varanasi, Bhadohi, Allahabad, Mirzapur, and Sonebhadra were studied.

We collected the data for this report in three ways: interviews with 155 persons, participant observation, and analysis of legal documents. The individuals interviewed included trafficked children, families of missing children, informants from many levels of the police and judiciary, labor inspectors, political leaders, and representatives of non-governmental organizations. In providing quotations, we have tried to indicate the role of each informant without intending to reveal their personal identities.

Fuller information about the research methodology may be found in Appendix A.

3. The overall picture

In northern India, thousands of children are forced to work in carpet making, *sari* weaving, prostitution, and other industries. A remarkable finding gradually appeared as we spoke with our range of informants. Child trafficking in India occurs in plain sight, an outcome of desperation and the will to survive.

In India, labor migration is common. Children, teenagers, young adults and even the elderly travel for work. They will do almost anything to earn enough to

get by. Even young children in better-off families leave their homes to go to school, and when they complete their studies, they may leave their region for work. Children in poor families simply go where they hope to find paid employment. For parents in rural India, this may be regrettable, but it is a normal and expected reality.

For human traffickers, however, the matrix of migration patterns is a reality pregnant with possibility for exploitation and profit. Offering false promises of wages in exchange for their children, traffickers feed on the desperation of vulnerable families. Removed from their homes, trafficked children do not earn the promised wages, and their lives degenerate into slavery.

Boys as young as four or five meticulously lace wool threads through looms encased in tiny huts without ventilation, where the temperature may top 48°C (118°F) in the searing summer heat of Uttar Pradesh. With little food or water, the children are malnourished and often suffer from chronic illnesses and parasites. Their bodies are scarred from the beatings they receive from the loom owners and the cuts they suffer from their own looms and wool-cutting knives.

Girls who have left home to find work also may be forced to labor, unpaid, under unbearable conditions—collecting cow dung, preparing food, sweeping floors, cleaning clothes, washing dishes—serving their masters in the homes of rural landlords and the more affluent urban classes. Girls in domestic servitude are sexually abused at the whim of the men in the household where they serve, while other trafficked girls find themselves under the control of pimps and madams in brothels.

And while the children are the immediate victims of trafficking, this report finds that their parents are also exploited. In the flood-prone flatlands of Bihar, just south of Nepal, the landless are desperate for work. The traffickers take advantage of this desperation. Parents are poor, vulnerable, dispossessed, and laboring

in debt to landlords. Child traffickers target a family's needs, promising hope and survival in exchange for a child.

But poverty and desperation are not the only causes of child trafficking. Although the Government of India has passed a number of laws to fight human trafficking and the related problems of child labor, bonded labor and forced prostitution, criminal traffickers act with impunity. Enforcement of anti-trafficking and related laws is minimal, prosecutions of traffickers and employers are rare, and re-victimization is common. Employers of trafficked children avoid law enforcement by exerting influence and sometimes even bribing lower level officials.

According to the Government of India's own estimates, during the 25 years since the passage of the Bonded Labour Act, 280,411 bonded workers have been released. Sources in the United States Department of State point out that this constitutes only 5% of the total estimated number of bonded laborers in the country.¹ A Kolkata-based NGO states that 80-90% of the arrests made under the Immoral Traffic (Prevention) Act in West Bengal in the 1990s were of people engaged in or forced into prostitution, with little penalty for traffickers, pimps, or the abusers of these young women.²

Because there is no central government law to establish jurisdiction over interstate crimes, trafficking between states is especially difficult to investigate and prosecute.³ Collaboration among various sectors may also be absent. As Amar Saran, previously a volunteer lawyer for a children's rehabilitation center and presently a High Court Judge, stated in the *Bihar Times*:

A practical solution to the child labour menace is only possible if the Welfare Department networks with the education and police departments... The Labour commission cannot work in isolation.⁴

¹Bureau of Democracy, Human Rights, and Labor, *Country Reports on Human Rights Practices 2002* (Washington, DC: US State Department, March 2003).

² Office to Monitor and Combat Trafficking in Persons, *Trafficking in Persons Report 2003*, U.S. Department of State Publication No. 11057 (Washington, DC: US State Department, June 2003).

³ Ibid.

⁴ Frank Krishner, "Child Labour Commission ineffective?", *Bihar Times*, no date.

If these are the broad strokes in the portrait of child trafficking in northern India, the rest of this report looks closely at the details. In particular, this report looks into as many of the dimensions of this crime as it was humanly possible to observe, with a key guiding aim—to increase successful prosecutions and convictions of traffickers. It explores the many factors that underlie how traffickers get away with stealing children from Bihar to work as slaves for “employers” who will go unpunished in U.P. Almost all of these abuses occur in plain sight.

4. Definitions

There are very few studies of child trafficking in India and even fewer formal social science papers or reports available for review. The sources cited in this section are various, but they are mainly governmental policy reports and NGO needs assessment studies.

Child

Most existing literature on child labor and child trafficking is in agreement with the United Nations definition of a child as a person who has not yet completed their eighteenth year.⁵ Indian laws, however, lack consistency. The Child Labour (Prohibition and Regulation) Act, 1986 (CLA) defines a child as “a person who has not completed his fourteenth year of age”,⁶ while the Immoral Traffic (Prevention) Act, 1956 (ITPA) defines a child as “a person who has not completed the age of sixteen years.”⁷

The most up-to-date Indian laws follow the Juvenile Justice Act, 2000 (JJ Act), which defines a child (or “juvenile”) as “a person who has not completed their

eighteenth year of age.”⁸ The JJ Act, 2000 corrects many inconsistencies between age definitions for male and female children and juveniles that existed in some national laws, but it does not replace the definition of child in the CLA, 1986 or the ITPA, 1956.

In this report, a child is a person who has not completed their eighteenth year; i.e., who is under the age of 18.

Child labor

The International Labor Organization Convention ILO 182, 1999, to which India is a signatory country, recognizes that child labor constitutes employment of children below the age of fifteen, thereby denying children their full physical, psychological, emotional, and social development. This Convention calls for the elimination of the worst forms of child labor, including bonded labor, slavery, and child prostitution.

The Government of India does not provide a specific definition of child labor, nor does it prohibit all child labor. According to the CLA, 1986, the minimum age for entry into the workforce is fourteen. However, the CLA prohibits employment of children in seventy occupations and processes that are considered to be hazardous.⁹ The Act also regulates the conditions of child employment in occupations and processes which are not prohibited.¹⁰

*In this report, child labor refers to any person under age eighteen working with or without wages, under conditions damaging to their physical, social, emotional, and spiritual development.*¹¹

⁵ The Rights of the Child Convention (1989), Article 1, “A child means every human being below the age of 18 years unless, under the law applicable to the child, majority is attained earlier.”

⁶ CLA (1986) Part 1, Sec. 2 (ii).

⁷ ITPA (1956) Sec. 2 (aa).

⁸ JJ Act (2000) Ch. I, Sec. 2 (k).

⁹ CLA (1986) Part II, Sec. 3.

¹⁰ CLA (1986) Part IV.

¹¹ Following ILO Convention 182 (1999).

Bonded labor and slavery

Bonded labor is a form of slavery, which is prohibited in India according to the Bonded Labour System (Abolition) Act, 1976 (BLA). To summarize the BLA definition, bonded labor refers to

- any labor or service rendered under a system of slavery
- in which a person has agreed to work for an employer
- in exchange for an advance or loan, or
- in pursuance of obligation or social custom,
- while denied the freedom of movement and employment or
- [denied] other means of livelihood.¹²

It is an important characteristic of debt bondage in South Asia that once a loan is contracted, the work provided by the borrower (and normally that of his or her entire family) is not received as debt repayment, but as collateral against the debt. In India, an historic patron-client relationship often exists between employers and laborers, which employers exploit using this traditional form of collateral debt bondage, as well as the laborers' sense of social obligations, and their ignorance of law. Although exploitative, such practices are explained by slaveholders as benevolent, particularly in that the system provides loans to landless laborers who have no other access to credit.¹³

In this report, bonded labor is a system of slavery in which a person is denied freedom of movement and employment, or other means of livelihood, after agreeing to work for an employer in exchange for, or as collateral against, an advance or loan, or through obligation or social custom.

Bonded child labor

In 1982, the Supreme Court of India expressed its opinion in *People's Union for Democratic Rights vs. Union of India*:

Child labor is a kind of forced labour and should be abolished.¹⁴

This opinion implies that all child laborers are in bondage, as all child labor is forced labor.

It should be noted that a child is not a consenting party to any employment relationship, since a child has no legal authority to represent his or herself. Therefore, no child can *choose* or give their consent to work, whether it is for their parents or relatives or for a stranger. Throughout northern India, NGO activists that rescue and rehabilitate trafficked children refer to illegally employed migrant child laborers as bonded child laborers.

In practice, however, law enforcement authorities make a distinction between illegal child labor and bonded child labor when applying the law. Labor officers who enforce regulations including the CLA, 1986, consider illegal child labor as any child below age fourteen employed in a prohibited occupation or process by someone other than his or her family.

According to those we interviewed, bonded child labor occurs when a child is illegally employed in a prohibited occupation or process, and is required to repay, or provide work as collateral against, a debt or advance. This applies even if the child's parent or guardian has given a middleman, contractor, or employer permission for the child to work for an employer. Given the framework under which such work is contracted it is assumed that it is additionally, damaging to their physical, social, emotional and spiritual development.

In this report, bonded child labor refers to any person under eighteen controlled by violence or its threat, receiving no remuneration beyond subsistence, and economically exploited, who is forced to work for an employer in exchange for an advance or loan, or in pursuance of obligation or social custom, in which the child is denied the freedom of movement and employment or other means of livelihood. It can also refer to those children caught up in work because their families are required to provide labor in exchange for an advance or loan, or in pursuance of obligation or social custom, in which the child is denied the freedom of movement and employment or other means of livelihood.

¹² See BLA (1976) Chapter I, Sec. 2 (e) and (g).

¹³ Krishna Upadhyaya, "Bonded Labour in South Asia: India, Nepal and Pakistan," in *The Political Economy of New Slavery*, ed. Christien van den Anker (New York: Palgrave Macmillan, 2002), 121.

¹⁴ All India Records (1982) SC 1473.

Child prostitution and commercial sexual exploitation

No child can be a consenting party to sexual activities with an adult. In India, a distinction between prostitution and trafficking is often posited on the understanding that prostitution is a form of labor available to women who have few alternatives for employment or livelihood.

The Immoral Traffic (Prevention) Act (ITPA), 1956 defines prostitution as “sexual exploitation or abuse of persons for commercial purposes.”¹⁵ Yet there is no Indian law, including the ITPA, which prohibits it. It is not an offense if an adult woman or man chooses to prostitute her- or himself. The ITPA, however, prohibits certain activities associated with prostitution, particularly those activities of an exploitative nature that are associated with organized prostitution of women and children, such as pimping, brothel keeping, trafficking, and living off the earnings of a prostitute.

The ITPA defines a child as a person under sixteen¹⁶ and a minor as a person between sixteen and eighteen years of age.¹⁷ The concept of child prostitution is not limited to the commercial sexual exploitation of children by customers who pay to have sexual intercourse with juveniles. The commercial sexual exploitation of children encompasses a variety of forms of sexual activity for the profit of others, including such actions as involving children in the making of pornography or making children in bars perform dances involving stripping and touching.

In this report, child prostitution means the sexual exploitation of persons under the age of eighteen for commercial purposes.

Child trafficking

The terms trafficking in persons and human trafficking have recently gained wide currency internationally. According to the United Nations,

“Trafficking in persons” shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs.¹⁸

The comprehensive UN definition encompasses concepts of bonded labor, bonded child labor, and child prostitution as forms of trafficking in persons.

The concept of human trafficking is relatively new in India where some conceptions of human trafficking appear to be at odds with each other. One view appearing in much of the Indian literature is that human trafficking pertains only to exploitation (mainly of females) for commercial sex. Another view is that trafficking in persons pertains to the inducement and procurement of persons for compulsory labor in agricultural and industrial production or domestic service. It is important to note that trafficking does not mean that a child or adult has to be transported long distances, or even out of their own district, nor does receiving basic subsistence, such as meals and a place to sleep, remove the possibility that a child has been trafficked.

In this report, child trafficking is:

- *procurement, recruitment, transportation, transfer, harboring or receipt of persons under eighteen,*
- *legally or illegally,*
- *within or across borders,*
- *by means of threats, force or other forms of coercion, abduction, or by*

¹⁵ ITPA (1956) Section 2 (f).

¹⁶ ITPA (1956) Section 2 (aa).

¹⁷ ITPA (1956) Section 2 (cb).

¹⁸ “Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention Against Transnational Organized Crime,” UN General Assembly Resolution 55/25, annex II, UN GAOR, 55th Sess., Supp. No. 49, at 60, UN Doc. A/45/55 (Vol. 1) (adopted 2000).

- *fraud or deception, or by*
- *abuse of power or exploitation of vulnerability,*
or by
- *giving or receiving payments or benefits to*
achieve the consent of a child or the guardian
controlling the child,
- *for the purpose of commercial sexual*
exploitation, slavery, or other servitude.

Chapter 2 - The Socio-Economic Context

Poverty in the abstract is worrying; true destitution confronted first-hand is shocking. The idea that poverty makes families vulnerable to trafficking was well-understood by our researchers. The reality exceeded our understanding: women and children in Bihar living in huts clinging to roadsides that are washed away several months of the year, with no chance to build up assets, no resources to make a living except for their raw labor, subsisting on roots and snails. For such families, the possibility of money arriving from a family member who has gone to work in another state can mean the difference between life and death.

High levels of poverty are linked to bonded labor and child trafficking, and poverty is pervasive and severe in the states of Bihar and Uttar Pradesh. In India, where 47% of children are under age five, and some 60 million children are malnourished, the states of Uttar Pradesh and Bihar are especially poor.¹⁹ Uttar Pradesh, with its 166 million people, is the most populous state in India, with 8% of the entire world's poor within its borders.²⁰

While there are few studies of child trafficking in the region, existing research on child labor explores a range of underlying causes of children's vulnerability to exploitation. Aside from the central role of poverty, there is no unanimity among Indian authors, policy makers, government officials, and activists about the causes of child labor. The questions are primarily those

of emphasis—asking which of various factors are most important in predicting child labor.

Clear causal factors include India's rapidly growing population (now over 1.028 billion)²¹, poverty and unemployment (or underemployment) of parents, illiteracy, and lack of access to formal education. Significant inequalities of wealth result in a context of chronic poverty for some families in which children are compelled to work. The immediate pressure of family survival outweighs the educational needs of children.²² One ILO-IPEC project evaluation noted that in their school-based intervention for working children aged 8-12 years previously not enrolled in school, 85% of the enrolled working children continued to work in hazardous occupations, while 10.5% dropped out of school—93.5% of whom dropped out because of the pressure of household work and because their parents would not allow them to continue school.²³ Clearly poverty is rooted in broad problems that to some degree affect all of society—unemployment, inadequate income when working, and the demand for children as cheap labor.²⁴ As we move into our specific research findings we will explore how these factors have an impact upon child trafficking specifically.

1. Land distribution, landlords and loans

Land redistribution according to existing legislation such as the Bihar Land Reform Act of 1950 has not yet been accomplished.

¹⁹ For 2004, from UNICEF, *State of the World's Children 2005* (New York: UNICEF, 2005). According to UNICEF's measure of malnourishment as the percentage of children under five (1995-2003) suffering from moderate and severe underweight. Moderate - below minus two standard deviations from median weight for age of reference population; severe - below minus three standard deviations from median weight for age of reference population.

²⁰ 1998 estimate from World Bank, *Poverty in India: The Challenge of Uttar Pradesh* (Washington, DC: World Bank, May 2002).

²¹ India's 2001 Census put the population at 1.028 billion. The United Nations projected in its 2004 revision of the *World Population Prospects* that India's population will swell to 1.592 billion in 2050, surpassing China's population. Reported in *The Hindu*, Feb. 26, 2005.

²² Sunil Deshta and Kiran Deshta, *Law and Menace of Child Labor* (New Delhi, India: Anmol Publications, 2000).

²³ K. N. Bhatt, "Integrated Area Specific Programme on Elimination of Child Labor from Hazardous Glass and Bangle Industry of Firozabad: An Evaluation Report," (Allahabad: G.B. Pant Institute, December 2003), 5-6.

²⁴ Deshta and Deshta (2000), 15-20; Lakshmidhar Mishra, *Child Labour in India* (New Delhi: Oxford University Press, 2000), 27-30.

Visit to a source village: Khagaria, Bihar

It took two hours driving in a jeep to get to the village from the district headquarters of Khagaria, where the closest government administration offices, hospital, and magisterial officials were located. The place was not far from the road, an unpaved “highway” that led north to Nepal. The surrounding land was muddy and moist. All around, the land was used to grow corn, but this place was in a flood plain. In a few weeks, heavy rains would come and flood the land.

The people were visibly poorer than the villagers we visited throughout Uttar Pradesh, the neighboring state that hosts industry, commercial agriculture, and a thriving service sector. The villagers’ clothes were dirty and appeared very old, tattered and frayed—as if the people wore the same clothes every day and had no way to wash. Everyone had muddy feet and mud on their clothes. Nothing was paved and since everything was moist from humidity or rain, mud stuck to everything that touched the ground. There was no electricity or plumbing. Hand-pumps drew water from wells—when they were full, the people said. The nearby fields served as the common latrine

In this hamlet, the houses were all made of straw, reeds, and mud. The walls appeared to be made with timber, but on closer inspection were only straw plastered with mud, the roofs thatched with straw, reed, or palm frond. There were only a couple of buildings made of brick. The temple was clearly the most solid and ornate building, standing out from all the others. Made of concrete, its walls were decorated with sculpted deities.

It was morning on a weekday when we visited, yet there were scores of children about, clearly not attending school. The children appeared unhealthy. Their hair was unkempt, their faces and bodies were dirty, and they showed signs of sickness. One boy, who looked to be about three or four years old, had a grossly protruding, bloated, stomach. Malnutrition showed in emaciated bodies and weary faces.

We asked the people what they had to eat. Mostly maize, they answered, in the form of salted corn flat bread, called roti. Sometimes vegetables, they said, but only when they can afford them. One of the men showed us a piece of corn roti. It was hard and burnt. It appeared to be unrefined corn meal mixed with salt and water to bake into a brittle flat cake (similar to a Mexican tortilla, only thicker). Talking about food, the people admitted to eating rats. At first they seemed embarrassed to mention it; they said it jokingly, telling us how “tasty” rat is. But we could see that they were serious. It turned out that they considered rats their delicacy.

We asked what they do for a livelihood. They said that they are landless laborers, which means they must work other people’s land. We learned immediately that most of the men in the hamlet were migrant laborers, migrating to Uttar Pradesh, Assam, Delhi, and Punjab to work in agriculture, construction, brick kilns—whatever work they can find.

One boy, Ranjit, who said he worked in the carpet looms in Varanasi in U.P. Ranjit showed us his hands. Sure enough, there was a scar on his left hand from the blade of the carpet knife. Saying that the loom owner beat him badly, he took off his shirt and showed us a giant scar on his back, which he said was from being beaten. He told us about how he was trafficked when an agent offered his parents money to take him to work in Varanasi. Trapped in a debt to the landlord they cannot repay by working as seasonal farm hands, they let the trafficker take the child in hopes of cash in hand. But, Ranjit said, his parents never got any money. In time, and with remarkable luck, his parents went to Varanasi, found Ranjit in a loom hut and took him home.

Free the Slaves researchers’ field notes, Bihar, June-July 2004

Much of the poor agricultural population of Uttar Pradesh and Bihar lives under a sharecropping system. Such tenancies are based entirely on oral agreement. Without documentation, landless farmworkers are extremely vulnerable to exploitation by landlords. Without formal tenure it is very difficult to lodge complaints against high rents or inflated prices for agricultural inputs.

Without formal tenure, tenant farmers are also excluded from the regulated systems of credit. Instead, peasant farmers must borrow from (often absentee) landlords in order to obtain seeds, pesticides and fertilizers. Whether loans are in cash or kind, interest rates range from 24 to 60 percent.²⁵

If crops fail, the peasant bears the loss and the debt load increases. Nor can landless farmworkers collect government flood relief compensation, as they have no documentation of land tenure. Landlords, however, can and do receive such payments for damage to crops on land they have let to tenants.

All these factors together create a cycle of indebtedness and poverty. Land distribution reform is an important issue in the prevention of trafficking and in the rehabilitation and reintegration of released bonded child laborers. Land is the principal asset through which released bonded child laborers and their families can live, as most local employment is based on agriculture and rearing livestock. To date, most land in Bihar is owned by traditional land owning families, possessing thousands of acres of land in some places, and newly prosperous farmers who rent the land to tenant farmers who must pay for the right to live on and work the land. Their oral tenancies suffer from a lack of legal protections.

Particularly in Bihar and Sonebhadra (U.P.), the landlords are the moneylenders in the villages. Their practices of money lending and debt collection create barriers to rehabilitation and reintegration.

Many of the loans are illegal when they cross the line into establishing debt bondage, thus violating the

provisions of Indian law. Once under the control instituted by the debt-bond relationship, landlords threaten families that are supposed to receive government compensation benefits and try to take any compensation that families receive from rehabilitation packages.

Landlords often demand repayment of the loans through the labor of adults and children. A vicious cycle follows. Due to poverty and bondage of the families to landlords, children are deprived of education while their families are deprived of formal employment or income generation activities, and so remain poor.

2. Economic subsistence

Overall, Uttar Pradesh has a stronger and more diverse economy with far more economic opportunities than the state of Bihar. Both states, however, are densely populated and lack sufficient employment opportunity.²⁶ The people of Bihar rely heavily on agricultural labor for their subsistence, and have fewer alternative methods for income generation. While there is some work in Bihar in government-funded construction projects, we found far less of this in Bihar than in U.P.

Economic activities found in the five U.P. research districts included pottery, basket-weaving, agriculture, domestic labor, construction, stone quarrying, rice milling, stone crushing, animal rearing, *sari* finishing, *sari* weaving, rug finishing, rug weaving, prostitution, and liquor manufacture.

In Bihar, we found primarily agriculture, occasional construction work, prostitution, and liquor manufacture. In Bihar, we found agricultural workers earning 12 to 35 rupees (about 27 to 79 cents) a day. Construction work pays better, around 50 rupees (\$1.14) per day, but this work fluctuates and women have difficulty getting construction jobs due to household obligations or employer preference. Liquor making is illegal, but is a common and economically viable option for poor women in Bihar. Women earn 3 to 9 rupees (about 7 to 20 cents) per day while manufacturing liquor.

²⁵ V. Sridhar. "From debt to death," *Frontline* June 19-July 2, 2004.

²⁶ Uttar Pradesh alone is the most populous state in India with 166 million people. World Bank, *Poverty in India: The Challenge of Uttar Pradesh* (Washington DC, World Bank: May 2002).

Reliance on agriculture is a problem in flood- and drought-prone areas of both Bihar and U.P. since workers can earn an already low wage for only six months each year. Even during the agricultural season, laborers reported that they could find work only two to four days per week.

The government of India is currently drafting a new act that will assure village families of 100 days of work per year.²⁷ The government plan to increase agricultural workdays will be difficult to implement during the floods in Bihar. The severe situation in flood-prone Bihar creates a direct vulnerability to trafficking. One father expressed a common sentiment that there was no alternative to sending children for work.

Due to the floods we are poor and we have trouble getting food. So we are desperate to send our children outside for work.... We heard a *dalal* (middleman) was taking children for work, so I sent my son.

(Father of rescued bonded child laborer, Bihar, November 2004)

Innovative work programs for flood seasons could include hiring villagers to pilot canoes and deliver supplies to areas isolated by the floods. This process could easily be corrupted and so would need safeguards, but corruption already exists at this time among the few freelance entrepreneurs who have boats. Other options could include ferrying children to school, teaching villagers to fish, providing swimming lessons to decrease flood mortality, and the like. The Indian government should pass the proposed National Employment Guarantee Act to guarantee employment for rural people on asset-creating public works programs and emergency relief employment during flood times or natural disasters.

Credit is essential to economic survival

The villagers interviewed said that they must rely on loans for economic survival - to buy food, pay for family ceremonies, medical care, and even to buy work. A laborer explains:

We borrow about 1000 rupees each season to plant crops on the land we lease. Sometimes the landlords demand money from the people and if they cannot pay, they must work for the landlords.

(Dalit laborer, adult male, Bihar, December 2004)

Many villagers do not have sufficient collateral to acquire a loan. Since most people in the rural areas have no land or assets of their own, they cannot access credit through banks. The only alternative is the extremely high interest loans offered by the landowners. Those villagers who obtain very high-interest loans consider themselves lucky.

Children as a source of income

Like agricultural families throughout history, many parents in rural Bihar and Uttar Pradesh view their children as economic assets, particularly boys who can migrate for work. We found that it is common in rural Bihar for boys aged 10 (though often younger) to travel to jobs away from home, intending to remit their earnings.

Most parents who had allowed their sons to travel for work said that the labor recruiter or employer had promised to send money home, but never did. Despite this, families in Bihar report that they see no alternative: it is a son's duty to leave for work. The mother of a trafficked boy stated:

My boy did not want to leave when the middleman came to get children. I told my son, "You are a man and you have to survive by doing some work." I told him he is 13 and it is his duty.

(Mother of bonded laborers, Bihar, November 2004)

3. Food and its distribution

When we asked parents why their children had left for work, the most common reply was inadequate food supply and unemployment. Food scarcity is a severe problem in the five Bihar research districts, due to inequitable and inefficient land cultivation patterns, seasonal flood problems, government inaction to prevent floods, and failure of local leadership to distribute food rations. Thus, along with unemployment during the rainy season or droughts, people suffer food shortages.

As one mother said,

When there is no work, there is no food, so I can only sit with an empty stomach.

²⁷ National Employment Guarantee Act (see Smita Gupta, "Promises to Keep," *Frontline*, December 31, 2004, 45-47).

(Mother of released bonded child laborer, Bihar, December 2004)

This mother's statement reflects a common sentiment of hopelessness among the families interviewed. While there are government programs to supply food, they typically provide only wheat or rice, no vegetables or pulses, such as lentils, that are so necessary in the Indian diet for protein.

Improving the supply of foodstuffs would be virtually useless without addressing current problems with food distribution. The government programs to provide food assistance to families in need are heavily flawed. For example, in the *annpura yojna* food-grains supply scheme, all families below the poverty line should receive government rations of food grains, with the amounts varying by family size. But because landless laborers typically have no Ration ID cards, the rations are given only to landowners for the tenant families. The landowners then choose how or whether to distribute food relief.

Corruption among members (*mukhia*) of the local government leadership at the village level (*panchayat*) also deprives many people of vital food resources.

During distribution of flood-relief food and cooking fuel, the police must mobilize to manage a riot situation. The flood relief goes through the *mukhia*, and they give most supplies to their favorites.

(Superintendent of Police in a flood-prone district of Bihar, December 2004)

We examine the problem of corruption of rural leadership in greater detail in Chapter 5, Section 1.

4. Migration patterns

Inter-state migration of people from rural to urban areas in search of employment is a common pattern in India.²⁸ Poverty, loss of livelihood, landlessness, environmental or political disaster, and insufficient assets, among other socio-economic factors, tend to push people to migrate in search of economic opportunity, or simply survival.

Article 19 of the Constitution of India guarantees freedom of movement in any part of India, along with the freedom to pursue any livelihood of one's choice. That said, migration is fraught with instability and vulnerability. A high incidence of child labor occurs amongst migrant populations in India—one study estimates that as many as 80% of children of migrants are workers.²⁹

Migration from Bihar to Uttar Pradesh is a longtime pattern in north India. The main routes are from eastern Bihar (Araria, Purnia, Katihar, Saharsa, and Khagaria districts) to eastern U.P. We also found some migrants coming to eastern U.P. from the states of Jharkhand, Orissa, Assam, and West Bengal.

As a result of this pattern, families in Bihar often have relatives living in U.P. That, and the frequent migration of adult men, creates for parents a sense that such migration is normal. For boys, such travel is following in the footsteps of their fathers, uncles, brothers, and cousins. Traffickers take advantage of this expectation to recruit children.

One boy from Bihar had traveled to Haryana to work as an agricultural laborer, there earning daily wages. When asked how he knew to go to Haryana to find work, he replied,

So many people from this village have already gone there, so I knew to go there.

(Migrant male Dalit child laborer, age 16, Bihar, December 2004)

Haryana is one of several new migration destinations reported by respondents. Others within India are Punjab, Delhi, Mumbai, and Assam. Males typically travel for work in agriculture, brick making, construction, or other day labor.

On average, boys and young male migrant laborers from Bihar are away for five to eight months, returning to their homes in Bihar for a few months before leaving again. They rarely travel alone, preferring to travel with others from their village.

The trafficking of children, women, and men follows existing migration patterns from Bihar to U.P.,

²⁸ Bihar in particular is a state with high out-migration. According to the 1991 Census, the population entering Bihar was 364,337 and that exiting the state was more than three times higher at 1,226,839. (Swati Narayan, "Unemployment and migration," *Indiatogether.org*, March 2004).

²⁹ Deshta and Deshta (2000), 22.

especially to Varanasi and Allahabad. Varanasi has the largest train interchange in India, Mughalsarai Junction, making it easily accessible from Bihar. These transport routes facilitate the migration of adults and children from Bihar.

By most informal estimates, a small percentage of migrants are single women. Normally, unmarried adult women do not migrate for work; there is an expectation that they will stay with their families. If the family migrates to find work, then unmarried women will migrate with them. Widows and abandoned wives will migrate for work. Given the strong cultural expectation that a woman should only marry once, a widowed or abandoned woman is often left in dire economic circumstances.

Interviews conducted in red-light districts confirmed that many widowed and abandoned women are pushed toward prostitution given the lack of other opportunities. Varanasi, in addition to being a key destination city for trafficking in U.P., is considered a holy city. Thousands of women, from teenagers to the elderly, come to Varanasi to pray to be released from the suffering and exclusion they suffer as widows. They can be seen lining the holy river Ganges and thronging the temples in the city. Without support or other opportunity, many fall into prostitution.

The pattern of migration from Bihar to U.P. has supported a cultural stereotype of the Bihari as migrant laborers. An elected official from a district in Bihar commented:

Bihar people are hard working in nature. For this reason they have a reputation as migrant workers. They are willing to migrate for work.... They go to Iran and elsewhere as well as U.P. If work was available on the moon, the Bihari would go...

(Member of Legislative Council, Bihar, November 2004)

Inter-state migration is a double-edged sword. The factors supporting migration from Bihar to U.P. can also contribute to the impoverishment, and vulnerability to trafficking, of the families left behind. Men and boys migrate for work, women are left behind with young children, and if men are unable (or do not) send funds back to them, they have no means of income during the flood season. During the floods food and shelter become precarious, and without outside resources

families become desperate, making them easy prey for traffickers.

5. Education

Inadequate provision of education directly contributes to at least three vulnerabilities to trafficking:

- Families more readily agreed to send a child away with a labor recruiter if that child was not in school.
- Some parents, valuing education, explained that they sent their children away with a recruiter who promised that they would be placed in school in addition to working. Of course, many traffickers play on this view and are quick to promise the possibility of education.
- Finally, many parents devalue education because they do not see how schooling will increase their child's earning ability or benefit them in any other way. In order to increase family income, these parents will press their child to enter the workplace at the earliest possible age.

According to Indian law, all children under the age of 14 are entitled to an education and must be in school. We found that most villages only had government primary school for grades I through V, that is ages six to ten. Many villages in Bihar and U.P. have no school for children to attend grades VI through X, ages 11 to 15. In some cases, schools were reserved for particular castes or religious groups. The Christian Aid strategic plan for India 2000-2005 quotes a UNDP 2000 statistic that only half of primary school age children in Bihar go to school.³⁰

Children of Scheduled Caste and Scheduled Tribe status are entitled to an educational-promotional allowance of Rs. 20 (\$0.04) per month, but we found provision of this allowance to be rare. If a child of the Scheduled Castes or Tribes is also a released bonded child laborer, they should receive an additional Rs. 100 (\$0.20) per month. Corruption within the village *panchayat*, which is responsible for providing the educational-promotional allowance, seems to be the main reason children are not receiving this support.

Those children lucky enough to attend schools face many challenges, exacerbated by a lack of support in

³⁰ UNDP 2000 statistics, cited in Christian Aid. *India Policy and Strategy Paper 2000-2005* (London: Christian Aid, 2000).

both the community and at home. Children must overcome distance, as schools are often one to five kilometers from their homes. There can be real danger of kidnapping into bondage on the walk from home to school and back. At home, the family's need to have children working means that they have little time for school assignments. The cost of schoolbooks and study materials is also a barrier, as many parents cannot afford them. While many families would like their children to be educated, economic pressures make this impossible.

We are surviving with some labor, but we don't have enough to give education and care for our children. We had no choice but to send our child to work.

(Step-mother of released bonded child laborer, Bihar, November 2004)

It should be noted that even when there are primary schools available, teaching facilities are very poor. Furthermore, troubled by irregular payment of salaries, teachers frequently go on strike or take other work, leaving volunteers to teach the children. Thus the children must also deal with absent or diminished teaching provision.

Not surprisingly, given the numerous obstacles to education, village schools have a high dropout rate. Below is a typical example of the attrition rate for pupil cohorts in Bihar:

Year 1	266 enrolled in Class I
Year 2	71 enrolled in Class II
Year 3	45 enrolled in Class III
Year 4	41 enrolled in Class IV
Year 5	24 enrolled in Class V (Age 10)

Thus only nine percent of the initial cohort may reach Class V.³¹ The crucial protective effect of education reaches only small amounts of the children of Bihar and irregularly. The potential for both anti-trafficking awareness raising, as well as education leading to income generation, in schools is great, but under-utilized.

6. Gender

Traditional gender roles increase vulnerabilities to different forms of trafficking. Women are responsible for childcare, and when men leave their family, fall ill,

or lose work, women have very few ways to support their families. Such economic pressure leads many women to send their sons away to work, often resulting in their exploitation by traffickers.

When they are paid, women are paid less than men for the same work, are paid in food grains rather than money, and have fewer economic opportunities to increase earnings.

We earn 20 rupees [about 45 cents] for eight hours of work. Men do the work in agriculture but they make 35 rupees [about 80 cents] for eight hours of work. But men can also do construction work, so then they can do that and earn 50 rupees [\$1.14] or more.

(Mother of child laborer, Bihar, November 2004)

Women work at harvest time, though men consider plowing fields and planting too physically rigorous for women and typically do not allow them to do this work.

Gender bias often means that girls are not allowed to attend school. Girls have constant and recurring domestic work obligations, such as caring for animals and collecting firewood and cow manure for fuel, leaving little time to attend school.

In our community, girls don't go to school. A girl child should work at home. She must do what is her responsibility, collecting cow dung, taking care of animals, working on the harvest—taking care of all the domestic needs.

(Mother of bonded child laborers, Bihar, November 2004)

Limited opportunities at home coupled with the substantial burden of household labor can lead to girls running away or being lured by young men who promise marriage. When girls are trafficked, it is often through taking advantage of a girl's aspiration for a life outside domestic drudgery.

Because it is accepted that boys will migrate for work and girls will stay at home or be married off, there are far fewer incidents of girls recruited and trafficked to such work as carpet weaving. When a girl is trafficked, it tends to occur when she runs away from home, or when she is sent away to be married. Traffickers manipulate girls by playing on the realities of gender-based violence, sexual exploitation, or the fear of a repugnant marriage.

³¹ Data collected by Block Development Officer, Bihar, November 2004.

Mechanisms to detect trafficking of girls and women, or to help victims of trafficking are almost non-existent among law enforcement authorities, NGOs, and in the family. Families tend to deny atrocities against women to protect family honor. Female law enforcement officials are rare and are untrained in crimes against women. In Bihar there are few shelters for women and girls.

There is a great lack of awareness in the police force of crimes against women. In all of Bihar, there are only four women officers [who are] investigators. The rest are women constables. There is one remand home for juvenile offenders...for abused women there are also very few shelters. Jails and hospitals are not equipped to handle women victims.

(Superintendent of Police, Bihar, December 2004)

NGOs without female staff struggle to reach and support women. Currently, most NGO anti-trafficking efforts are carried out by men. Yet gender segregation is the norm from rural areas of Bihar to Varanasi city. Women typically will not speak with a strange man and are less likely to speak out in a village meeting with men present. NGOs without female staff find it extremely difficult to reach out to women in rural communities.

This segregation applies to knowledge of trafficking as well. When interviewing villagers in Bihar about missing children, we found that male respondents, in most cases the fathers, step-fathers or uncles, knew their boys had been sold to traffickers. By contrast, mothers or female guardians such as step-mothers and aunts, did not seem to be aware that the men of the family had taken money in exchange for their sons. Most women believed their boys had been kidnapped or run away.³²

In terms of female political participation, in many districts of U.P. and Bihar, the Central Government mandates that a woman fill an elected position. In interviews with female elected officials, however, we

found that some men force their wives to run for elected positions to fill the government quotas, while manipulating the women to represent the men's interests.

We did see women successfully overcoming subordination with the help of NGOs who reach out to and organize women. The NGO Social Action Research Center (SARC), for example, teaches girls and women in the poorest urban neighborhoods of Varanasi about their rights and how to defend themselves against abusive men. SARC uses participatory theater, street art, marches, and fora to engage girls and women in dialogue about their experiences. Through these interactive processes, women learn to organize into self-help groups through which they seek to overcome their subordination under male sexism. Sadly, in the rural areas such support is practically non-existent.

7. Caste and religion

Although the caste system has been officially outlawed, it remains a strong social and cultural feature of Indian society. Uttar Pradesh and Bihar are considered "traditional" on the ideology of caste-social differences based on religion and station ascribed at birth, which continues to be practiced.

Most child laborers who have been trafficked from Bihar come from the lowest castes. The backgrounds of trafficked children, and the families of missing and suspected trafficked children, include:

- Scheduled Caste or Scheduled Tribe (predominantly Musahar)
- Other Backward Caste (OBC)³³ Muslim (Suni)
- Other Backward Caste Hindu.

The backgrounds of most missing or trafficked girls matched this. However, NGO activists who assist trafficked girls and women reported that some of the survivors they have assisted come from higher castes, including Brahmin Hindus. As with girls from other castes, these girls tended to have been sexually

³² We verified this by interviewing female guardians of trafficked children separately from the male guardians. The research team (two females and two males) split into two groups and the male team interviewed the male guardians at the same time that the female researchers interviewed the female guardians. The participants responded consistently, indicating that the fathers and male guardians knowingly sent away their children with the middlemen in exchange for an advance, while the female guardians were unaware of the male guardians' actions.

³³ In India we found that people commonly use the term Other Backward Caste and it refers to a legal term denoting lower castes. The term originally appeared in laws that attempted to dismantle the caste system and provide assistance and protection for people who were from those lower castes.

exploited by family members, and in trying to escape had ended up being trafficked.

We also found that the backgrounds of traffickers or slaveholders were the same or only slightly “higher” than those of the trafficked children. In Bihar, when guardians or relatives knew the trafficker or the person who “employed” the children, the caste of the perpetrator was reported. The caste status of traffickers and/or slaveholders included:

- Scheduled Caste or Scheduled Tribe (Musahar)
- OBC Muslim (Suni)
- OBC Hindu (particularly Bariya and Yadav).

It is important to note that while caste and religion are important factors behind the trafficking of women and children, this research did not explore in sufficient depth how caste and religion play a role. More research is needed.

8. Globalization

While there is general agreement that lack of formal education, poverty, and social attitudes are causes of child labor, there is considerable debate over the impact of globalization. It is thought that the vulnerability of poor parents to debt and trafficking has increased since the Indian economy was subjected to a Structural Adjustment Program and unrestricted foreign access in its markets since the 1990’s. While accelerating exports, this process was not seen to increase opportunities for employment.³⁴ Adult unemployment below the poverty line rose in this period as indigenous small and medium-sized firms closed. Many of the newly unemployed families, especially in rural areas, felt compelled to have women and children participate in wage work in order to meet basic needs.

One recent study of glass and bangle production in Firozabad, U.P. suggests that facets of the changing global economy, particularly the “casualization” and “informalization” of labor practices, are associated with an increase in child labor over the last two and a half decades.³⁵ Other research suggests that transnational economic processes do not have a strong link to trafficking or bonded labor since these types of exploitation are primarily providing goods and services for local consumers in India. In many ways the families

of rural Bihar exist so far below the waves of global economic change that any impact is trivial. Subsistence on the edge of starvation cannot be pressed lower. The race to the bottom is irrelevant to those jammed against the floor of destitution. What is not clearly understood, and needs further investigation, is how the globalization of India’s economy might be driving demand for trafficked children in export industries, such as rug weaving. Also, to what extent India’s Structural Adjustment Program is precluding any opportunities for government investment in education, health, and economic development that might help protect the poorest from vulnerability to trafficking.

9. Recommendations to reduce socio-economic vulnerability

Many of the ways in which the social and economic vulnerability of poor families to trafficking can be reduced are well-understood. Many of the following recommendations are already codified in law, but not carried through. Some of these recommendations are local and relatively simple; others require central government commitment and resources, such as the need for all citizens to have some form of identity documents through which they could access food relief. We have included all actions that we feel could bring immediate reductions to the chance of child trafficking.

Recommendations regarding land and loans

- ▶ Accomplish and monitor redistribution of agricultural land, with the help of appropriate central government agencies and NGOs, ensuring it follows allocation schemes mandated in existing legislation.
- ▶ Ensure rural poor communities understand how to claim their rights to different forms of land and have access to paralegals to assist them to pursue claims.
- ▶ Amend land tenancy laws to create legal protections, regulation and monitoring of tenancies so that tenant farmers may access legal loans or credits, thus helping them avoid the usurious illegal loans from landlords.
- ▶ NGOs should be encouraged and supported to assist in the formation of village self-help groups for the creation of small-scale savings

³⁴ Narayan (March 2004).

³⁵ Bhatt (December 2003).

and micro-credit schemes which can give access to fair credit.

- ▶ NGOs should help loan recipients to understand their rights under the laws regulating credit.

Recommendations regarding economic subsistence

- ▶ Give preference to women for the 100 days of employment under the proposed Act, with additional employment days for those with larger families.
- ▶ Provide innovative non-agricultural work projects during flood seasons, with safeguards to prevent corruption.
- ▶ Support the establishment of community-based savings schemes, whereby women can save small amounts during seasons when work is available and can then use these funds to survive during flood season.
- ▶ Encourage rural development initiatives based on cooperatives, self-help groups and income generation schemes.

Recommendations regarding food and food supplies

- ▶ Continue food supplies for impoverished families in drought, flood, and low-work seasons, including pulses and other proteins in addition to grains. NGOs and community organization in villages need to create systems for monitoring distribution—with access to district leadership to report abuses and corruption of middle level officials.
- ▶ Ensure that ration IDs or ration cards for food relief are given to all people with incomes below poverty line.
- ▶ Give food supplies directly to villagers, not to landowners or rural leaders to distribute.

Recommendations regarding education

- ▶ Remove obstacles to schooling prioritizing villages that are known to be a source of trafficked children for improvement of educational access and teaching facilities up to age fourteen.
- ▶ Ensure that education-promotion allowances reach all Scheduled Caste/Scheduled Tribe children and eligible rescued bonded child laborers.
- ▶ Provide midday school meals to all children.

- ▶ Include in school curricula a variety of programs that increase the economic value of schooling for villages, especially for the children of the most vulnerable ages.

The provision of midday meals in school needs special mention. Midday meal provision has emerged as a crucial anti-trafficking/anti-child labor approach, both in India and elsewhere. Parents who may not understand the value of education will send their children to school if they know they will be fed there—and conversely, they will not send to school a child who has not been fed. When parents are enlisted to help prepare midday meals, they are better able to monitor both their children and whether teachers are regularly in attendance. Teachers who suffer from irregular payment of their wages also benefit from access to midday meals. It goes without saying that better fed children are better able to learn and benefit from school.

Recommendations regarding gender

- ▶ Through community outreach, reduce the power imbalance between the sexes through girls' education, rights training, and women's empowerment in family relationships.
- ▶ Include female members in outreach teams so that women can be addressed separately.
- ▶ Place more women in upper-level enforcement positions, such as supervising officers and investigators, with one women's police station or section per sub-district.
- ▶ Introduce women's help contact points in police superintendent offices in each district. Create known points of contact including help lines for women under threat of violence or exploitation.
- ▶ Place more women in positions of political power, including elected positions, and monitor to ensure that they are in fact the ones exercising power.

Chapter 3 - Trafficking Patterns and Public Awareness

No, no I will absolutely not let my parents send any of my brothers to the loom. When it comes to the loom owners, I was badly beaten... In fact, they make us work day and night on the loom. I make sure that none of my brothers get caught in the same trap again. [And if you spotted a trafficker in your village?] Yes, I will go to the police station right away, I will file a report and inform them about the presence of such a man.

(Rescued child at rehabilitation Ashram in U.P.)

1. Estimates of the extent of the problem

The purpose of this research was not to add to existing estimates. We review the following in order to set out the background to our investigation. The U.S. State Department estimates that 200,000 people are trafficked into, within or through India annually.³⁶ Within this figure, it is believed that only 10% of human trafficking in India is international, while almost 90% is inter-state.³⁷

Throughout the world, trafficking flows move from poorer countries and regions to richer countries and regions. This is true for trafficking from Bihar to U.P. Remote areas of U.P., far from district headquarters, and with inadequate monitoring or law enforcement, tend to hold the largest number of migrant workers and illegal child laborers. One such area is Bharagan *block* at the northwestern border of Varanasi district, where there are an estimated 10,000 migrant laborers from Bihar, nearly a quarter of whom are allegedly bonded.³⁸

Trafficking from the Indian state of Bihar into the carpet factories of Uttar Pradesh provides a striking example. Of India's estimated 15 million bonded child workers,³⁹ 300,000 are estimated to toil in Uttar Pradesh's carpet factories alone.⁴⁰ Trafficking of children from Bihar to Uttar Pradesh for silk and *sari* production has received less attention but is increasingly being reported.⁴¹

³⁶ Bureau of Democracy, Human Rights, and Labor (2003).

³⁷ Asian Development Bank, *Combating Trafficking in Women and Children in South Asia: India Country Paper* (New Delhi: Asian Development Bank, July 2002), 16.

³⁸ Free the Slaves interview with anti-child labor activist, U.P., October 2004. When asked about the calculation of these figures, the interview participant explained: "There are at least 25 bonded laborers in my village—adults and children... and there are about 86 villages in this *block*."

³⁹ 15 million estimate from Human Rights Watch, *Small Change: Bonded Child Labor in India's Silk Industry* (New York: Human Rights Watch, 2003), 18.

⁴⁰ Human Rights Watch, *World Report 2003* (New York: Human Rights Watch, 2004).

⁴¹ Human Rights Watch (2003).

Meanwhile, the U.S. State Department estimates that, in 2002, 2.3 million girls and women in India were forced into prostitution.⁴² For these victims, Bihar is an origin, transit and destination state, with agents placing them in brothels in Bihar, or taking them on to other major cities such as Mumbai, Kolkata or Chennai, and then possibly to locations in the Middle East.⁴³

While estimates by international NGOs and the U.S. State Department are thought to be reasonably reliable, there are few similar Indian estimates of the extent and magnitude of child trafficking in the nation. At best, we have a range of figures from Indian government and non-governmental reports using varying categories and definitions of child trafficking.

Some figures count only commercial sexual exploitation. Other figures count only child labor. Some estimates refer only to bonded labor. Government crime statistics focus on kidnapping and, until recently, excluded trafficking for sexual purposes. This variation in what is being counted makes it impossible to derive a reliable estimate on the extent and magnitude of all trafficking of children in India.

Trafficking of girls and women

The Government of India produces crime statistics in its annual publication *Crime in India* through the National Crime Records Bureau (NCRB) of the Ministry of

Home Affairs.⁴⁴ The NCRB reported in 1999 that there were 9,368 trafficked women and children. The figure was significantly less than that of 1991 data, which indicated 16,000 women had been trafficked in India.⁴⁵

These numbers are in sharp contrast to those published by the Central Social Welfare Board of India, which estimated in 1991 that 70,000 to one million women and children were being used in commercial sexual exploitation in six metropolitan cities in India. Of this group, 30 percent (at least 21,000) had been inducted below the age of 18.⁴⁶ By definition, these were trafficked children.

More recent NCRB data shows a similar trend: the number of reported ITPA crimes against women dropped to 5510 in 2003—an overall decline of nearly 59% from 1999 to 2003.⁴⁷ Other striking findings in recent NCRB data related to trafficking of children and women from Bihar to Uttar Pradesh include:

- Bihar has the highest incidence of reported cases of Importation of Girls at 80.4% of such cases at national level in 2003.⁴⁸
- Uttar Pradesh reported an increase of 600% in reported cases of Procurement of Minor Girls from 2002 to 2003.⁴⁹
- The conviction rate for all reported crimes against children in 2003 was 38.8%. In 2003 only 2 cases of Selling Girls for Prostitution

⁴² Bureau of Democracy, Human Rights, and Labor (2003).

⁴³ Description of patterns in trafficking in women through Bihar by Director of Bihar-based NGO, Prabhat, January 2004.

⁴⁴ The data are obtained through a regional subdivision of 17 authorities under the District Crime Reports Bureau.

⁴⁵ Government of India, National Crime Records Bureau (1999). Cited in Asian Development Bank (2002), 19.

⁴⁶ Central Social Welfare Board (1994), (data collected in 1991). Cited in Government of India, Department of Women & Child Development, *Plan of Action to Combat Trafficking and Commercial Sexual Exploitation* (Delhi: Ministry of Human Resource Development, 1998), 9:8. The UNDP cites an earlier CSWB report which puts the percentage of women in prostitution who enter the trade before age 18 at 40% and estimates that 400,000 minors between the ages of 10 and 16 are in the sex trade. (UNDP, 2000: 24).

⁴⁷ Government of India, National Crime Records Bureau. *Crime In India: 2003* (New Delhi: Ministry of Home Affairs, 2003), 246.

⁴⁸ Ibid, 247.

⁴⁹ Ibid, 273.

were tried, both resulting in acquittal. In the same year 24 cases of Buying Girls for Prostitution were tried, and only one case resulted in conviction.⁵⁰

The 1999 NCRB Report acknowledged that crime statistics should be viewed with caution, as a sizeable number of crimes against women go unreported due to the attached social stigma. A 2002 report by the Asian Development Bank points out that the decrease in the NCRB figures, as well as the low estimate overall, is due to low registration of trafficking crimes and the low priority that authorities give trafficking and related activities.⁵¹ This publication stated that the number of reported cases is low because:

- constables and enforcement officers lack time for cases,
- corrupt government officials have a vested interest in blocking registration and investigation of trafficking and related cases, and
- court procedures strongly discourage law enforcement officers from following up with filed investigations.

To add to the difficulties in enforcing trafficking laws found by the Asia Development Bank, the National Human Rights Commission (NHRC) found in 2004 that only 60% of cases of missing persons, particularly women and children, are reported to the police. The NHRC also found that 40% of police officers surveyed

about trafficking in their areas did not have any knowledge about preventive laws.⁵²

Three Indian laws might be used to report trafficking in women and girls. These are:

- *Indian Penal Code 366-B Importation of girl from foreign country.*
- *IPC 361 Kidnapping from lawful guardianship and IPC 362 Abduction.*
(Recent news reports indicate that an estimated 15,407 children go missing in Indian metropolitan areas every year, yet only 60% of cases are reported to police.)⁵³
- *Immoral Trafficking (Protection) Act*
(Immoral trafficking contributed 50% of all nationally reported crimes against women in 1999. Trafficking, however, was reported from only 23 cities in all of India.)⁵⁴

Trafficking of children

It is clear that reporting of the crime of child trafficking is inconsistent. We tried to find reliable estimates of children trafficked for bonded labor and slavery in existing literature and from experts. Such data, however, were elusive. Not only were numbers hard to come by, but the means for estimating the reported numbers were unclear, making any aggregation or comparison impossible.

⁵⁰ Ibid, 274.

⁵¹ Asia Development Bank (July 2002), 19.

⁵² *Times of India*, "Missing report: Only 60% cases reported," Lucknow, U.P., November 5, 2004, A6.

⁵³ Ibid. An estimated 15,407 children go missing in Indian metropolitan areas every year and only 60 percent of cases are reported to police each year. Furthermore, the majority of these cases are not registered by the police.

⁵⁴ Asian Development Bank (July 2002), 19.

Below are some of the diverse figures offered by respondents or secondary sources:

- There are an estimated 25,000 child laborers in Azamgarh District, U.P.⁵⁵
- There are 5,000 bonded laborers (children and adults) in Bharagan *block*, Varanasi District, U.P.⁵⁶
- 6,000 children have been liberated from bonded labor in Bhadohi from 1992 to 2004.⁵⁷
- There have been 365 bonded child laborers liberated in Bhadohi from 1995 to 2004. Out of these 365 children, only one child was from Bhadohi district, 24 were from other districts in Uttar Pradesh, and the remaining 340 were from other states.⁵⁸
- In Mirzapur there are 72,000 potential child laborers (over several years) who benefit from the education program of one NGO child-labor eradication project.⁵⁹
- There are approximately 2,000 child laborers in Sonebhadra district, U.P.⁶⁰

While reliable estimates are non-existent, NGO activists and advocates in U.P. all report an increase in child trafficking. They were unable, however, to give any solid figures to support this assertion.

2. Trafficking—geographical patterns

A report by the Indian NGO *Shakti Vahini* is the most comprehensive report on human trafficking in India. It summarizes the trafficking situation in nearly every state in India, based on case studies that seem to be compiled mainly from secondary data. The report ranks states in categories from one to four, one indicating the least amount of trafficking and the most action taken on the part of the government and NGOs to stop it.

The report ranks both Bihar and Uttar Pradesh at four, the lowest ranking. According to *Shakti Vahini*, these two states demonstrate a very low concern for human rights and rights of women and children. These states also have very high crime levels and a high incidence of trafficking. Furthermore, *Shakti Vahini* notes that law enforcement and implementation of existing legal instruments are inadequate.

According to *Shakti Vahini*, Bihar is an important transit point for children trafficked from Nepal, West Bengal, Bangladesh, Orissa, and Assam. Other primary transit states include Uttar Pradesh, Uttaranchal, and West Bengal. Saharsa, Katihar, Araria, Khagaria, and Purnia are among the districts most affected by trafficking.⁶¹

For commercial sexual exploitation

The Joint Women's Programme, an anti-trafficking and women's rights NGO based in Delhi, found an interstate triangular trade existing in northern India, in which girls and women are trafficked through the cities of Dholpur (Rajasthan), Agra (U.P.), and Morena (Madhya Pradesh). The Joint Women's Programme identified the trafficking flows of girls and women through highway transit centers in U.P. Besides Agra, the principal centers along the "highway-belt" are Varanasi, Allahabad, Kanpur and Lucknow.⁶²

A Bihar-based NGO, *Bhoomika Vihar*, found that in northern Bihar, "while 45 per cent of sex workers are between 13-18 years, 40 per cent are between 19-22 and 15 per cent in 22-32 age group. Roughly 400 women and girls are in mobile brothel business."⁶³

⁵⁵ Statistics cited from Subhas Mishra, "Tiny silky fingers are bonded." *India Today*, Hindi edition. July 7, 1999, 39.

⁵⁶ Free the Slaves interview with anti-child labor activist, U.P., October 2004.

⁵⁷ Free the Slaves interview with anti-child labor activist, U.P., November 2004.

⁵⁸ Labour Department of Uttar Pradesh, "Child Labour/Bonded Labour Eradication & Rehabilitation," seminar report (Bhadohi: Institute of Carpet Technology, October 2004).

⁵⁹ Free the Slaves interview with anti-child labor NGO, U.P., November 2004.

⁶⁰ Free the Slaves interview with Deputy Labour Commissioner, U.P., January 2005. (Estimate based on Department of Labor plan to build 40 NCLP schools, each enrolling 50 students age 9-14.)

⁶¹ Shakti Vahini, *Trafficking in India Report-2004*, (Faridabad, Haryana: Shakti Vahini, 2004), 19.

⁶² Sanlaap, *A Situational Analysis of Child Sex Tourism in India* (Agra, Delhi, Jaipur (Kolkata: Sanlaap, December 2003).

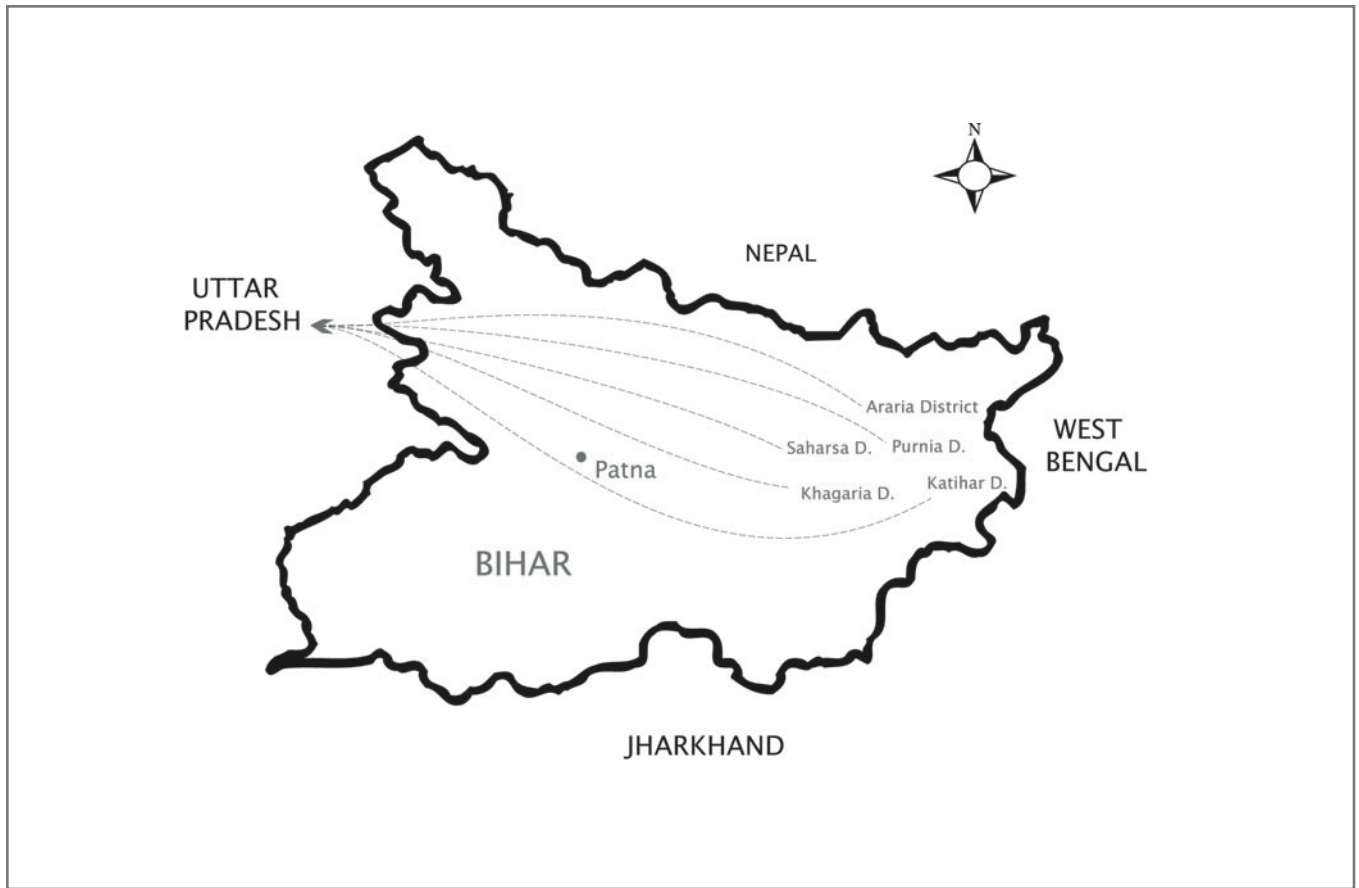
⁶³ Cited in Shakti Vahini (2004), 20.



India Trafficking Routes



Uttar Pradesh Trafficking Routes



Bihar Trafficking Routes



Trafficking from Bihar to Uttar Pradesh

Accordingly, *Shakti Vahini* found that Katihar, Purnia, and Araria are among the main districts from which girls are trafficked from Bihar for coerced marriage and forced prostitution.

The literature identifies three general modes of trafficking for sexual exploitation in northern India:

- Girls and women are induced through force, deceit, abduction, and kidnapping and coerced to work in prostitution. This first form often involves an agent, a “middleman” or “broker,” who traffics the victim to the final employer or abuser, such as a contractor, factory owner, or pimp.
- Girls and women are induced directly by pimps or brothel owners. Sometimes the trafficker is the mother, father, or other immediate family member of the victim. These victims often grow up in brothels with mothers who are in prostitution.
- There are several cultural practices that force persons into prostitution on the basis of their caste or tribal status. For example, Bedia tribals in Uttar Pradesh follow a cultural practice of forcing their first-born daughter into prostitution. One result of this practice is that Bedia families reportedly kidnap infant girls to raise as their first-born daughters and then prostitute them at about age nine.⁶⁴

Though without strong supporting evidence, the process of trafficking girls from Bihar (and similarly from Nepal and West Bengal) seems to be common

knowledge. Most police and district administration officials in Bihar and U.P. say that young men trick girls into believing they will marry them, and then bring them to brothels in cities far from their homes. What was disturbing is that while the authorities readily reported this practice of trafficking in girls, they did not mention taking action to stop it.

For other forms of bonded and forced child labor

The Joint Women’s Programme also reported that a substantial number of tribal girls from the Chota Nagpur belt in Bihar and Orissa have been trafficked to, or have migrated to and been put in bondage in, cities throughout northern India for the purpose of domestic and other labor. These girls are also often physically, emotionally, and sexually abused.⁶⁵

However, the predominant destination for children trafficked from Bihar to eastern U.P is knotted-carpet weaving looms. The region of eastern U.P. is commonly referred to as “the carpet belt” because of the high concentration of such looms based in the districts of Varanasi, Bhadohi, Mirzapur, and Allahabad. The use of child labor in the carpet industry is well documented. One source suggests that child labor in carpet making is perhaps the oldest form of exploitative child labor and that about three million children below the age of 14 work in India’s carpet industry.⁶⁶

The typical pattern of child trafficking for carpet labor is characterized by agents, middlemen working for loom holders, who lure children from the poorest

⁶⁴ Sanlaap (December 2003).

⁶⁵ Joint Women’s Programme & UNICEF India, “Brainstorming Meeting on Child Trafficking and Prostitution in Uttar Pradesh,” unpublished seminar report and recommendations, submitted to UNICEF (New Delhi, India: Joint Women’s Programme, September 2001).

⁶⁶ Deshta and Deshta (2000).

districts of Bihar, notably the districts of Saharsa, Katihar, and Purnia. Some are in fact related to the children. The middlemen give parents a small cash advance along with a promise to educate the boys while they work and earn more money to send home. The children are brought to looms in eastern U.P. where they work long hours in locked loom sheds for periods of several years.⁶⁷

In Bhadohi district, U.P., the records of one anti-child labor activist reveal a widespread prevalence of child trafficking, particularly for carpet manufacturing. This activist claims that in the last 12 years he has made more than 300 raids to rescue bonded child laborers, releasing about 6,000 children, the majority of whom came from Bihar.⁶⁸ The Bhadohi district Labor Department reports that of 365 bonded laborers released in Bhadohi district, only one child was from Bhadohi district, 24 were from other districts in U.P., and the remaining 340 were from other states.⁶⁹

3. Industries using trafficked child labor

According to some official Indian government reports, bonded child labor and the trafficking of children for sexual exploitation are in decline or simply do not exist. If the government reports were accurate, then we would not have expected to find any bonded children in the research areas of U.P. and Bihar.

In fact, we found trafficked and bonded children working in:

- Forced prostitution

- Carpet weaving and finishing
- Brick kilns
- Stone quarries
- Domestic service
- *Sari* weaving and finishing
- Agriculture

There are other industries in U.P., but outside of our data collection area, known to use bonded and trafficked child labor. Secondary sources note the following industries using bonded child labor in eastern U.P. or outside of U.P. (such as Madhya Pradesh and Rajasthan) to make:

- Bidis (cigarettes)
- Glass bangles
- Fireworks
- Leather goods
- Manufacture of matches (Sivakasi, Tamil Nadu)
- Textiles (Coimbatore, Tamil Nadu)

Other sources discuss child labor in glass and bangle manufacturing in Firozabad, lock-making in Aligarh, brassware making in Moradabad, and leather goods production in Kanpur.⁷⁰ Children are also forced to labor to make *saris* in Azamgarh.⁷¹

A recent survey of child labor in Mirzapur district, U.P. by the district Department of Labour, found 2,511 children working in hazardous occupations prohibited by the Child Labour Act, 1986.⁷² No prosecutions resulted from these findings as the survey was intended to be “non-invasive”.

⁶⁷ Shamshad Khan, “Migrant Child Labour in the Carpet Industry in Mirzapur-Bhadohi,” in *Neglected Child: Changing Perspectives*, ed. Amod Kanth & R.M. Varma (New Delhi: S. Chand & Co. Ltd., 1993), 130-133.

⁶⁸ Free the Slaves interview with anti-child labor activist, U.P., November 2004. [Note: The activist’s notebook contains the details of every rescue operation he had conducted in his district with the labor officials and district magistrates. The total number of rescue operations in his district is greater than that reported in the the District Labor Commission’s records. The data are organized by rescue operation. The records include the children’s names and family names, their home districts, their date of rescue, which officials rescued them, whether or not they received a Release Certificate, the name of their employer, and the amount of time the children were employed.]

⁶⁹ Labour Department of Uttar Pradesh, (October 2004), Annexure 1. The report shows that from 2000 to 2005 there was not a single conviction from the 40 prosecutions filed against offending employers, but from 1996-2000 there were 217 cases filed resulting in 133 convictions.

⁷⁰ Mishra (2000).

⁷¹ Mishra, (1999), 39.

⁷² Labour Department of Uttar Pradesh, “Noninvasive Survey of Child Labour in Mirzapur District, Uttar Pradesh,” unpublished, submitted to District Primary Education Programme (Noida: National Labour Institute, 2002).

Some industries using child labor need more investigation to determine if they are using bonded child labor. These include:

- Tea stalls
- Road-side restaurants (*daba*)
- Hotels

We did not investigate child workers in these industries. We did, however, note the employment of very young children in such businesses at times when children should be in school. Talking with child workers at tea stalls and *dabas* in rural areas, we found them to be mainly local children. In the urban centers or district capitals children working in tea stalls and *dabas* tended to say they were from other districts or from other states—West Bengal, Bihar, or Jarkhand.

The demand for child labor

Input costs for carpet-making are for raw materials (wool, threads, and patterns), tools and plant (the loom, knives, and the loom shed or hut), freight (for transporting raw materials and finished products), and labor. Of all of the input costs, labor is the one over which the carpet manufacturer has greatest control. The carpet manufacturer may be able to negotiate the costs of wool, tools, and the loom, among other things, but prices are dictated by the market. Labor costs, however, can be dramatically reduced by using family members, children, or enslaved workers.

A tufted carpet loom owner explained advantages to using child labor:

When children are first employed, they train the children. While they are training, the children are working but not getting paid. But if adults are employed they also need wages during their training. Also, adults have bargaining capacity.
(*Carpet manufacturer, U.P., October 2004*)

Labor contractors supply the carpet manufacturers with workers, and play an integral role in creating demand for child labor in the carpet industry.

Many people come here from Bihar who are educated, business-minded people. They make an analysis of the demand for labor and they fill

it. Often they create the demand by going to factories and loom owners and telling them how they can provide cheap labor.
(*Anti-child labor activist, U.P., October 2004*)

4. Methods of recruiting children for trafficking

In exploring trafficking patterns, this section highlights the ways traffickers and middlemen recruit children for bonded labor or sexual servitude.

Middlemen trusted in the source community

The trafficker or middleman is often a relative, or someone from the origin community. Respondents frequently described the middlemen in terms such as “brother of a friend of my brother-in-law”, or as being “from our district in Bihar, but a different village...” Such social links engender trust:

My cousin was working for the loom owner. He told the owner about me, so the loom owner came to my mother’s house. My mother thought she was getting a reference from my cousin, so she took the 500 rupees [\$11.42] and sent me.
(*Rescued trafficked boy, age 13, U.P., September 2004*)

When the middlemen come to the village, they pick a local person called a Guarantor to make all the arrangements for them. The Guarantor talks to the parents and the people in the village and builds rapport with them, so the local people believe the Guarantor. The Guarantor tells the parents to trust the middleman, that he can provide a good job for the children.⁷³
(*Dalit woman in village, Bihar, November 2004*)

Advances, deceptions and promises to parents

Traffickers give cash advances to parents or guardians and deceive them about the nature of the work. Middlemen promise parents to put their children in school and to employ them only part-time, doing such work as domestic cleaning, animal husbandry, or restaurant work. Parents are told children will be doing “light work” and getting education; girls are told they will be doing “suitable work” but are then forced into prostitution.

⁷³ Note: At the same time the Guarantor identifies some children to take. The Guarantor watches children and looks for those who are not in school, without a father or whose parents who are in desperate need of economic assistance.

Interviews in Bihar revealed that the most common way children are recruited is by middlemen who convince parents or guardians to exchange their children for a small “advance”. Parents are often promised further payments after the child has worked for a certain period of time.

While both boys and girls are recruited in this way, it appears that parents or guardians are more anxious to make such arrangements for girls. According to interviews with law enforcement officials, NGO activists, and trafficking survivors, the girls are unaware of the transaction.

They never say they were sold; they probably don’t know it. But we have asked and they will say that a woman came to talk to their mother or aunt and they were allowed to leave with the woman (or sometimes it is a man). We think this is selling. And some of the women say they are forced.

(Woman Police Station Officer in Charge, U.P., November 2004)

Trafficked boys we interviewed in this study, however, were in most cases aware that their parents had given them to middlemen in exchange for money. One boy from Madhepura District, Bihar remembers being sold:

My brother-in-law gave 100 rupees [\$2.28] to my mother in front of me. I saw it. He told my mother all I had to do was cut paddy for the harvest season.

(Released bonded child laborer, age 13, U.P., September 2004)

Instead of having him cut paddy for a wage, traffickers beat the boy and forced him to work in a carpet loom without pay or the opportunity to leave.

Another boy from Saharsa district, Bihar, who was rescued from a carpet loom in Allahabad told us:

He said that if I came with him to work, I would just cut paddy or do petty agricultural work... So I went, but when I got there I was beaten and put to work in a loom.

(Released bonded child laborer, age 13, U.P., September 2004)

The child’s own hope of getting ahead

We learned from children who had been liberated or escaped from bonded labor or forced prostitution that middlemen had offered them the chance to work and

earn a wage or even start a career. For women, the lure of a career and independence is often too much to resist.

The young woman quoted below dreamed of becoming a fashion designer, but her family insisted that she should marry. She abandoned her family when offered a tailoring job by a recruiter. In Mumbai she was forced into prostitution for several months, and then liberated when police raided the brothel.

Now, several years after her rescue, the young woman was able to talk about her experience.

I went from my village with a person who promised me a tailoring job and that I would learn fashion design. The man was from my village. The man told me he had lots of sisters in tailoring. He said I can get a job with them in tailoring.

(Female trafficking survivor, age 21, West Bengal, October 2004)

Playing on the youthful ambitions of this young woman, the trafficker did not need to offer advance payments to her or her parents. Being from a strict Muslim family, the young woman left to find opportunities beyond those dictated by her family and community:

I fought my family over it, and then I went anyway.

(Female trafficking survivor, age 21, West Bengal, October 2004)

With the help of an NGO, the young woman learned fashion design and now teaches the craft to girls in a shelter home for vulnerable and abused girls.

5. How trafficked persons are kept and controlled

Three inter-related mechanisms are used by traffickers and “employers” of trafficked children (referred to in this report as “slaveholders”) to control and keep their victims in slavery.

Debt bondage

Debt bondage is used by slaveholders more than by traffickers, and the slaveholder does not have to work very hard to keep the victims in bondage. Dr. Sunit Singh, an expert on slavery in India based at the G.B. Pant Institute for Social Sciences in Allahabad,

explained how difficult it is for people to free themselves from debt bondage:

There is a risk to freedom. The laborers are mostly illiterate and unskilled, so even if they escape and find other work, they do not know how long they would have to go hungry first. The laborers often may decide that it is safer for them to remain in bondage.

(Dr. Sunit Singh, research expert, G.B. Pant Institute, U.P., October 2004)

Slaveholders also manipulate the indebtedness of bonded laborers, finding excuses to deduct money from the workers' wages, thereby keeping them perpetually indebted. We witnessed whole communities making *saris* in Azamgarh, U.P., where there are an estimated 25,000 child laborers.⁷⁴ In these communities, women and young children do finishing work such as cutting excess embroidery thread. They earn 10 rupees [23 cents] for completing one *sari*. If a worker makes a single small mistake, she or he will be charged a minimum penalty of 50 rupees [\$1.14].⁷⁵ The children and women work ever more carefully, but they remain indebted.

Knotted carpet loom owners use a similar tactic. A former *gram pradhan* of a village in a U.P. district described how the employers exploit Bihari migrant laborers in the production of hand-knotted carpets:

When it is payment time, the employer deducts money from their wages. They say that the migrant workers made "faults" in making the carpet, so they take money from their payment. After two or three years, the workers have no money because the employers deduct so much. That is how they are bonded.

(Former gram pradhan, U.P., October 2004)

The tactic of extracting debts for "faults" in the worker's production is a tactic that works especially well on children, for they often are recruited with no skills in the trade in which they are forced to work. Employers typically make children learn on the job, responding to mistakes with beatings.

Use of violence

The use of violence to control trafficked workers is the hallmark of slavery. Once brought to a loom, brick kiln, shop, or private home, children are put to work and the owner or householder beats them for any sign of resistance as well as for the slightest mistake. A rescued boy in rehabilitation at a protective *ashram* in Allahabad recalls his experience of being broken in to carpet weaving:

When I arrived at the work location, I was taken to a loom and beaten. It took me four months to learn how to weave carpet. The loom owner used to beat me every day... I was learning how to weave, but it was so hard to learn.... When I was beaten I was crying a lot. I was in a lot of pain.

(Released bonded child laborer, age 13, U.P., September 2004)

Girls trafficked to brothels suffer unimaginable pain as traffickers and customers routinely and brutally rape them. The repeated rape and assaults, combined with movement between brothels, disorients the girls.

It is important to note that girls and women in forced prostitution are not the only trafficked persons who suffer sexual violence. Those in bonded labor are also subject to sexual exploitation by their captors and others affiliated with the employers.

For example, we interviewed women who had been liberated from bonded labor in stone quarries in Shankargarh, south Allahabad district. One woman explained that while in bondage, the contractors routinely forced women to have sex. She reported that one girl who resisted assault later burned herself to death after being raped by a group of contractors.⁷⁶

Taking advantage of weakness in the system

Traffickers keep and control child victims using debt bondage and violence, but weaknesses in the government enforcement of laws contribute to worker control and exploitation as well. Authorities sometimes collude with the traffickers and slaveholders through

⁷⁴ Mishra (1999), 39.

⁷⁵ Free the Slaves researchers' notes, field visit to Azamgarh, U.P., October 2004.

⁷⁶ Free the Slaves interview with former bonded laborer, U.P., September 2004.

taking no action to enforce the law, especially when slaveholders have significant political influence.

Loom owners using bonded child labor escape apprehension due to inadequate diligence on the part of Labour Enforcement Officers. When a loom is inspected, the owner will often claim to be the parent of the trafficked child, and provide false birth or school enrollment records. Inspectors regularly accept such assertions, and fail to report violations of the child labor or bonded labor laws. Labor inspectors and police have been reported to accept bribes from employers or middlemen.

Lack of will to enforce the law also keeps women and girls in forced prostitution. Brothels are easily identifiable in red-light areas in eastern U.P. and Bihar. Girls appearing as young as age 10 are visible from the roadside. But when we questioned senior police officials about the brothels, they asserted the businesses were licensed entertainment venues. Police, like labor inspectors, have been known to take bribes to protect the interests of the traffickers and brothel owners.

6. Impact of current anti-trafficking efforts

Commercial sexual exploitation

There are few notable results of recent anti-trafficking efforts to reduce child prostitution. The failure to reduce trafficking of children into prostitution reflects inadequate enforcement of relevant laws, such as the ITPA (see Chapter 4). This is due in part to the absence of documentation of trafficking crimes and similar crimes against women and children, and in part to police officers' unfamiliarity with relevant laws.⁷⁷

Other forms of bonded and forced child labor

On the other hand, there is some progress in eliminating bonded child labor in industries such as carpet making and brick kilns. This is partly the result of the National Child Labour Eradication Programme (NCLP). In 2004, NCLP projects were launched in eastern U.P., and projects are now being planned for eastern Bihar as well. Both the NCLP and NGOs press carpet manufacturers and other employers to stop using child labor. One visible indicator of the impact is that these industries are moving out of their traditional areas in

eastern U.P. to other districts and states. One carpet manufacturer observed:

...Now the looms are moving. The carpets are being made outside of the carpet belt. There is a district, Shahjahanpur, north of Lucknow; it is the second largest producer of carpets after Bhadohi. The looms are moving there because of the fear of enforcement.
(Carpet manufacturer, U.P., October 2004)

An activist with an NGO in Mirzapur observed that because of the anti-child-labor NGO and law enforcement efforts, in addition to the traditional carpet belt of U.P., two new carpet manufacturing zones are emerging:

- **Extension zones**—Areas immediately surrounding the traditional zone, where carpet manufacturers branch out to place looms and recruit labor.
- **Peripheral zones**—Rather than importing labor from states such as Orissa and Bihar, carpet manufacturers are moving their looms to these source states, where labor is more abundant and monitoring less effective.

We found one of these emerging areas in Sonebhadra, U.P., in the center of the district around the *block* of Dhudhi. Since the Child Labor Act allows children to work for their families, loom operators move their looms to poor, isolated communities, installing them in the homes of the poor and “employing” their children. In this way they use local children rather than trafficking children from neighboring states.

For the loom owner, this has the advantage of skirting child labor laws. According to the CLA, it is not illegal to employ child labor in this way if it is the parents who are employing the children. Although we found families employing their own children both inside and outside of the traditional and new extension zones of carpet manufacturing in U.P. (the districts of Sonebhadra, Bhadohi, Mirzapur, Varanasi, Allahabad, Jaunpur, and Azamgarh), we did not find this in Bihar, where we suspect that a new peripheral zone will emerge.

⁷⁷ The National Human Rights Commission reported that only 60% of cases of total missing persons, particularly women and children, are reported to the police, the majority of which go unregistered. *Times of India*, Lucknow, U.P., November 5, 2004, A6.

The problem with parents employing children in prohibited industries is that such children do not benefit from regulated working conditions as defined by the Child Labor Act, 1986 (CLA). Furthermore, since Part II, Sec. 3 of the CLA exempts parental employment of children in prohibited industries, LEOs may inspect such places of child employment only if they receive a complaint of abuse.

An Andhra Pradesh case of a boy kept in slavery by his father demonstrates how parental employment of children in prohibited industries can result in abuse. The twelve-year-old boy was kept chained in his father's motorcycle repair shop for nearly eight months. State officials of the Child Labour Rehabilitation Project inspected the shop after receiving a complaint. The police arrested the boy's father on charges of child harassment and forcing a child to work. The father admitted to shackling his son to prevent him from running away and to make him learn the repair trade, since the boy was not going to school.⁷⁸

7. Public and official awareness

Much of the public, many law enforcement agencies, and even NGOs, are unfamiliar with the different types of trafficking. Without a clear understanding, NGOs fail to identify cases of trafficked children or to take effective preventive action to disrupt trafficking patterns. Similarly, the lack of understanding of trafficking impedes public officials' ability to protect children.

Disappointingly, some of the government officials we interviewed tended to deny the existence of child trafficking altogether. The following quotes from interviews with district administrators are representative of the position of some administrative and law enforcement officials we met in U.P. and Bihar:

The problem in [this district] is not that alarming. It is insignificant. Only some children may stray from home for different reasons.
(District Magistrate, U.P., October 2004)

There is no bonded child labor here.
(Sub-Divisional Magistrate, U.P., January 2004)

There is no coercion. People are going willingly. I am not aware of any cases involving coercion... People cannot find work

here; they are going willingly to find work. They are not forced.
(Sub-Divisional Magistrate, Bihar, December 2004)

In part, this discrepancy reflected the conception that trafficking meant only trafficking into prostitution, or more vaguely, "immoral activity." When asked about the trafficking of girls, the police officials mistook trafficking for what they termed "love affairs":

Q. Do you get any complaints of any girl children being taken away from parents?
A. Not in terms of trafficking. Only in terms of love affairs where the girl runs away with a man that has promised to marry her.
(Police Station Officer in Charge, Bihar, November 2004)

8. Recommendations to disrupt trafficking patterns

Recommendations regarding demand for child labor

- ▶ With NGO collaboration, create industry-wide systems of monitoring industries known to use illegal child and migrant labor to allow transparency and public reporting.

Recommendations regarding methods of recruiting children

- ▶ Increase community outreach to origin villages to educate parents and adolescents (especially if they are not in school) on:
 - common recruiting offers and deceptions. This may require different messages for mothers and fathers, and strengthening mothers in the context where the economic transaction seems to often be between the father and the trafficker. Women need to be aware of the pattern of men taking payments to allow traffickers to take children away.
 - risks of migration and risks for children traveling alone, since many children in Bihar are tempted to leave their homes in search of work or education opportunities. Different messages may be required for girls/young women who could be trafficked for prostitution, and

⁷⁸ Omer Farooq, *The Pioneer*, Lucknow, U.P., December 12, 2004, 3.

- boys being trafficked for other labor such as rug weaving.
 - the possibility of exploitation even when a child is sent with relatives
 - ways to check the destination before a child travels such as: getting addresses, labor department contacts, and addresses and working phone numbers of appropriate agencies for assistance
 - rights in employment and to being paid for work.
 - recognizing debt bondage and that it is illegal.
 - laws on employment of children. (See Chapter 4 for child labor laws.)
- ▶ Children need to perceive trafficking in a different way—not that they are being given a chance to fulfill their family responsibilities, but that their rights to education and freedom from slavery are being stolen. We need to remove children’s and adolescents’ willingness to migrate or work and not go to school.
 - Create employment opportunities for young women so they can find safer ways to improve their lives.
 - Educate families about how women can receive an education and build a career while still maintaining family traditions.

Recommendations regarding public and official awareness

- ▶ Use public media to disseminate information on the prevalence and illegality of child trafficking.
- ▶ Provide official information and directives to government employees, alerting them to prevalent trafficking patterns and motivating them to take appropriate actions.

Chapter 4 - The Legal Context

This chapter reviews the main laws and judicial rulings that relate to trafficking in children. It begins with a discussion of the main laws pertaining to child trafficking. We then point out strengths and loopholes for each law. Findings from interviews then illuminate three suggested improvements to the laws.

Although a number of laws relevant to trafficking exist, flaws and inconsistencies in their provisions may contribute to few prosecutions and fewer convictions. Other factors inhibiting enforcement are discussed in subsequent chapters. For reference, a table in the Appendix summarizes the offenses and punishments set forth by the most important laws discussed.

1. Central Government laws related to trafficking

India lacks a comprehensive human trafficking law, although there is legislation that prohibits slavery, trafficking for commercial sexual exploitation of children and women, and exploitation of migrant labor.

The Indian Penal Code

The Indian Penal Code (IPC) contains various sections that prohibit trafficking-related activities, among them

- kidnapping,
- procurement of minor girls,
- importation of girls, and
- sale of slaves. (See sidebar)

These sections should be applied whenever possible in conjunction with cases about trafficking of women and children. All the appropriate laws are not always applied in a case; their application has been selective.

The IPC laws against kidnapping, slave trading, and child trafficking for prostitution mandate punishments which, in most sections, include prison sentences for up to ten years and liability to a fine.

However, the IPC laws have some drawbacks:

- The IPC does not specify a uniform age definition for male and female children and minors.
- None of the IPC sections relevant to child

Indian Penal Code sections relating to trafficking in persons

361	Kidnapping from lawful guardianship (of any female minor under age 18 or any male minor under age 16)
362	Abduction
363-A	Kidnapping or maiming a minor for purposes of begging
365	Kidnapping or abducting with intent secretly and wrongfully to confine a person
366	Kidnapping, abducting, or inducing a woman to compel her marriage, etc.
366-A	Procurement of minor girl
366-B	Importation of girl from foreign country
367	Kidnapping or abducting in order to subject person to grievous hurt, slavery, etc.
370	Buying or disposing of any person as slave
371	Habitual dealing in slaves
372	Selling minor for purposes of prostitution, etc.
373	Buying minor for purposes of prostitution, etc.
374	Unlawful compulsory labor
375	Rape
376	Punishment for rape
376-C	Intercourse by superintendent of jail, remand home, etc.
377	Unnatural offenses (sexual abuse of a male child)

trafficking reviewed in this report state a minimum or maximum amount for fines.

- The punishment for forced labor (IPC 374)–imprisonment up to one year with or without fine–is not likely to prevent offenders from repeating their offense.
- Only punishment for rape (IPC 376) specifies a minimum term (seven years), and imprisonment may be for life.

Prison terms allowed by the Indian Penal Code

Imprisonment of up to five years

- 376-B Intercourse by public servant with woman in his custody
- 376-C Intercourse by superintendent of jail, remand home, etc.

Imprisonment of up to seven years

- 363 Kidnapping.
- 370 Buying or disposing of any person as a slave.

Imprisonment of minimum seven years, up to life

- 376 Rape

Imprisonment of up to ten years

- 363-A Kidnapping or maiming a minor for purposes of begging.
- 366 Kidnapping, abducting or inducing a woman to compel her marriage, etc.
- 366-A Procurement of minor girl.
- 366-B Importation of girl from foreign country.
- 367 Kidnapping or abducting in order to subject person to grievous hurt, slavery, etc.
- 371 Habitual dealing in slaves.
- 372 Selling minor for purposes of prostitution, etc.
- 373 Buying minor for purposes of prostitution, etc.

The Immoral Traffic (Prevention) Act of 1956

This act, known as the ITPA, makes trafficking of children and women for commercial sexual exploitation an offense. It prohibits certain activities of an

exploitative nature associated with organized prostitution of women and children.

The ITPA sets the age of a *child* as a person who has not completed 16 years and a *minor* as a person between 16 and 18 years of age (Sections 2(a)(a) and 2 (c)(b)).

The ITPA provides for the prosecution of men and women who keep or manage a brothel (Section 3) or live on the earnings of sex workers (Section 4). It also provides for the prosecution of women “practicing prostitution” (Section 7) and “seducing and soliciting in public” (Section 8). This law also requires states to appoint a specific number of police officers as *trafficking police officers* responsible for exercising the powers of the ITPA and discharging functions exercisable under it (Section 13.4). The loose language of the ITPA, specifically between Sections 3 and 4 and Sections 7 and 8, has led to inconsistent enforcement.

While Sections 3 and 4 are key for prosecuting traffickers, they are seldom enforced. According to prosecutors, advocates, and NGO advocates for trafficked women and children, law enforcement officers tend to apply only Sections 7 and 8, thus punishing trafficked women. Women and minor girls are routinely arrested on charges of seducing or soliciting under Sections 7 and 8, while pimps and brothel keepers are not booked under Sections 3 and 4.

In part, this misapplication is due to the fact that the law does not require police to gather information about the background of the victims. The ITPA also makes no provision for training of trafficking police officers.

At the time of writing, central government ministers of the Department of Women and Children had suggested amendments to the ITPA that proposed an end to punishing women who are found “soliciting”, “loitering” and “offending public decency”. But as of June 2005, cabinet members, including women ministers, did not agree to this change. The proposed amendments come at a time of heated debate among central government ministers about the efficacy and ethics of the statutes in the ITPA which can lead to the punishment of women but not equally of traffickers, pimps and touts. Cabinet ministers opposed to the amendments believe that the changes will encourage the sex trade.⁷⁹

⁷⁹ *The Telegraph*, Kolkata., June 29, 2005.

The Bonded Labor (Abolition) Act of 1976

The act, referred to as the BLA, formally abolishes the bonded labor system, including traditional systems of peonage or debt bondage. The legislation specifies the various debts from which bonded laborers are now exempt and outlines punishments and trial procedures for offending users of bonded laborers.

There are major difficulties with the BLA. First, the evidence of bondage is difficult to gather, as there are no mechanisms for protecting witnesses and victims to allow them to testify safely.

Second, the penalties laid out in the BLA are lenient. The maximum punishment for violation of the BLA is imprisonment for up to three years or a fine of up to 2,000 rupees (approximately US\$45). There is no minimum punishment for any offense.

A third problem is that the BLA does not call for any rehabilitation for people liberated from bondage. The BLA makes no allowance for health restoration, rehabilitation, reintegration, or even remuneration for years of unpaid labor. Giving no guidelines or rules for rehabilitation, the BLA states only that

The District Magistrate shall, as far as practicable, try to promote the welfare of the freed bonded laborer by securing and protecting the economic interests of such bonded laborer so that he may not have any occasion or reason to contact any further bonded debt.
(Chapter IV, Section 11)

Fortunately the Supreme Court decision of 1996, discussed below (Section 3 of this chapter), has subsequently clarified the entitlement of previously bonded laborers.

Furthermore, the BLA calls for the creation of Vigilance Committees, essentially composed of top-level district officials (Chapter V, Section 13). These committees are supposed to provide for the economic and social rehabilitation of the freed bonded laborers and coordinate the functions of rural banks and cooperatives to make credit available to them (Chapter 4, Section 14). But there are no specifics about how much a freed bonded laborer is to receive, or what actions the Vigilance Committee must take to ensure his or her rehabilitation.

Although the BLA is a national Act, responsibility for its implementation rests on state governments, whose resources vary. If they have schemes such as *indira awas yojna* housing, surplus land for distribution, or provisions for interim relief, then the bonded laborer's release certificate entitles him or her to these benefits.

The Child Labor (Prohibition and Regulation) Act of 1986

The CLA is the most comprehensive legislation on child employment, consolidating various acts that prohibited or regulated the employment of children below 14 or 15 years in certain industries. These acts included the Children (Pledging of Labour) Act (1933), Employment of Children Act (1938), Factories Act (1948), Minimum Wages Act (1948), Plantation Labour Act (1951), Mines Act (1952), Merchant Shipping Act (1958), Apprentices Act (1961), Beedi and Cigar Workers (Conditions of Employment) Act (1966), and Contract Labour (Regulations and Abolition) Act (1970).

The CLA repeals the Employment of Children Act (1938) and comprehensively prohibits the employment of children below age 14 in hazardous processes and occupations. The CLA provides a schedule of occupations and processes in which employment of children is banned. In employments where children are not prohibited from working, it regulates their working conditions.

The CLA also requires that the employer maintain a register containing specified information about child workers. This register must include the child's name, date of birth, hours of work, and nature of work, among other details. The register is supposed to be available to labor officials for inspection at any time.

The CLA regulates the employment of children under age 14 in non-hazardous occupations or processes, as follows:

- Work is limited to six hours per day (including break and waiting for work).
- No work is allowed between 7 p.m. and 8 a.m.
- The period of work shall not exceed three hours.
- After three hours work, the child must have a break for at least one hour. No child is allowed to work overtime, nor can a child be employed in more than one place in a day.

- The employed child must have at least one whole day off work each week.

The CLA's guide to prohibited industries and the strict regulatory procedures for child employment are the elements of the law that most facilitate the detection of trafficking. Similarly these procedures should prevent child trafficking for labor if properly enforced. The CLA also makes it easy for complaints to be made of suspected offenses. The act authorizes any person, police officer or labor inspector to file a complaint.

The CLA also sets penalties for offenses. The punishment for employment of children in violation of the CLA is imprisonment for at least three months up to one year, or a fine of at least Rs. 10,000 (\$200) up to Rs. 20,000 (\$400), or both. The punishment for repeat offenders is imprisonment for at least six months up to two years.

Despite the comprehensive legislation, there are loopholes that make it difficult for investigators to secure evidence leading to conviction of suspected offenders.

Measures established by the JJ Act to protect child victims of trafficking and related crimes

According to the JJA, the State Government may constitute for a district or a group of districts, one or more Juvenile Justice Boards to handle children in conflict with the law, and Child Welfare Committees to deal with children in need of care and protection.

District Child Welfare Committees act as a Bench of Magistrates to dispose of cases for the care, protection, treatment, development and rehabilitation of children in need of care and protection as well as to provide for their basic needs and protection of human rights. The Child Welfare Committee must include at least one woman and an expert on matters concerning children.

Juvenile Welfare Board must include two social workers with at least seven years of experience with children's health, education, or welfare. One of the social workers must be a woman. Also, the appointed Judicial Magistrate must have special knowledge or training in child psychology.

The JJA also calls for the state government to provide specialized services to protect and rehabilitate children in need of care and protection or juveniles in conflict with the law by establishing:

Special homes in every district for the reception and rehabilitation of juveniles in conflict with the law.

Children's homes for the care, treatment, education, training, development, and rehabilitation of children in need of care and protection. These may be maintained by the state or in association with voluntary organizations.

Shelter homes as drop-in centers for children in need of urgent support and await seeing the Child Welfare Committee.

A vigorous state law: The Goa Children's Act

In 2003, the state of Goa produced a noteworthy new juvenile protection law, the Goa Children's Act of 2003. The act defines child trafficking for sexual exploitation and servitude in accord with the United Nations Trafficking Protocol (2000). The state law helpfully supplements national trafficking laws, enhancing the prosecution and protection tools available to law enforcement and criminal justice officials. Some notable points of the law include:

Prohibiting all forms of child labor—not only all forms of hazardous employment as defined in the CLA, but also all forms of non-hazardous employment as defined in the CLA, all forms of domestic employment, and all forms of informal self-employment such as rag picking, running errands, and street vending.

Increasing the punishment for violations of child labor law, by fines and incarceration:

- 50,000 rupees with simple imprisonment of one year for the employer for all forms of *hazardous* employment,
- 25,000 rupees and simple imprisonment of three months, for the employer for all forms of *non-hazardous* employment,
- 50,000 rupees for all forms of *domestic labor*.

Increasing the penalty for *trafficking in children* for the purposes of employment:

- 50,000 rupees and/or imprisonment of not less than three months.

Creating new provisions against sexual assault of a child and child trafficking that set out penalties for various sexual offenses including various forms of intercourse, assault, and incest:

- 100,000 rupees fine and imprisonment for up to three years for *sexual assault* of a child
- 200,000 rupees fine and imprisonment of seven to ten years for *grave sexual assault*

Increasing the penalty for *commercial sexual exploitation* of a child:

- 100,000 rupees fine and imprisonment of one year, which may be in addition to any other penalties or punishments that may be enforced under any other Act in force.

Making a criminal offense the *sale of children* or aiding and abetting in the sale of a child, or harboring a child for the purpose of trafficking, punished by:

- 50,000 rupees fine or more, and imprisonment for a period of one to three years.

Enhancing the protection measures for child victims, and requiring a medical examination of a child sexual assault victim to be attended by a professional social worker/counselor.

The Act's statutes for child sexual trafficking also prohibit all forms of the dedication of minor girl children as *devadasi*, defining "dedication" more strongly than in existing statutes, as "the performance of any act or ceremony by whatever name called, by which a girl child is dedicated to the service of any deity, idol, object of worship, temple, other religious institutions or places of worship."

The CLA defines a child as “a person who has not completed his fourteenth year of age.” Yet many problems arise over confirming the age of a victim. As the law is written, the onus is on the inspector or prosecution to prove a child’s age rather than the employer. In the instance of a dispute between an inspector and an employer as to the age of a child in a workshop or establishment,

the question shall, in the absence of a certificate as to the age of such child granted by the prescribed medical authority, be referred by the Inspector for the decision to the prescribed medical authority.

(Part III, Section 10)

CLA Part IV, Section 16 holds that the certificate of age granted by a medical authority shall be “conclusive evidence” as to the age of the child.⁸⁰

It is not unusual for employers to put pressure on doctors or take advantage of a hasty medical examination to win a favorable age determination. Prosecutors cannot challenge that decision, proving the age of the child by other evidence. According to the CLA, government medical authority has the final say in determining the age of the child. While the victim’s own statement is admitted in evidence, the absence of witness protection in most cases means that children do not testify at trial or give statements contradicting what may have been given to the SDM at the time of rescue. (Other problems regarding witness protection are explored in Chapter 7.)

The Juvenile Justice (Care and Protection) Act of 2000

This Act, known as the JJ Act, is an important piece of legislation, making provisions for care, protection and treatment of child victims of trafficking and other crimes. Catering to juveniles’ development needs, it calls for adopting a child-friendly approach in the adjudication and disposition of matters in the best

interest of children. It requires their rehabilitation through various institutions which it establishes.

The JJ Act consolidates and amends preceding laws pertaining to juvenile offenders and children in need of care, protection and treatment. It sets a uniform age of 18 years, below which both boys and girls are to be considered children (Chapter 1, Section 2.k).

It also defines a child in need of care and protection as one

- who is being or is likely to be grossly abused, tortured, or exploited for the purpose of sexual abuse and illegal acts,
- who is found vulnerable and is likely to be induced to drug abuse or trafficking, or
- who is likely to be abused for unconscionable gain. (Chapter 1, Section 2(d)(vi)-(viii))

The JJ Act makes state governments responsible to enforce care and protection of children. Under the JJ Act the state government may form in every district one or more Child Welfare Committees to discharge duties in relation to assisting children in need of care and protection.⁸¹

The Child Welfare Committee acts as a Bench of Magistrates to dispose of cases for the care, protection, treatment, development and rehabilitation of children in need of care and protection as well as to provide for their basic needs and protection of human rights. The Child Welfare Committee must include at least one woman and an expert on matters concerning children.

Under Chapter III, Section 32(1), any child in need of care and protection is to be produced before the Committee by:

- any police officer or special juvenile police officer or designated police officer,
- any public servant,

⁸⁰ CLA (1986) Part IV, Section 16 (2). “Every certificate as to the age of a child which has been granted by a prescribed medical authority shall, for the purposes of this Act, be conclusive evidence as to the age of the child to whom it relates.”

⁸¹ “The State Government may, by notification in Official Gazette, constitute for every district or group of districts, specified in the notification, one or more Child Welfare Committees for exercising the powers and discharge of duties conferred on such Committees in relation to child in need of care and protection under this Act.” JJ Act (2000) Ch. III, Sec. 29(1). Emphasis added.

- Childline, a registered voluntary organization or by such other voluntary organization or an agency as may be recognized by the State government,
- any social worker or a public spirited citizen authorized by the State government, or
- the child him- or herself.

The JJ Act authorizes the establishment of children's homes (Ch. III, Section 34) and shelter homes (Ch. III, Section 37) for children in need of care and protection. The act also calls for the concealment of the identities of child offenders (Chapter II, Section 21).⁸² Additionally, the JJ Act specifies that special juvenile police units are to be formed in every district and city to deal exclusively with juveniles and to work to prevent juvenile crime. Every police station is to have at least one officer with aptitude and appropriate training and orientation in child welfare and juvenile justice procedures (Chapter V, Section 63).

In order to ensure that magistrates adopt a child-friendly approach in the adjudication and disposition of cases, the Juvenile Justice Boards include social workers with experience with children's health, education, or welfare, and the appointed Judicial Magistrate must have special knowledge or training in child psychology or child welfare (Ch. II, Section 64.3).

From the point of view of child protection, a key problem with the JJ Act is that it does not require state governments to form district Child Welfare Committees and Juvenile Justice Boards. Nor are state governments required to establish and maintain children's homes and shelter homes. The JJ Act states ambiguously that the state government may constitute or establish these bodies.

In 2002, the state government of U.P. passed legislation entitled the Juvenile Justice Board Rules requiring the formation of Juvenile Justice Boards. However, at the time of writing this report, the state governments of U.P. and Bihar had not yet formed Child Welfare Committees and Juvenile Justice Boards in the districts where we conducted research. As sections in the JJ Act pertaining to these bodies are written, it appears to be a matter of political will rather than command of law

which drives the establishment of these elements of the juvenile justice system.

While the JJ Act calls for the prohibition of the publication of the identity of a child offender (Chapter II, Section 21), there is no similar provision for the concealment of the identity of a child victim.

2. State government laws and administrative orders related to trafficking

Uttar Pradesh and Bihar, like most other states, do not have state-specific anti-trafficking legislation. To date Goa is the only state that has passed anti-trafficking legislation. The enforcement of Indian anti-trafficking laws enacted through the ITPA, BLC, CLA, and JJ Act is the responsibility of each state. However, there are significant limitations in the Uttar Pradesh government's ability and desire to administer the rescues, prosecution, protection, and rehabilitation measures called for in these laws.

Until 2002, there was a Juvenile Justice Court in U.P., but it was abolished that year after new rules (Juvenile Justice Board Rules of 2002) required the state to form a Juvenile Justice Board according to Ch. II, Sec. 4 of the Juvenile Justice Act. At the time of the writing of this report, the U.P. government has not yet constituted such a board at the state or district level, so the state is unable to hear cases involving juveniles. U.P. has also yet to form district Child Welfare Committees to replace Juvenile Welfare Boards as defined in the JJ Act.

Many states in northern India including U.P., Bihar, and West Bengal, have appointed NGO social service agencies with shelter home facilities as authorized providers of services mandated by the JJ Act. State remand homes for juvenile offenders do not have proper facilities to care for the trauma and health needs of trafficking victims.

State laws in U.P. and Bihar that comply with federal laws remain to be developed and implemented. The Goa Children's Act of 2003 is a notable example of such a law.

⁸² "No report in any newspaper, magazine, newssheet or visual media of any inquiry regarding a juvenile in conflict with the law under this Act shall disclose the name, address or school or any other particulars calculated to lead to the identification of the juvenile nor shall any picture of any such juvenile be published..." JJ Act, Ch. II, Sec. 21(1).

3. Landmark judicial rulings

Bonded child labor

A Supreme Court of India judgment in the case of *M.C. Mehta vs. State of Tamil Nadu & Ors.* (1996) is a landmark for child labor and bonded child labor, ordering the enhanced enforcement of the bonded child labor laws. Here it was argued that children below 14 years cannot be employed in any factory, mine or other hazardous work and they must be given education. The Supreme Court ruled that employers of children were made liable to pay Rs. 20,000 (\$400) in compensation for every child employed. The government was asked to provide a job to an adult member of the family in lieu of the child or deposit Rs. 5,000 (\$100) for each child. Thus there would be a corpus of Rs. 25,000 (\$500) for each child. The fund would be deposited in the “Child Labour Rehabilitation-cum-Welfare Fund”. Payment from the fund or the employment given would cease if the child is not sent to a school.

The government could issue the compensation package in cash or in kind, based on the needs of the parents of the rescued child. The compensation package payment might be in the form of support for income generating activities, *indira awas yojna* housing, livestock, help in establishing a small shop, and/or in some cases, provision of land.

Trafficking for commercial sexual exploitation

The Supreme Court of India has also passed two landmark rulings in cases of trafficking of children for commercial sexual exploitation.

In a public interest litigation, *Vishal Jeet vs. Union of India* (1990), the Supreme Court made a ruling that the central and state governments should set up advisory committees to make suggestions for amending trafficking and juvenile protection laws, as well as for the improvement of the enforcement of the existing laws.⁸³ This ruling called for the advisory committees to make suggestions regarding the rehabilitation of children freed from prostitution and the setting up of rehabilitation homes. The ruling, however, does not offer any guidance as to what “rehabilitation” would mean in practical terms.

In another case, *Gaurav Jain vs. Union of India* (1997), the Supreme Court held that the children of prostitutes have the right to equality of opportunity, dignity, care, protection and rehabilitation so as to be part of the mainstream of social life without any stigma attached on them. The Court directed for the constitution of a committee to formulate a scheme for the rehabilitation of such children and child prostitutes and for its implementation and submission of periodical report of its Registry.⁸⁴

Out of these two landmark judgments, the Committee on Prostitution, Child Prostitutes and Children of Prostitutes was formed under the Department of Women & Child Development of the Ministry of Human Resource Development.

In 1998, the Committee prepared a Plan of Action to Combat Trafficking and Commercial Sexual Exploitation of Women and Children. The Plan of Action recommends improvements to the ITPA and calls for better enforcement of the laws. However, the State governments of Bihar and Uttar Pradesh have yet to implement the Plan of Action.

4. Improvements in laws suggested by respondents

This section draws upon findings from interviews with government officials, police, NGO activists, advocates, and village *panchayat* representatives, among others. Several interview questions sought participant’s evaluations of the laws related to child trafficking, and invited their suggestions for possible improvements.

Provide measures to prevent re-enslavement

Interestingly, one theme was consistent in all the interviews: current laws can do very little to prevent re-enslavement. An activist with a NGO fighting against child labor best articulates the skepticism towards the effectiveness of the existing laws:

We have had the Bonded Labour Act since 1975.... If anyone ... gets a certificate that they were a bonded child laborer, some grant is given to the family for economic improvement. But we have found that parents have usually already taken a loan against the child’s work.

⁸³ Department of Women & Child Development (1998), 15.

⁸⁴ Ibid, 16.

So even with money awarded, they still owe, so the child is re-sold.

(Anti-child labor activist, U.P., October 2004)

According to interview participants, a monetary compensation package on its own is not enough to lift families of trafficked children out of their situation of desperation. This is especially true if, as implied in the quotation above, the compensation is used to pay off the “loan” against which the laborer is bonded. The Bonded Labour Act specifically nullifies all such loans. Later in this report we examine the limitations of existing rehabilitation measures and suggest ways to reduce the vulnerability of parents and their children to trafficking.

NGOs should be empowered to file reports

A consistent suggestion in interviews for amending existing law was that NGOs, not just individuals, should be allowed to file a First Information Report (FIR)⁸⁵ in trafficking cases. Currently if an NGO wants to file an FIR, an individual working for the NGO must file the FIR personally. If that individual later leaves the NGO or takes on too many other cases, that individual is still the only person who can officially take part in the court proceedings.

This is problematic not only for the individual and the organization in cases that can last seven years, but also for the safety of the individual. In many cases, traffickers have threatened individuals who filed an FIR while working for an NGO.

One advocate noted that NGOs are not recognized as “persons” and so the NGO cannot file an FIR.⁸⁶ This advocate argues that the laws should be amended to allow NGOs to file an FIR:

The Child Labour Act should be amended so that recognized NGOs can be authorized to file complaints. Recognized NGOs means any NGO working in the field recognized by the State or central government. Not just any organization—they might blackmail— but officially recognized NGOs should be authorized to file complaint. As it is, only an individual can file a complaint.

(Human Rights Attorney, U.P., January 2005)

Increased government transparency

One suggestion for greater transparency is for Bihar and U.P. to create laws along the lines of the Delhi Right to Information Act. This act allows citizens to get information from local government officials about entitlements or administrative procedures. Through this Act, people in Delhi have been able to monitor the implementation of public works in their localities to ensure that they are carried out as ordered.⁸⁷

Such legislation in U.P. and Bihar would enable people to enquire into the distribution of food subsidy programs and other welfare benefits, and increase official accountability.⁸⁸

On the national level, in 2002 the central government passed the Freedom of Information Act, giving citizens access to public information. The Act, however, exempts certain agencies (including state security and police organizations) from providing details on matters of human rights and corruption.

At the time of writing, the National Advisory Council to the government of India recommended amendments to the Freedom of Information Act which, if implemented, will strengthen accountability measures and encourage punishment of public servants who do not comply with the provisions of the Act or who provide false information.⁸⁹

⁸⁵ The First Information Report (commonly cited as “FIR”) is the first information reaching the police station about a crime and serves as the initial point of criminal investigation by the authorized agencies. When an investigation culminates in prosecution, the FIR forms the basis of the charge sheet (i.e., indictment). See Indian Criminal Procedure Code Section 154 (1).

⁸⁶ The requirement that only individual persons may report complaints is a general policy of the FIR procedure, and so this recommendation might also be implemented through legislation as an amendment to Code of Criminal Procedure to clarify the criteria for FIR.

⁸⁷ Siddharth Narrain. “For informed action.” *Frontline*. September 24, 2004. 81.

⁸⁸ Uttar Pradesh has passed an executive order on access to information, which could be strengthened by a state law.

⁸⁹ Narrain (2004). 82.

We have taken seriously the recommendations of other participants in this research. Their suggestions were, however, too numerous to list individually. Our recommendations below reflect the suggestions most commonly voiced by respondents.

5. Recommendations to improve federal and state legislation

Central government

- ▶ Improve national laws pertaining to trafficking to meet child survivors' rehabilitation and reintegration needs.
- ▶ Revise the CLA to give greater authority to inspectors to make enquiries to confirm a child's age, allowing for rebuttal of a medical certificate with other evidence or a second medical opinion.
- ▶ Strengthen current laws to include increased benefits for guardians of rescued trafficked children.
- ▶ Amend the JJ Act to include a provision for the concealment of the identity of a child victim.
- ▶ Amend the JJ Act to require, rather than simply recommend, that states put in place Child Welfare Committees and Juvenile Justice Boards.
- ▶ Enact new laws that provide employment or economic activities for the unemployed and low income populations.

State governments

- ▶ Fully implement current laws that provide employment or economic activities for the unemployed and low income populations, to reduce re-enslavement.
- ▶ Institute comprehensive state laws in U.P. and Bihar that complement and implement national legislation, integrating trafficking and prohibited child labor laws, and meet child survivors' rehabilitation and reintegration needs. (The Goa Children's Act of 2003 serves as a good model.)
- ▶ Provide additional salaries, vehicles, and other equipment needed to investigate and prosecute trafficking cases.
- ▶ Immediately constitute Juvenile Justice Boards and Child Welfare Committees in every district of Bihar and U.P.

- ▶ Require regular inspection visits to licensed entertainment venues, thus enabling local administration to prevent such venues being used as a cover for forced prostitution.

Suggested improvements

- ▶ Allow NGOs that are registered with the State government to file a First Information Report (FIR) in trafficking cases.
- ▶ Increase transparency by application of state Right to Information laws.

Chapter 5 - The Insitutional Context

Traffickers keep and control child victims using debt bondage and violence, but weaknesses in the government's ability to enforce laws contributes to worker control and exploitation as well. The key element in this lack of consistent enforcement is that prosecution of trafficking cases, providing justice to the least powerful in society, is not given determined and continuous attention. Systems of criminal justice in all countries struggle to maintain integrity and to provide equal treatment under the law: Our researchers heard numerous allegations about influence on the justice system by powerful elements of society, often connected with the traffickers, as well as straight-forward taking of bribes. Insufficient training, absence of collaboration, and dearth of law enforcement resources also contribute to weaknesses in the system, of which traffickers take full advantage.

1. Promoting governmental integrity and equal protection under the law⁹⁰

Systems for maintaining equality under the law are sometimes undermined in trafficking cases, because of pressure from local politicians on public servants and on police, as well as, allegedly, through payment of bribes. The researchers heard reports of corruption happening before the prosecution stage of a case, usually involving labor officials, local police, medical officers, and witnesses.

According to one former high-ranking police officer who resigned from his position because of corruption in his district's police force:

If the accused is powerful, they threaten the Investigating Officer to give a report in their interest. If he doesn't, he will be transferred. The rich ones give bribes to the Investigating Officer and they are not punished.

(Former senior police officer, U.P., November 2004)

With the investigation stopped by a bribe, the trafficker escapes the threat of prosecution and remains free.

If the investigation of the trafficker or slaveholder continues, then bribery may extend to offering

Acceptance of domestic child slavery: Bihar

Normative acceptance of child labor became clear to us during an interview with an elected official in one district of Bihar.

During the interview a young girl, who appeared to be about age eight, served water and tea. The girl's hair was dirty and matted and she wore a tattered green dress.

When we asked about the girl and why she was not in school, the official said she was "just an illiterate girl from the neighborhood".

Then the official quickly left the room; the girl never came back, but adult males came to serve snacks and clear the tea setting.

The official hid his use of a child domestic only after our questions. Sadly, local NGOs, elected officials, and the public do not seem to question this exploitation of a child.

Free the Slaves Researchers' notes, Bihar, November 2004

witnesses (and sometimes victims) money for not testifying. During the prosecution phase, corruption can involve the witnesses, court clerks, and even government counsel.

Where and how do alleged failures of integrity in prosecution of trafficking cases tend to occur?

⁹⁰ *Methodological note:* Information about the need for governmental integrity was difficult to obtain, in part due to reluctance of officials to admit the existence of illegal practices within their own departments or agencies. We relied on reports from non-governmental organizations, officials, cases reported in the news, and court records to inform the research about the nature of illegal practices in U.P. and Bihar.

Local police

Reports of corruption of local police typically involved bribery. Pimps, traffickers or employers pay cash to individual officers in order to stop an investigation or the issuing of charges. Employers, brothel owners and pimps pay lower level police officers to alert them about planned raids so that child slaves can be hidden. A female survivor of forced prostitution explained:

There are so many girls who don't get rescued because they are hidden during raids. The police officers of lower ranks take bribes from the madams and pimps to supply information. These lower officers find out about a raid early through the police station, and tell the madams and pimps about raids beforehand.

(Female trafficking survivor, age 21, West Bengal, October 2004)

Lack of will to enforce trafficking laws also keeps women and girls in forced prostitution: Brothels are easily identifiable in red-light areas in eastern U.P. and Bihar. Girls appearing as young as age 10 are visible from the roadside. But when we questioned senior police officials about these brothels, they asserted the businesses were licensed entertainment venues.

Local police may also choose not to enforce trafficking laws because they are customers of the brothels that use trafficked children. Vendors in the red-light areas of Bihar were aware of police frequenting brothels. One explained:

There are no police raids in this red-light district. The police come sometimes but only as customers.

(Red-light district shop owner, Bihar, November 2004)

In 2000, NGOs and the National Commission on Women uncovered an example of local police directly exploiting women and children through trafficking them into forced prostitution and domestic servitude. In this case, the police in Varanasi were trafficking the girls held in the district remand home.⁹¹ The officers under suspicion were prosecuted on the basis of testimonies from child victims and other witnesses, but

were acquitted and later transferred and promoted within the police force.

Labor officials

Loom owners using bonded child labor escape apprehension due to inadequate diligence on the part of LEOs. When a loom is inspected, the owner will often claim to be the parent of the trafficked child, and provide false birth or school enrollment records. Inspectors regularly accept such assertions, and fail to report violations of the child labor or bonded labor laws. Labor inspectors and police are reported to accept bribes from employers or middlemen.

Reported corruption of labor officials almost always involved bribes designed to stop a raid or investigation, lie about a child's age, or to find complaints of child workers to be untrue. Labor officials seem to be bribed in more ways than the local police; some labor officials threaten loom owners with an investigation in order to extort funds. A loom owner explained how the labor inspectors blackmailed him:

When labor inspectors found a child of 15 or 16 years old, they reported him as an illegal child laborer in order to extort money from me.... They asked me for 10,000 rupees [\$228.00].
(Loom owner, U.P., October 2004)

The U.P. State Labor Department expressed concern over this kind of corruption when it revoked the Government Order of August 29, 2003 which prohibited inspections of factories and workplaces. A senior Labor Department official, speaking anonymously, reported to the *Hindustan Times*:

There is no denying the fact that most of the Labour officers who enjoy blackmailing potential would succumb to the offers by the industrial and business houses at the cost of workers.⁹²

This GO was revoked after positive dialogue between senior U.P. government officials and NGO coordinators having good rapport with officials. (See "*Examples of*

⁹¹ FIR, Cr. No. 84/2000, Sections 3, 4, 5, 6, 8, 9, 15 Immoral Traffic (Prevention) Act. Upper City Magistrate (IVth) vs. S. Singh and V. Pathak. Shivpur Police Station, Varanasi. May 24, 2000; Daksh, Vijay. "Tour Report of Mrs. Vijay Daksh, Member, NCW, at Varanasi on Return Journey from Mau on 1.6.2000." Unpublished. Submitted to National Commission for Women, New Delhi, June 2000.

⁹² *Hindustan Times*, Varanasi, U.P., January 1, 2005, A3.

successful collaboration” under Section 4 of this chapter.)

Other labor officials chose to ignore child trafficking cases because they feared that they would lose their jobs. In some cases, this problem related directly to business owners using their influence on higher-level administrators.

There are so many carpet factories we all know are using hundreds of child laborers, but what can we do? The carpet factory owners have connections with the higher officials at Lucknow. If I do something against the factory owners, I lose my job.

(Labour Enforcement Officer, U.P., November 2004)

Obviously, ensuring consistent integrity on the part of officials will require deep change. With an acceptance of exploitation of child workers at a high level, the policeman on the beat, or the labor inspector in the field has little reason to behave otherwise than they do.

Medical officers

Reports of corruption of medical professionals typically involved their taking bribes or performing favors for powerful people, then dissembling or subverting the evidence of a child trafficking case. Doctors can sabotage a case by issuing a false age certificate or delaying a physical or rape examination in order to avoid detecting evidence of violence.

A labor official explained:

Sometimes it happens that the employer can “manage” the medical examination. Then the Chief Medical Officer writes on the examination certificate that the child has completed his fifteenth year of age.

(Assistant Labour Commissioner, U.P., November 2004)

Since according to the CLA, the certificate of age granted by a medical authority is conclusive evidence as to the age of a child,⁹³ the judge is prevented from accepting alternative evidence from other doctors. Unless the judge is willing to make an exception and permit a second medical examination, it is not possible

for the prosecution to challenge the statement of the medical authority.

Even when the judge does allow an exception, the prosecution must often rely on the same medical officer or a colleague at the same hospital to perform the second evaluation. Where the medical authority has been influenced by powerful individuals connected with the case, the medical authority can fail to inspect a child thoroughly enough to accurately report the age and physical condition of the child.

The change in law recommended in Chapter 4 would help to allow alternative evidence and second opinions regarding the age of a trafficked child.

Rural leadership

The local people elected to the *gram panchayat* administer government resources, solve village problems, and manage various village details such as birth registries. The *panchayat* tends to be made up from the more powerful of village members.

We found that village *panchayat* is sometimes tacitly consenting to child trafficking, explaining that there was no alternative to child trafficking or illegal child labor because these practices are financially helpful to their village. In other cases, it was reported that members of a *panchayat* or their family participated in trafficking.

It is even more likely that lack of integrity and transparency in the *panchayat* system will affect the rehabilitation process for survivors, as the *panchayat* is the primary distributor of government entitlements at the village level. This includes compensation funds, land, or benefits for released bonded child laborers. According to parents and family members of trafficked children in villages of Bihar, the *panchayat* tends to provide such benefits only to favored villagers and to villagers who pay bribes or agree to provide favors, not to villagers who genuinely deserve the benefits.

⁹³ CLA (1986) Part IV, Sec. 16(2). “Every certificate as to the age of a child which has been granted by a prescribed medical authority shall, for the purposes of this Act, be conclusive evidence as to the age of the child to whom it relates.”

2. Need for sensitizing key officials

Judiciary

It seems that some members of the judiciary may not be sensitive to the reality of child trafficking in northern India. In some cases, despite legal minimum sentences, judges have drastically reduced sentences. In Allahabad, for example, when an employer was convicted of using illegal child labor, judges were imposing fines of Rs. 200 (\$4).⁹⁴ The CLA states that the fine shall be no less than Rs.10,000 plus imprisonment for three months to one year.⁹⁵

In 2000, the police superintendents of a Varanasi Women's Protection Home were prosecuted. There was evidence that supervising officers of the home had physically abused the girls and women there, and had forced them into prostitution. Despite this evidence, the accused were acquitted.⁹⁶

Four years later, a new supervisor at the same Women's Protection Home told us:

That event in 2000 was wrong, and it was wrong that they [the staff] got no punishment for doing that. But the situation is different now.

(Superintendent, Women's Protection Home, U.P., January 2005)

Other judges, however, are clearly more aware of the reality of child trafficking and have been important in

freeing slaves from debt bondage. In recent years, some High Court judges in Allahabad have ruled to protect trafficked girls and women. In one noteworthy ruling the judge condemned how the ITPA is being used against the women who are victims, rather than against the pimps and brothel owners. The judge called for ameliorating the poor conditions of district remand homes where women are being held for unjustifiable periods and are not getting access to legal aid.⁹⁷

Labor administration

When police or administrators are not familiar with the law, they may make poor decisions that further harm the children whom traffickers have already abused. We found some law enforcement agencies and government officials unaware of, or misunderstanding, the laws pertaining to child trafficking. There was a mixed, often contradictory, understanding of forced child labor, even among labor department officials.

Many officials did seem to understand "child labor" to mean children working in any industry not prohibited by the CLA.⁹⁸ The exception is that children may be employed in prohibited industries or practices when working for their parents or guardians, which the CLA allows under Section 3 (Part II).⁹⁹

For many officials, "bonded child labor" was understood to mean children employed by someone other than family in prohibited workplaces outside the child's home village, district or state. This led in turn to

⁹⁴ Free the Slaves interview with former Government Counsel, U.P., January 2005.

⁹⁵ CLA (1986) Part IV, Sec. 1.

⁹⁶ FIR, Cr. No. 84/2000, Sections 3, 4, 5, 6, 8, 9, 15 Immoral Traffic (Prevention) Act. Upper City Magistrate (IVth) vs. S. Singh and V. Pathak. Shivpur Police Station, Varanasi. May 24, 2000; Daksh, Vijay. "Tour Report of Mrs. Vijay Daksh, Member, NCW, at Varanasi on Return Journey from Mau on 1.6.2000." Unpublished. Submitted to National Commission for Women. June 2000.

⁹⁷ Cr. Misc. Application No. 4621 of 2004. Pushpa vs. State of U.P. and the City Magistrate of Agra and others. Court No. 22. July 16, 2004. "These specific directions for enquiring into the welfare of the women in the protective homes are being made because this Court finds that as in the present case, while action is hardly ever taken against the keepers of brothels and the pimps and other exploiters of the women, the women languish in protective homes for long periods of time in oppressive conditions thirsting for freedom. It is hardly unlikely that a trafficked woman may end up in a protective home by the collusion of the keepers of brothels, and pimps with some corrupt authorities, as that would throw her at their mercy and she would willingly succumb to their dictates, in a bid to secure her freedom, as there are no provisions for legal aid, and occasionally she has been abandoned by her family or they are too weak economically to give her any worthwhile support."

⁹⁸ The CLA currently prohibits 13 "hazardous occupations" and 57 "processes" in which no child below age 15 can be employed.

⁹⁹ "... nothing in this section shall apply to any workshop wherein any process is carried on by the occupier with the aid of his family ..." (emphasis added). CLA (1986) Part II, Sec. 3.

an assumption that bonded child laborers are migrant children doing prohibited work.

The following comment from a labor official in U.P. on distinguishing between bonded child labor and child labor illustrates how some officials may define them:

First, in both cases, the child must be below age 14 and employed in any of the prohibited hazardous industries. If it is just this, it is child labor. Or if the child is working longer than the allowed hours, and is not paid or paid very low wages, and not going to school, then it is child labor.

It is bonded child labor if the child gives a statement that he is forced... Forced is if he is not allowed to leave; locked in loom... Bonded means the child has taken an advance and must work to repay the advance... also bonded means the child is a migrant... So bonded means he is forced and is a migrant and has taken an advance...

(Assistant Labor Commissioner, U.P., November 2004)

The forms of exploitation vary in subtle ways from case to case. It is not always easy to determine if a child falls into one category or another. Experts in the area of trafficking and child labor face similar dilemmas. However, the confusion over child labor and trafficking on the part of officials points to two basic needs. First, a basic policy is needed that makes the immediate well being and safety of the child the first and overarching priority. Second, once the child is safe, then the specific nature of their exploitation can be determined. For that, officials need further training and guidelines.

3. Training

Training on human trafficking is insufficient at many levels throughout U.P. and Bihar. At best, the highest-ranking officials are aware of the laws, although they may not have sufficient direct contact with the problem to effectively mobilize enforcement.

Training of government officials on human trafficking laws tends to come only from government sources. There are, however, occasional conferences that provide opportunities for NGOs to inform or update

officials about trafficking laws and their implementation.

This section looks at what training on child trafficking exists for police and government administrators, and what is needed to improve training.

What training exists

Senior law enforcement officials are supposed to receive pre-service training on trafficking laws when they study at the law enforcement academy. Senior officers, however, admitted that they had not had any specific training on child trafficking laws. Furthermore, there is no follow-up or refresher training after law enforcement officials leave the academy.

Demonstrating the need for periodic refreshers, a Police Station Officer in Charge (SO) interviewed in one Bihar district answered a question about laws applicable to child trafficking by pulling out a thick, dusty, worn book of the Indian Penal Code, the version of which was clearly outdated by 2004.¹⁰⁰

Down the chain of command, police constables do not receive training in laws and law enforcement. Only senior officials are trained law, while lower levels of the police have to deal with general security issues and keeping public order. They are instructed in office procedures, security enforcement, and self-defense. According to an Assistant Supervising Officer:

Constables are security agents. Since they do not have the right to enforce laws, they are not trained in the law. What they learn of the law they learn by doing,

(Asst. Police Station Officer in Charge, U.P., November 2004)

This insufficient training results in confusion over what is stated in the laws. We found that law enforcement officials cited incorrect information about the ITPA when asked about procedures for rescuing children in prostitution from brothels. Three significant misunderstandings or misinterpretations of the law stood out:

¹⁰⁰ Free the Slaves researchers' notes from interview with S.O., Bihar, November 2004. The code book was dated 1986, but sections on trafficking and juvenile justice have since been updated in 2000.

- Many officers believed that the ITPA requires police to have a female witness from the locality when inspecting or conducting a raid and rescue of trafficked children from a brothel.

This is false because the ITPA was amended to not require a woman from the locality, permitting a woman witness from outside to fulfill the role of a required adult female witness.¹⁰¹

- Many police believed that they must secure the approval of the District Magistrate to arrest a trafficker.

The ITPA is again misunderstood. Under Section 14 of ITPA, all offenses are *cognizable*, which means police sub-inspectors may arrest without warrant, provided they have the authorization from the special police officer appointed for dealing with ITPA offenses.¹⁰²

- Police also believed that they must first receive a complaint in order to search a brothel suspected of employing children.

This is false because ITPA Section 15 allows police sub-inspectors to search without a warrant from a magistrate.¹⁰³

Finally, there is no training for police officers (most of whom are male) on how to deal with crimes against women.

Perceived need for training

Few interview participants suggested that training on trafficking of women and children is needed. Many law enforcement agencies and district government administrators saw no need for training. For example, according to an Assistant Station Officer in Charge:

They all have been taught the laws and how to enforce the laws in the beginning of their careers. So if the Sub-Inspector does not know any laws, that is his deficiency, not that of the station.

(Asst. Police Station Officer in Charge, U.P., November 2004)

A few senior officials, however, admitted their need to have better training in the trafficking laws. For example, a recently posted female senior officer observed:

The lack of awareness is everywhere. Even I am unaware of the details of the ITPA. The focus is mainly on IPC.

(Senior Superintendent of Police, Bihar, December 2004)

Perhaps this senior officer's position was also informed by her perspective as a woman, but with few exceptions, the highest-ranking police in all ten of the main districts researched in U.P. and Bihar are men.

Both training and enforcement is hampered by a high turnover of officers. Police officers are transferred often, resulting in officers staying in their posts for short periods (i.e., six months to one year). This creates difficulties when working on trafficking cases older than one or two years; the investigating sub-inspectors are likely to have been transferred away from the station. The frequent transfer of police inspectors also disrupts continuity in knowledge about child trafficking. Police stations lose expertise on related laws and on conducting investigations of child trafficking when officers are transferred or promoted every six months to a year. Any knowledge built up of local brothels or exploitative "employers" is lost when staff are transferred.

Overall, we found a need for training on human trafficking at all levels from senior law enforcement officers to village *panchayat*. Our finding supports that of the National Human Rights Commission that found that 40% of police surveyed for their report did not have any knowledge about various preventative laws on trafficking in persons.¹⁰⁴

4. Interagency collaboration

Interagency collaboration in northern India is limited by the autonomy and separation of government agencies

¹⁰¹ ITPA (1956) Sec. 15(2), footnote 3, "Provided that the requirement as to the respectable inhabitants being from the locality in which the place to be searched is situated shall not apply to a woman required to attend and witness the search."

¹⁰² ITPA (1956) Sec. 13 and 14.

¹⁰³ ITPA (1956) Sec. 15.

¹⁰⁴ *The Times of India* (2004). A6.

with no official protocols for collaboration. For example, government prosecutors in trafficking cases do not interact with police investigators during the enquiry and investigation period. Similarly, when the labor officials conduct a raid to rescue bonded child laborers, they enlist the police only for security purposes during the operation, but do not use them to help collect evidence at the time of the raid.

Since trafficking cases are often difficult to identify and law enforcement personnel may be inexperienced in trafficking and child labor law enforcement, this failure to collaborate with other agencies can leave children in bondage.

Challenges to collaboration

Most agencies in Bihar and U.P., whether police, labor departments, or NGOs, said of each other that they share good relations. The supervisor of a remand home sums up the statements from most officials interviewed:

We have no challenges. Everyone is doing their job.

(Supervisor, Women's Protection Home, U.P., January 2005)

Yet few informants were able to cite any examples of collaboration. A major challenge appears to be that agencies themselves see no need for collaboration beyond transmitting case information to other groups.

For example, police officials tended to respond positively to the idea of investigating a complaint filed by a NGO. A senior police officer assured us in an interview,

We always go to enquire about the facts.

(Police Station Officer in Charge, Bihar; November 2004)

The result is that NGOs often provide “tips,” after which the police may take over and perform their job as they would normally without further cooperation with the NGO, or without calling upon a Labour Enforcement Officer to investigate if bonded child labor is suspected.

The passing of information rather than full collaboration is one challenge, but in many cases, agencies simply wish to avoid responsibility for a case, do not wish to invest the time and resources, or prefer to work alone. At times, local law enforcement agencies are unaware or ill equipped to work with the labor

department on raid and rescue operations. At other times, it may be the labor officials who fail to include police in operations.

There was a raid by the Labor Commissioner under the jurisdiction of this police station, but the labor inspectors moved directly there to conduct the rescue operation without the police. But if the parents or guardians are not there then the children must be held at the police station and the investigation starts, so the labor inspectors must have the police with them when they conduct a raid.

(Police Station Officer in Charge, U.P., October 2004)

It is possible that the labor official in this case suspected that someone among local police would alert the trafficker. Some local police in the five U.P. districts are thought to take bribes and notify loom or brothel owners of a pending raid.

Labor officials voice their own criticisms of the police, stating that the police avoid participating in raids so as to avoid taking on responsibility for the case.

The police generally avoid going with us on raids because it creates increased responsibilities for the police: extra paperwork, they must file the report, etc.

(Labour Enforcement Officer, U.P., October 2004)

Labor officials face challenges in getting cooperation from local law enforcement if the District Magistrate (DM) does not participate. The DM has the authority to mobilize the police to assist the labor department in a rescue operation. A senior labor department official observed:

Sometimes it is difficult to work with the DM. He has other priorities.... He is always on the move, so he's very difficult to access. It is difficult to get his permission when we need to do a rescue operation.

(Labour Enforcement Officer, U.P., October 2004)

Officials of the labor department also reported tension with NGOs. Labor officials recognized the work of NGOs, but had difficulty working with many of them since, as one Assistant Labor Commissioner explained: “there are good and bad NGOs...”, meaning that some NGOs had proven consistent and trustworthy work to rescue and rehabilitate child laborers or trafficked children, while other NGOs did little more than exist on paper.

The Department of Labor in the U.P. districts works to maintain good relations with NGOs that administer the National Child Labor Program (NCLP) schools. These NGOs, however, do not conduct any operations to rescue children from bondage, and so are not pressuring the administration for action. In districts without NCLP schools, the labor officials have limited or no contact with local anti-child labor NGOs.

Examples of successful collaboration

There are various strategies used by NGOs to achieve successful collaboration with government agencies. According to NGOs which have successfully brought bonded child labor cases to prosecution, it is necessary to foster collaboration between government and law enforcement agencies to ensure that released bonded child laborers get compensation and rehabilitation funds, and to see that the trafficker is prosecuted.

In Allahabad district, U.P., one NGO has developed a presence recognized by the local administration. In one case, a boy escaped a loom and ran to the *tehsil* (a subdivision administration headquarters for the district magistrate) and the *tehsildar*¹⁰⁵ reported the boy to the Additional DM. The local administration wanted to rescue the rest of the bonded child laborers, but felt it had no power to manage the children once they were rescued. The administration was not able to provide food, shelter, and medical care, and the Additional DM had no travel allowance. The *tehsildar*, however, knew that the NGO could provide the necessary relief services and knew that the NGO was near the *tehsil*. So the *tehsildar* contacted the NGO for help.¹⁰⁶

The coordinator of the NGO that responded to the *tehsildar's* call for assistance pointed out that their success in mobilizing the authorities had to do with building rapport with district administrators and police, in addition to taking the first steps to bring trafficking cases to the attention of the administration. The NGO coordinator explained:

You have to go several times to the concerned officials before they listen to you. Then they understand your problem because they see that you represent a good cause. So the officials will start to listen, but you still have to go continuously to them and develop a relationship.

(NGO coordinator, U.P., November 2004)

Another example involved an NGO in West Bengal. This NGO made the local Chief of Police their honorary patron, listing him on their letterhead. They then found that when they sent written requests to police and administration, they were more likely to cooperate. This NGO is currently conducting training for police officers in West Bengal and has participated in the investigation and prosecution of several cases of child trafficking for forced prostitution.

Collaboration between NGOs and the government can be effective when NGOs build good rapport and take positive actions to encourage the government to prioritize children's rights. The following example shows how NGOs can motivate the government to be accountable in enforcing child labor laws.

On August 29, 2003, the Uttar Pradesh government issued an order which had the effect of undermining labor inspectors' ability to carry out their obligations under the CLA.¹⁰⁷ The Government Order (GO) prohibited Department of Labor inspectors from independently investigating abuses by employers. The GO ordered district labor officials not to enquire into bonded child labor complaints and prevented District Magistrates from ordering the labor officials and police to conduct raid and rescue operations. In something of a "catch-22", inspections could be carried out, but only after approval by the state government, which could occur only after a case was filed. Since inspections are needed to gather evidence to build cases, and inspections could only be carried out after a case was filed, the result was to stifle child labor cases.

In response to the GO, a non-governmental organization in eastern U.P. that has been involved in

¹⁰⁵ The districts are divided in *tehsil* as per tax revenue policy and the chief of that *tehsil* is called *tehsildar*, who acts as Assistant Sub-Divisional Magistrate in the absence of the SDM.

¹⁰⁶ Free the Slaves interview with Assistant Collector to SDM, U.P., November 2004.

¹⁰⁷ Government Order by Labour Department, Government of U.P. "Suspension of Inspector Raj." Lucknow, U.P. August 29, 2003.

rescuing and rehabilitating bonded child laborers petitioned the State Labour Commissioner to revoke the order. The NGO hosted meetings and workshops with district, state, and central government officials on the problem of child trafficking in eastern U.P. By October 2004 the NGO successfully persuaded the State Labour Commissioner to authorize the district labor authorities to cooperate in rescue operations of bonded child laborers in eastern U.P.

On December 14, 2004, the U.P. government revoked the GO and now the District Magistrates and regional Assistant Labor Commissioners can once again order labor inspectors to take action against suspected employers of bonded child labor.¹⁰⁸ Although the GO showed that the U.P. government had the power to ignore central government anti-trafficking laws, the government's change of mind is an example of how good rapport and educating dialogue with NGOs can result in mobilizing political will.

5. Recommendations to improve the institutional context

Promotion of integrity and equal protection under the law

- ▶ NGOs working to assist trafficking victims should strengthen their capacity and expertise to assert the legal rights of trafficking survivors—focusing on this, as much as they focus on carrying out rescue and direct rehabilitation.
- ▶ Professionalize police procedures and press for enforcement of existing anti-corruption laws, as well as improvement of these laws through making it easier to report incidents of corruption.

Raising awareness

- ▶ Address general and official denial of the problem of child trafficking for sexual exploitation and for labor through educational workshops and symposia.
- ▶ Increase understanding of child trafficking, and recent changes and the technicalities of law, through such workshops and symposia provided by Labour Department and law enforcement with assistance from NGOs.

- ▶ Provide periodic update seminars and symposia for judiciary and senior administrators on child trafficking patterns, relevant recent legislation and landmark rulings.
- ▶ Facilitate, through NGO and NHRC cooperation, educational seminars for District Magistrates and their immediate subordinates on all forms of child trafficking.

Training

- ▶ Develop, through Labour Department, police and NGO collaboration, curricula on child trafficking to be included in pre-service and in-service training for police and labor officers at multiple levels.
- ▶ Include in such curricula:
 - Current child labor laws and their provisions,
 - landmark judicial rulings,
 - legal responsibilities of officers
 - gender-based violence, crimes against women and ITPA,
 - identifying and investigating bonded labor and trafficking cases,
 - evidence-gathering in trafficking and child labor cases, and
 - filing appropriate FIRs and charge sheets.
 - Adapt such training to the needs of *chowkidars* and other constables.
 - All police should be trained in the requirements of immediate collection of medical evidence in cases of rape and violence against women and children.
 - A female sub-inspector or special police officer appointed to each station who can assist in training on ITPA offenses.
 - Provide government prosecutors with updates and skills training on evidence-gathering for—and prosecution of—trafficking and child labor cases.
 - Facilitate collaboration of NGOs and child advocates by providing training in the proper completion of FIRs and charge sheets.

¹⁰⁸ *Hindustan Times* (2005), A3.

Collaboration

- ▶ Adopt a multi-agency approach, training LEOs and police together to foster collaboration.
- ▶ Mobilize collaboration between NGOs and government official by long-term building of rapport.
- ▶ Keep the location of raids confidential to prevent possible leaks, only the NGO or labor official guiding the rescue party should know their destination.
- ▶ Multi-agency training should extend to all those with relevant responsibilities—officials, NGOs and community representatives—with a focus on joint planning of response throughout each stage of dealing with a trafficking case.

Chapter 6 - Law Enforcement: Investigation and Identification

The loom owner would tell us if and when the police comes, run away, run away because they are going to be mean to you. And our response would always be but only if the police comes, right? It's all right. They're never going to come. So surprisingly when the police do turn up we never even got to know. The police official was smart enough to park the vehicle about 3 kilometers away from the loom, and made his way slowly.

(Rescued child at rehabilitation Ashram in U.P.)

1. Current patterns of reporting

Parents and families in the source villages

Parents in villages rarely report trafficked or missing children to law enforcement or the labor department. They are reluctant to report cases because they both fear the traffickers and expect that officials will demand bribes. Villagers who took money in exchange for their children may also fear punishment. Many parents believe that they would have to repay any advances received on the child's earnings if their child is returned to them.

Sometimes parents go to local leaders, such as *panchayat* members, or people perceived to be leaders, such as NGO activists or labor union organizers. When the problem is raised with village leaders, they are sometimes able to help bring a complaint to district officials.

According to a Police Station Officer in Charge in Bihar, the parents should complain if their child is missing. If someone other than the child's guardian complains, it is not likely to encourage police action.¹⁰⁹

However, when parents file complaints alone, directly to the police or labor department, their complaint often fails to mobilize an official investigation. When parents file complaints to labor department or police without the help of a lawyer or NGO support, police or labor department officials are less likely to take action, or may try to elicit a bribe.

Concealment of Rug Looms: Bhadohi District, Uttar Pradesh

Visiting a village about 10-12 km from district headquarters in Gopiganj, we found young boys working at looms for knotted carpet weaving. The looms were hidden behind what seemed to be newly constructed roadside shops.

One shop sold paan (something like snuff), crackers, the snack mix *bhujia*, and cigarettes. Another seemed to be a grain seller. Other neighboring shops were closed and shuttered. Outside a couple of men lounged on cots, listening to the radio.

Walking behind the facade of the shops, we found three brick sheds containing five looms and 22 boys, all appearing to be between 10 and 17 years old. A supervisor—the loom owner's son—was there. When our guides presented us as carpet buyers interested to see the carpets being made, we were allowed in.

As it was lunchtime, many of the boys were not working, although four boys appearing to be 10-12 years old continued to work.

The police station was in Gopiganj. The owner of one of the small shops was the brother of the loom owner, and kept a watchful eye open for any unwanted strangers, police, or labor inspectors.

Free the Slaves' researchers' notes, Bhadohi, U.P., October 2004

Vigilance Committees

The District Vigilance Committees required by the Bonded Labour Act also fail to report traffickers and

¹⁰⁹ Free the Slaves interview with S.O., Bihar, November 2004.

instances of bonded labor, because they rely primarily on public awareness, or are in some places non-functional. We learned that many Vigilance Committees exist only on paper. For example the District Labor Commissioner and Sub-Divisional Magistrate of one district in U.P. could make no detailed reference nor provide any documented meeting notes of their district committee's actions. It appeared that the Committee had not met in at least two years.

A former Assistant Labor Commissioner from an eastern U.P. district criticized the Vigilance Committees:

The Vigilance Committee is not so effective due to the lack of awareness among the people [in the communities] and the Committee members. When any member of the Vigilance Committee goes to a village to enquire about a bonded labor case, most people in the village do not know about it, so they cannot say anything to the activist. But anyone who is involved in using bonded labor also will not report it to the activist. They will only give false information.

(Assistant Labour Commissioner, U.P., November 2004)

However, by contrast to these official committees, community-based vigilance committees are proving effective, where they have been set up. In the first six months of an NGO-sponsored project in ten districts, the formation of Vigilance Committees combined with outreach to origin and destination villages led to the identification of 104 new trafficking cases in Bihar and 83 in U.P.¹¹⁰

Non-governmental organizations

Overall, NGOs take the lead in reporting cases to the authorities, filing reports of trafficked children or bonded child laborers, and pressuring the authorities to take action. When NGOs become accepted in villages, then parents of missing children will go to the NGO for help. We found that, technically, anyone can file a First Information Report to report a crime, but it is most effective when a parent files the FIR with the assistance of an NGO and then sends copies of the complaint to the District Magistrate and Assistant Labor Commissioner.

Other means of reporting

Child trafficking cases also come to the attention of authorities through less common means:

Some parents attempt to rescue children themselves by traveling to the place where a middleman said he took the children. Parents usually fail to rescue the children from traffickers because the slaveholder is powerful in his/her home area and attacks the parents or sends them away with bribes. Out of desperation, the parents then solicit the help of the labor authorities or police in the districts where their children are held.

Chowkidars, in charge of village security, occasionally report child abduction to the police.

Whatever the means by which disappearance of children is reported, the police may fail to make the investigation a priority unless an NGO pressures them to do so. This lack of investigation is exacerbated by a sense that a child disappearing from villages is somehow "normal." So many children have disappeared for so many decades, it is seen as a normal part of village life. It is often hard for people to see the difference between slightly older children migrating with extended family members for work and younger children being taken by traffickers. There is a lot of overlap and blurring. Reporting is lacking because the underlying situation in villages is such that trafficking is largely happening with the passive consent of both the family and village. Reporting will only happen once these underlying conditions are addressed and once there is a sense of the human rights of women and children.

2. Overcoming barriers to reporting

The authorities themselves

A fundamental barrier to reporting missing and trafficked children is official resistance.

We identified two red-light areas in Purnia and Saharsa, Bihar, seeing young girls standing by the roadside. They appeared to be aged 10 to 16, dressed in bright colors and wearing heavy makeup. Yet both magistrates and police officials for these areas denied

¹¹⁰ Free the Slaves, "Semiannual Program Report No. 1," unpublished, submitted to Office to Monitor and Combat Trafficking, US State Department. Washington, DC, February 2005.

Village vigilance committees against child trafficking, Purnia, Bihar

Village-based vigilance committees in Bihar formed with the help of NGOs have helped educate parents and children about the crime of trafficking. The formation of village vigilance committees has encouraged people to report traffickers to police and labor officials, leading to the arrest of child traffickers. The following is an example from a village in Purnia, Bihar.¹

In November 2004 during one meeting with over 60 villagers, NGO outreach workers met a widowed mother who was crying for her missing son whom she said was about 13 years old. The NGO outreach workers inquired as to the whereabouts of the child, but she could not say. Others in the meeting informed that there are middlemen in the village who have been taking children. The outreach workers learned that a middleman from the village sold the weeping woman's son in Punjab in September 2003. The middleman was also present at the meeting. Villagers identified him and pressured him, along with NGO outreach workers, to tell the whereabouts of the boy. The accused initially denied his involvement, but later he confessed selling the child for 5,000 rupees to a Sardar (Sikh landlord) in Punjab, supposedly to employ the boy in agriculture.

The NGO outreach workers reported the middleman to a labor inspector to file a case against the middleman. The labor inspector said he would consult his superior and file a case within a few days. But after a few days, the labor inspector said that since this particular case comes under Punjab jurisdiction, the labor department could not take any action against the middleman.

The NGO outreach workers met and discussed ways of how to get the law enforcement agents to enforce the law against the middleman. The outreach workers held more village meetings and talked to more people who might be witnesses. They learned that the middleman's mother is a Mukhia Pradhan (village council leader) of that village, so the middleman is a powerful person in the community. More people spoke out to report that other boys from the village were missing and that the middleman had intimidated the relatives of the missing children so they would not report it to the police. Altogether the outreach workers found out about five traffickers.

The NGO outreach workers went to the nearest police sub-station and filed complaints against the five middlemen. The sub-inspector recorded the complaints and asked the outreach workers to come back in two days to be interviewed about the complaints. When the outreach workers met again with the sub-inspector, he informed them that police need to investigate the case before they could file the information report (FIR).

The NGO outreach workers kept regular communication with the police inspector throughout the period of the investigation. On January 3, 2005, the sub-inspector lodged an FIR against the five middlemen under Indian Penal Code Section 371 (Habitual Dealing in Slaves). Just after filing the FIR, the NGO outreach workers called a meeting in the village and the community was informed about the case against the middlemen. The villagers said that the middlemen should be arrested. The people promised to cooperate in the proceedings of the case. Through these village meetings, the NGO outreach workers helped to educate a community and form an active village vigilance committee. To date, one of the middlemen was arrested while the remaining four have absconded. Police continue their search for the other middlemen.

¹ Sources: NGO Bihar State Coordinator's Report on FIR Against Middleman. Purnia, Bihar, Jan. 4, 2005; NGIO Bihar State Coordinator's Missing Child Report. Purnia, Bihar, December 2004; Free the Slaves interviews with middleman, parents of missing boy, uncle of missing boy, migrant laborers, village primary school teacher, and village Mukhia Pradhan. Purnia, Bihar. November 2004.

An effective state anti-trafficking task force: Uttaranchal

An example from Uttaranchal, a state north of Uttar Pradesh, provides a practical and feasible model for district task forces.

The Anti-Trafficking Task Force consists of:

- Sub-Inspector
- one Station Officer-in-Charge
- two female Constables
- two male Constables
- a Labor Enforcement Officer
- a representative of an NGO working on trafficking in the area.

The procedures specified include creation of a *log book* containing:

- name and address of suspected trafficker
- ages of female(s) and male(s) checked
- date and time of checking
- comments on the suspect
- enquiring officer's name

The police are ordered to *report* suspected trafficking to Sub-Inspector and Station Officer-in-Charge so they may *authorize immediate action* to rescue children and arrest traffickers.

NGOs are to be vigilant and watch for suspected trafficking. If a trafficker is suspected, the NGO is to *inform* the police and/or the labor department and request them to take action.

is no need to monitor, and if they tried to do so, they would be prevented because the brothels have valid entertainment (i.e., dancing) licenses.¹¹¹

As noted above, officials may ask for bribes, threaten and insult parents, or fail to initiate an investigation after receiving a complaint. Even when NGO activists file complaints, they must constantly push the police or labor inspectors to investigate.

When parents of bonded children come to me, we try to file an FIR on their behalf. We have done this for at least 25 cases. When we go to the local administration and police with the parents, the police threaten the parents, "Why don't you care for your child? Why do you send them to this area? We will arrest you..." So the parents are afraid. Then they tell me, "There's no problem. It's all OK."

(Anti-child labor activist, U.P., October 2004)

A failure in the implementation of the JJ Act is in maintaining the privacy of the victims' identities. The JJ Act calls for the concealment of the identities of child offenders.¹¹² Yet we found that newspapers publish names, and even photographs, of child trafficking victims despite the prohibition on such disclosure. This puts both the victims and the families in danger of harm or further suffering.

Fear and mistrust of those in power

The fear of middlemen, loom owners, and people in power has a chilling affect on the parents of trafficked children in Bihar and U.P. The uncle of a trafficked boy in a village in Bihar explained why he did not report the missing child to the authorities:

The middleman from this village is a powerful man. His mother is a *panchayat* leader, so he is powerful. This is why we never went to the police. We knew that the police could never do anything due to political pressure... The local *panchayat* leaders would put pressure on the police, they would use their contacts and the police would do nothing.

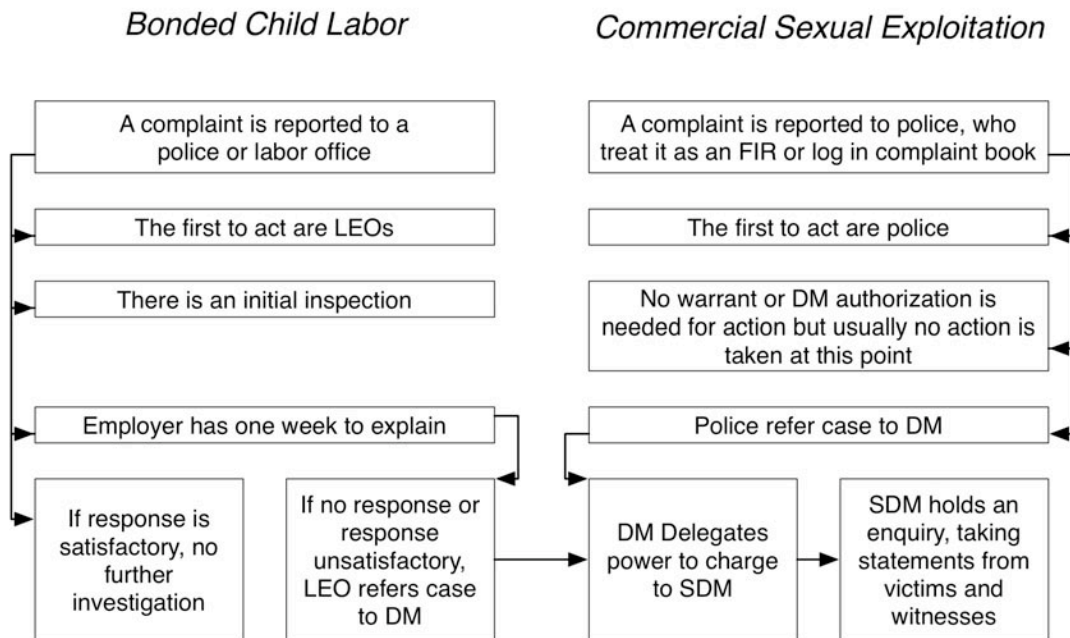
(Uncle of missing boy, Bihar, November 2004)

that there were child prostitutes in their districts. When asked about how they ensure there are no children working in prostitution, the officials claimed that there

¹¹¹ Free the Slaves researchers' notes. Bihar. November, 2004.

¹¹² JJ Act (2000) Ch. II, Sec. 21. Prohibition of the publication of name, etc. of juvenile involved in any proceeding under the Act. Note: this section refers to concealing the identities of child offenders, but this can be applied to children trafficked for commercial sexual exploitation as they are often treated as offenders under Sections 7 and 8 of ITPA.

Steps in Investigation Phase



FIR: First Information Report
 LEO: Labor Enforcement Officer
 DM: District Magistrate
 SDM: Sub-Divisional Magistrate

A lack of awareness of both the law and the problem of trafficking also prevents parents of missing children from going to the police. Villagers are not aware the police can help them, do not trust the police, or believe that the police can only help them if their child is kidnapped.

It is not easy to file a FIR and get the police to help. Due to money, we cannot go to the police. If we ask the police to file a FIR, the investigator will go to the middleman who has money and he will bribe him. So when the investigator comes to us we cannot give money and the police might beat us or accuse us of filing a false FIR.

(Uncle of missing boy, Bihar, November 2004)

Perception of the powerful as resources

Parents view middlemen and employers (usually the same as moneylenders) as a resource in the delicate web of credit and subsistence in which they live. The parents do not see the middlemen and employers as potential criminals until it is too late. Even after a child is taken, parents know that they must live with middlemen and employers. They doubt the possibility

that the powerful individuals could be apprehended and punished. Meanwhile they are dependent on them for work and credit.

Gender-based norms

Women are subject to male control and not allowed far from their homes or villages without male relatives accompanying them, except to collect water, feed animals, and work in the fields. Nor are women able to speak out. Such norms make women very reluctant to report crimes to police and officials.

In addition, once an unmarried woman or female child has left the home, even if kidnapped or sold into bondage, she is considered tainted. In such cases, the family may deny her existence, and not report her as missing.

When parents are the abusers, it is hard for the victim or family to report:

There are so many cases where the father sexually harasses the girl child and the girl reports it to the women police, but the girl says

‘Please, do not tell anyone.’... I cannot do anything. The mother is responsible to take some initiation to report or help her child with the police, but the mother must also face the reaction of the girl’s father.

(Woman police sub-inspector, Bihar, November 2004)

Officers at a women’s police station in U.P. noted that female victims may only be comfortable or able to report their experiences to a woman officer. Girls are extremely hesitant to discuss sensitive issues with men. In addition, women are not allowed to stay overnight at a men’s police station. Women’s police stations are few in Bihar and U.P., on average only one per district.

3. An anti-trafficking task force

Experience in Uttaranchal (a state north of Uttar Pradesh) suggest that the development of interagency district task forces may be helpful in all phases of identification, investigation and prosecution.

4. Multiple reporting

We found that reporting violations to multiple authorities tends to effectively mobilize law enforcement. An activist described how he reached out to more than one authority when reporting cases:

If I made a complaint to the labor department regarding an incident of bonded child labor, I also wrote to the DM, State Government, and NHRC to get all the machinery in motion. And when following up with the complaint, follow up to all the bureaucracies. This is the way of persuasion.

(NGO activist, U.P., October 2004)

Although reporting violations to multiple authorities may mobilize law enforcement, it does not guarantee that a case will be prosecuted successfully. This is because pursuing a case through to completion requires significant time and resources. The same informant advised:

But due to some limitations I could only do one or two cases like this that are now in the High Court. Two were successfully prosecuted in this manner. The rest of the cases the Labor Department dissolved.

(NGO activist, U.P., October 2004)

“Dissolved” as used by this informant means steps were taken resulting in acquittal of the accused.

5. Investigation

At this point it is useful to review the steps that law enforcement agencies must take to bring a case to prosecution in the courts.

According to the relevant laws, investigating an employer suspected of using bonded child labor should follow steps that differ in some regards from those for trafficked children in commercial sexual exploitation.

Every criminal case must have a First Information Report (FIR), a formal complaint to the police. But if bonded workers try to file an FIR, the loom or factory owners or labor contractors can retaliate. Once the FIR is filed, the accused can deploy a defense attorney during the police investigation in order to affect its outcome. It is usually the case that bonded laborers and child trafficking victims cannot afford attorneys to represent them or assist them in filing an FIR.

NGO activists and advocates complain that the police show little interest in pursuing justice in bonded labor and trafficking cases, and that Investigating Officers (IO) do not follow up on complaints or the FIR. Another defect that NGOs commonly identified are poor investigations by the IO, especially the failure to record evidence in support of charges. The IO, for example, may fail to document eye-witness testimony. After he or she submits a Charge Sheet to the court, the IO’s work is complete. There is no further evidence gathering.

6. Recommendations to increase identification and investigation

Overcoming barriers to reporting

- ▶ Increase NGO presence and outreach in villages so villagers will feel confident to report missing, potentially trafficked children.
- ▶ Send NGO outreach workers, particularly women, to work sites to identify and assist people who fear their employers.
- ▶ Enable NGOs and community representatives to have a recognized presence and active involvement in District Vigilance Committees on bonded labor.
- ▶ Post women police officers in every police station to receive reports of abuse.
- ▶ Organize NGO campaigns to sensitize the public, building on existing leadership:

panchayats, self-help groups, school teachers, etc.

- ▶ Educate media to publish stories without disclosing the identities of victims, perpetrators, and witnesses.

Interagency task forces

- ▶ Establish interagency anti-trafficking task forces that include women police and social workers and members of the district Child Welfare Committee.
- ▶ Build long-term relationships and rapport to allow collaboration between NGOs and government officials.

Investigations

- ▶ Mobilize all authorities to take action. State Labour Commissioners and Directors General of Police can require District Magistrates to cooperate with the enforcement of trafficking laws.
- ▶ Allow NGOs that are registered with the state to file FIRs.
- ▶ Have an independent advocate or activist acting on behalf of victims who can provide evidence in the form of affidavits of witnesses, especially if overlooked by the investigating officer.
- ▶ Fund NGOs to employ qualified advocates to monitor the progress of cases throughout each stage.
- ▶ Provide labor officials with equipment and skills to record evidence photographically whenever possible. However, this may present a security risk in some areas.
- ▶ Keep location of an impending raid confidential from all but the most essential members of the district administration and law enforcement in order to prevent the possibility of a warning being given to perpetrators.

Chapter 7 - Law Enforcement: Prosecution

Look, I would simply tell the government that these kids exist. It's time for you to take these children out of where the loom is. And it's not so difficult. All they need to do is surround the loom on all sides, come in and nab the children. That's all they have to do.

(Rescued child at rehabilitation Ashram in U.P.)

We identified seven challenges in the criminal justice process that inhibit both the investigations outlined in Chapter 6 and subsequent prosecutions.

1. Lack of will or interest to enforce trafficking laws

At present, the legal system is not effectively protecting the human rights of children, families and communities—the commitment to their human rights needs to be translated into systems of collaboration that make the legal system work to give justice to victims. With some important exceptions, local law enforcement, district administrators and state government in U.P. and Bihar seem insufficiently motivated to enforce child trafficking and bonded labor laws. A fundamental challenge is getting senior officials such as District Magistrates, Superintendents of Police, and Assistant Labour Commissioners to acknowledge the problem. As illustrated in earlier chapters, administrative officials and police generally denied that bonded child labor and forced prostitution of children occur in their jurisdictions.

Even when district administrative officials in Bihar and eastern U.P. acknowledged the problem of child trafficking, not all of them prioritized taking action. The comment of one District Magistrate reflects the sense that authorities are overwhelmed with other problems they must address:

I do not see that I have any role to play in addressing the problem of child trafficking. The point is once you fail in rural development, especially in programs, then everywhere there are maladjustments... The DM's role is that his hands are full.

(District Magistrate, Bihar, November 2004)

The DM can also be slow in responding to the police or labor office's request for authorization to take action. According to one labor official:

Sometimes the permission takes a long time—one week or two weeks—and meanwhile the employers are aware and they hide the children or move them.

(Labour Enforcement Officer, U.P., November 2004)

Some officials also tended to view bonded child labor as an unavoidable reality.

We must look at the processes positively... If rich people want carpets then child labor is bound to be there unless there is better technology. Children, by virtue of their small hands, etc., are bound to work in this industry.

(District Magistrate, Bihar, November 2004)

2. Selective enforcement of laws

Selective enforcement of laws instead of their comprehensive use is a problem throughout the criminal justice process. We found that in a bonded child labor case, law enforcement typically files the FIR under IPC 374 (Unlawful Compulsory Labour).

This is a problem because police are not using the laws for bonded labor or trafficking (BLA, ITPA, etc.) which have much stronger penalties than the IPC laws and call for some measures of rehabilitation. The JJ Act, which covers a wide range of situations, could also be applied more often.

During a prosecution, the FIR must agree with the charges filed, or the judge has grounds to drop the charges based on suspicion of false charges. The courts of India have this and similar policies to avoid corruption of the judicial process, but this policy can backfire. In most cases involving women and girls in brothels, police charge the young women and girls under ITPA Sections 7 and 8. Under these sections, the women and girls are charged as criminals for taking part in prostitution and for soliciting sex, rather than being considered the victims of trafficking. At the same time the police will fail to apprehend the pimps and madams. Reportedly, police can more easily file under Sections 7 and 8 than use the less familiar sections of ITPA.

3. Enforcement officials lack resources

The economic and human resources of police forces in eastern U.P. and Bihar are insufficient to adequately

handle trafficking cases. A DM in a Bihar district reported that it is “just a hard reality” that his administrators are too few and too busy to keep track of released bonded child laborers in his district.¹¹³

A senior ranking police official of a district in Bihar pointed out that there are so many vacancies in the district that the police are not able to do investigations.¹¹⁴

Some LEOs admitted to material barriers that kept them from pursuing rescues of bonded child labor, especially in an area with a high frequency of bonded child labor cases:

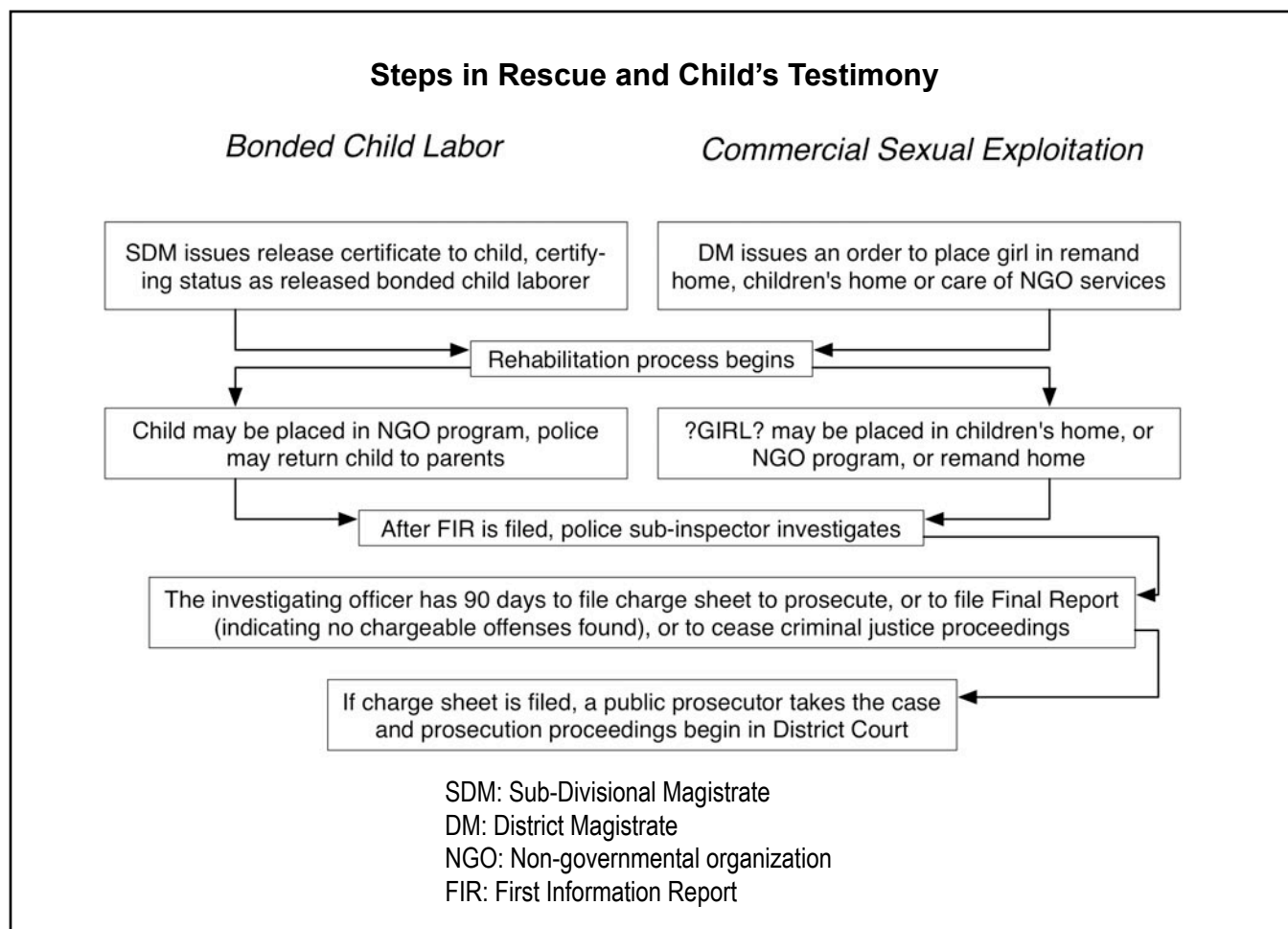
The LEO has no vehicle to use to go to places for inspection and the LEO has no form of protection. How can a person without a vehicle or security go against the big factory

employers? First you cannot get to the factory and by the time you reach, the factory owner has bodyguards and security to keep you out. (Labour Enforcement Officer, U.P., November 2004)

A former senior police official echoed the labor official’s comments:

If the policeman goes for investigation, he cannot get travel advance money. Sometimes they go with the Labor Department vehicle or the accuser’s vehicle. If we have to go to investigate in the accuser’s vehicle, how can we say we do the investigation honestly? (Former senior police official, U.P., November 2004)

The limitations in economic resources result in less effective human resources. We observed an expression of this problem while visiting the District Administration Office in a district of Bihar. A large



¹¹³ Free the Slaves interview with District Magistrate, Bihar, November 2004.

¹¹⁴ Free the Slaves interview with SP, Bihar, November 2004.

crowd of people outside of the entrance to the district administration and police headquarters offices were shouting and holding up signs. They were police

The Role of Independent Advocates: State vs. Lal Ji, Varanasi

The case *State vs. Lal Ji*, Varanasi District (2004), is an example of how independent advocates worked with the prosecution to redress the imbalance between the prosecution and the defense.

In this case an FIR was lodged against the defendant under IPC Section 374 which prohibits Unlawful Compulsory Labor.

The police investigated the case and submitted a final report (no charges against the accused).

A human rights law NGO which was monitoring the case filed a protest petition to the investigating officer's final report. This claimed that he had failed to collect evidence and therefore submitted a false final report.

The court then rejected the final report and began an assessment of the investigation. At the time of our research in late 2004, the case was still pending.

The *Lal Ji* case is an important example because if there had been no activist NGO involved, as is the common situation, then this case would have ended when the investigating officer submitted the final report.

chowkidars (village constables) demonstrating against the Superintendent of Police and District Magistrate. Among their demands were better wages and elimination of corruption in the bureaucracy.¹¹⁵ Obviously, the district law enforcement cannot operate successfully at the village level unless the *chowkidars*

are adequately paid and able to do their jobs in a trustworthy system.

While economic and human resource limitations challenge law enforcement, the dearth of knowledge about bonded labor, trafficking laws, and juvenile justice legislation is another major deficiency, as discussed in Chapter 5. The incomplete awareness of the most effective laws means FIRs are filed for charges that are relatively weak.

Due to police officers' inadequate training and limited resources, investigators are discouraged from following up on complaints. The ensuing lack of evidence can prevent the conviction of an accused trafficker.

4. Separation between investigation and prosecution

The criminal justice process itself has limitations that affect bringing traffickers to justice. There is a separation between the investigation arm and the prosecution arm of the criminal justice process. Government prosecutors and police investigators neither collaborate during the investigation process nor afterward.

Once the investigating officer completes the investigation, he or she files the charge sheet with the court. That completes the investigation on the case. Then a committee reviews a number of charge sheets and appoints a government prosecutor (Public Prosecutor) to each case. Thus, the prosecutor takes on a case against a trafficker only after the investigation is completed and charge sheet filed.

The separation between the work of the investigator and the prosecutor creates a number of problems. When police are looking into complaints of child prostitution, for example, the officers may not consider the most appropriate sections of IPC or ITPA to apply if they are able to file an FIR. But the police cannot benefit from the advice of a public prosecutor since he or she may only be appointed once charges have been filed with the court. And once the charges have been filed, it is impossible to amend new charges.

When police do file trafficking and child labor charges, the prosecutor typically suffers from incomplete

¹¹⁵ Free the Slaves researchers' notes, Bihar, November 2004.

evidence - such as no witnesses or documentation - and cannot hope to win a conviction. Since the public prosecutor is involved in the justice process only after the Investigating Officer files a charge sheet, the public prosecutor cannot ask for further information or evidence about the case. Conversely, since the investigating officer's role in a case ends when she or he files the charge sheet or final report (investigation report with no charges), they cannot offer additional information that is obtained after a prosecution begins. The public prosecutor is also at an economic and personal disadvantage when compared to the trafficker's defense attorney. The prosecutor is employed by the government on a relatively modest salary, having little incentive to win aside from their personal motivation. The accused party, on the other hand, is often a wealthy owner of a factory, loom workshop or dance-bar who can afford substantial payments for representation, and who may invest what is needed to win an acquittal, either through bribery of witnesses or the manipulation of evidence.

NGOs have a role to play by involving an independent lawyer to safeguard the interests of the victim through the investigation and prosecution. The case *State of U.P. vs. Lal Ji*, Varanasi District, (2004), is an example of how independent advocates worked with the prosecution to redress the imbalance between the prosecution and the defense.

The *Lal Ji* case is an important example because if there had been no activist NGO involved, as is the common situation, then this case would have ended when the investigating officer submitted the final report.

5. Judiciary and prosecutors need updating on trafficking laws and patterns

Unlike a defense attorney specifically hired by traffickers or factory owners, the vast majority of government prosecutors are not yet fully familiar with current trafficking and child labor laws. In addition, as the selection committee does not appoint prosecutors to cases based on case experience, they may fail to appoint prosecutors who are familiar with all of the trafficking and labor laws relevant to their cases.

Another challenge with prosecutions is the judiciary's lack of access to seminars and professional symposia on trafficking and the relevant current laws. This may contribute to high acquittal rates. A U.P. labor official related:

In one case the FIR was lodged and the charge sheet filed in Allahabad High Court, but in front of the judiciary the parents presented a written affidavit in English with their thumb prints saying that their child was 17 and never migrated, and was never employed by the accused employer, and so on. The judge accepted this affidavit even though the parents could not read English—they could not read what was written in the affidavit they presented and stamped with their thumb prints. This is why the judiciary needs to be informed. Just imagine when the High Court accepts the affidavit, written in English with thumb prints of the parents who are illiterate. They accept this, but not the testimony of the LEO or Assistant Labour Commissioner.
(Assistant Labour Commissioner, U.P., November 2004)

6. Cases are delayed in prosecution

Trafficking cases require an extraordinary amount of time to prosecute, draining the resources of prosecutors, NGOs, witnesses, and victims. Often victims pass much of their childhood without the needed rehabilitation package and witnesses grow old, forget events, move on, or are deterred by threats from traffickers.

The average time for a trafficking prosecution is two years from the filing of the charge sheet to the final verdict of the judge. Repeated postponements may severely delay the proceedings. The appeal process takes from six months to one year. The sentencing process takes three to four years. Thus a bonded labor or trafficking case takes five to seven years if the defendant is convicted and finally sentenced.

7. Witness tampering and obstruction

Witness tampering is a widespread problem in the Indian criminal justice system, leading to high acquittal rates. Witness tampering happens for a number of reasons including insufficient police resources for protection of witnesses, breach of confidentiality of witness information, and corruption among public officials and police authorities.

A 2004 article in *The Christian Science Monitor* illustrated the practice of witness tampering in the Indian criminal justice system. The article stated:

The first trial [of the Best Bakery case], held in May 2003 in the state of Gujarat, where the

massacre took place, ended in the acquittal of all 21 of the accused rioters after the victims changed their testimony. The Indian Supreme Court last April ordered a retrial out of state, calling state officials “modern-day Neros” for ignoring the complaints of witnesses that they had been politically harassed and pressured to change their testimony by police and state officials.¹¹⁶

As mentioned in Chapter 6, traffickers or employers can easily find out who filed the FIR against them and then send thugs to harm or intimidate the people who lodged the FIR. Lawyers can get the names of witnesses from the charge sheet. This can dissuade potential witnesses or plaintiffs from following through with the prosecution of a trafficker or slaveholder.

Liberated victims become material witnesses, but the government cannot protect them or their families. Too often, perpetrators will threaten the victim and other witnesses to change their stories or pay off witnesses. Agents of the accused party also threaten witnesses with physical harm. Even when witnesses are not threatened, their fear can be such that they will not testify.

Administrative officials commented on the lack of evidence and the difficulty of proving cases without evidence and witnesses:

If I go to a factory, there is no documentation of any of the employment. If I alone see bonded labor, then there is nothing to support what I have seen. If the child changes his story we lose the conviction. There is no video, no photos taken in the inspection.

(Assistant Labour Commissioner, U.P., November 2004)

Once the charge sheet is filed in court, the Court takes cognizance and issues someone to summon witnesses, usually a low-ranking police officer with little interest or familiarity with the case. This officer might be persuaded through bribes or threats not to bring the witness to the court. Nor can the officer effectively protect a witness. In some cases the witness cannot be summoned because their identity was not correctly recorded.

Unavailability can be a problem even when police officers are identified as witnesses. According to a former Deputy Superintendent of Police in U.P.:

If the witness is a police officer then they are subpoenaed, but in the charge sheets the name and address of the witness is not written clearly. And the police are often transferred...

Sometimes we cannot find them... The police also avoid testifying.

(Former DySP, U.P., November 2004)

Sometimes witnesses fail to testify simply because they are unable to appear due to the distance from their home to the court or station and they cannot afford transport.

8. Low conviction rates

In addition to these specific challenges to prosecution of trafficking and bonded child labor cases, the Indian justice system also suffers from chronically low conviction rates for violent and serious crimes. The *Christian Science Monitor* article cited above pointed out that in India prosecutors win convictions in only four percent of violent crime cases.¹¹⁷

As seen in Chapter 3, Section 2 with data from Bhadohi District, the conviction rate for bonded labor cases is very low, and there is a disparity between the estimated numbers of trafficked children and the conviction rate of perpetrators. It is difficult, however, to estimate the rate because cases are few and charges are often dropped early in the filing process. Given a four percent conviction rate for violent crimes involving laws with which prosecutors and judges are familiar, it is not surprising that trafficking cases have very low conviction rates. It could also be noted again that judiciaries tend not to sentence at the maximum punishment. Without minimum terms specified in a number of the relevant laws, lenient sentences are likely where child trafficking is not yet perceived as a serious crime.

¹¹⁶ Scott Baldauf. "India re-tries pivotal Hindu-Muslim hate crime." *Christian Science Monitor*, July 23, 2004.

¹¹⁷ Ibid.

9. Recommendations to achieve effective prosecutions

Lack of will

- ▶ NGOs must stay involved through the process from raid and rescue to prosecution. This will require additional resources and personnel for nearly every NGO.
- ▶ In the absence of a system of government accountability, NGOs need to work with all levels of the administration bureaucracy when pushing a trafficking case through the criminal justice system.
- ▶ Educate the media about child trafficking. NGOs should encourage them to publish stories calling on district administrations to take action against traffickers and to rescue trafficked children. But the media must also be educated in concealing the identity of trafficked persons.

Separation between investigation and prosecution

- ▶ NGOs and advocates for trafficked children work with the police investigator to ensure that the FIR is filed appropriately, all leads on evidence are followed, witnesses' statements are taken in writing, and the charge sheet is filed correctly.
- ▶ Allow early appointment of public prosecutors when someone makes a child labor or trafficking FIR, and require regular communication between investigators and prosecutors during the enquiry.
- ▶ NGOs involve an independent lawyer to safeguard the interests of the victim throughout investigation and prosecution, including the bringing forward of witnesses overlooked or excluded by the Investigating Officer.

Updating prosecutors

- ▶ Selection committees maintain a list of prosecutors with experience in trafficking and child labor cases and appoint them in accord with their experience.
- ▶ NGOs and/or advocates must maintain contact and communication with victims and witnesses, prepare them to be examined before magistrates in court, and help the prosecutor prepare arguments according to the charges filed.

Cases delayed

- ▶ Place a time limit on the prosecution phase for trafficking and bonded labor cases, including no more than one postponement of not more than one month by the defense and prosecution. Initial court scheduling should take place within two weeks and the sentencing phase should be limited.

Witness tampering and obstruction

- ▶ Police should take written testimony of all witnesses. Whenever possible, witnesses should give testimony in person to a magistrate, thus making the testimony official and potentially removing the need for future appearance in court. For this, investigators need resources to transport witnesses to and from magistrates.
- ▶ The court should seal the documents in trafficking and bonded child labor cases, until needed during prosecution. This would help protect the victims and witnesses involved.

Chapter 8 - Rehabilitation and Reintegration

The people here did so much for us... they gave us the wisdom and knowledge that they had, they gave us food, they gave us clothing, they gave us shelter. They also provide us with teachers from whom we learned so much... I'm also trying to learn how to be an electrician; I'm learning basic electric work. I like it. I like the electricity idea. I like the fact that the instructor gives us notes and lessons that we have to memorize and figure out how it works. He asks me questions in class and when I'm able to answer, it feels good.

(Rescued child at rehabilitation Ashram in U.P.)

1. The final step

Value of collaboration

The rehabilitation and reintegration into society of trafficked children is the final step in the process, and works best when there is collaboration between non-governmental organizations, police, labor officials, and magistrates. In every case, children from Bihar rescued from trafficking in U.P. or other states faced difficulties during rehabilitation and reintegration. Most NGO activists see rehabilitation as a challenge in U.P. and Bihar due to inadequate legal support, improper implementation of official procedures, or in some cases government insensitivity.

The early involvement of NGOs in trafficking cases is crucial to successful rehabilitation and reintegration. They play an important role in providing the shelter, education, skills training, and medical care that rescued trafficked children need during rehabilitation. The NGOs must also take steps to monitor repatriated children to ensure that district administrations issue the compensation packages authorized by judges or magistrates.

District administrations in Bihar typically provide authorization for compensation benefits only after the local administration, having rescued the child in U.P., sends them proper paperwork. Yet the local administration in U.P. normally sends this paperwork only after an NGO pressures them. Coordination of NGO efforts across borders is therefore a key to effective reintegration.

Lack of facilities

District authorities in home states do not have the means to protect and rehabilitate rescued children. Despite their unsuitability, the police at district levels continue to place rescued children in state remand homes that are inappropriate for traumatized child trafficking victims.

Few districts in either U.P. or Bihar have a shelter for women or juveniles. While Labor Inspectors may be involved in cases, it is not the responsibility of the Labour Department to provide a children's shelter, nor has it any funds for repatriating children. In most cases, an NGO in Bihar must take the initiative to provide immediate shelter for a rescued and repatriated child, as well as assisting them to return to their home village.

The rehabilitation process

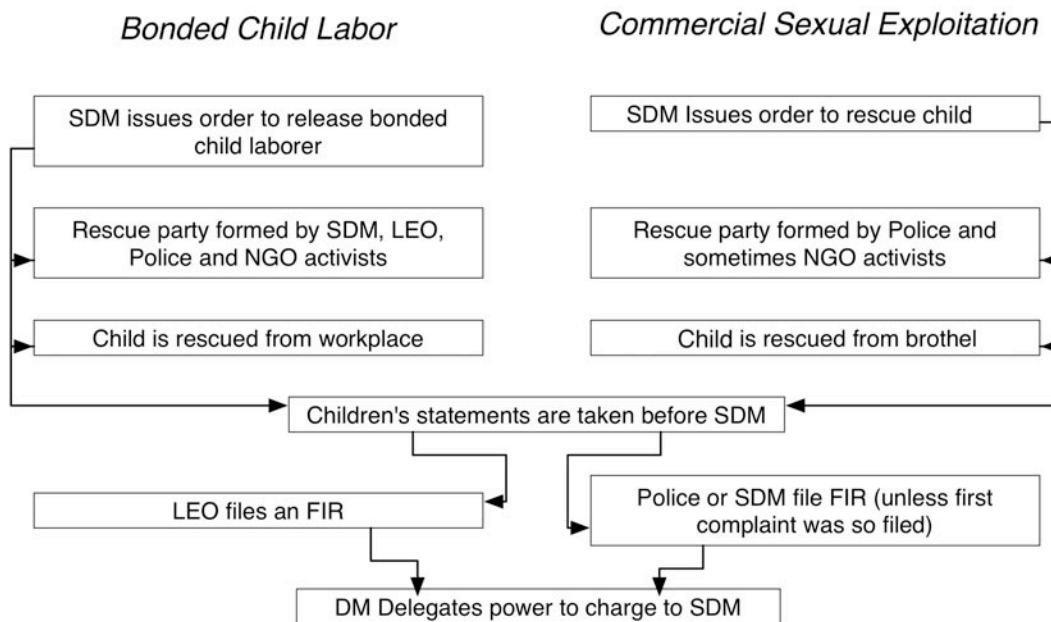
Although the needs of rescued children differ, there are general paths of rehabilitation that apply whether the children were trafficked for sexual exploitation or for other types of slavery. Indian laws and government and NGO rehabilitation and reintegration programs, however, tend to differ markedly based on whether the child was trafficked for prostitution or for labor.

- If trafficked for prostitution, Indian laws call for placing the child in a women's shelter home.
- If trafficked for labor, the laws call for a rehabilitation package including monetary compensation, placement in school, and—depending on needs—housing, land or other assets that may help the parents overcome their situation of poverty.

2. Care of children trafficked for sexual exploitation

In eastern U.P. and Bihar there are few options for rehabilitating girls and women rescued from trafficking for sexual exploitation. According to the ITPA, girls rescued from brothels must be placed in the care of a government-sanctioned shelter home. Once the girl is rescued, the District Magistrate becomes the child's guardian. We found few cases in U.P. where a girl rescued from traffickers or a brothel had been brought to an appropriate government-sanctioned shelter home.

Steps in Care and Rehabilitation



SDM: Sub-Divisional Magistrate
 DM: District Magistrate
 NGO: Non-governmental organization
 FIR: First Information Report

Remand homes, the district shelters for abused women, are little more than prisons where abused girls and women are made to live without access to the appropriate educational activities, health care, or counseling needed to overcome the experience of abuse and trauma. Trafficked and sexually exploited girls are housed with female juvenile offenders, which can be harmful to victims of trafficking and result in further abuse and suffering.

In Uttar Pradesh there are few alternatives to the district remand homes. In Allahabad there are a few NGOs operating shelter or protective rehabilitation programs for girls rescued from sexual exploitation. But in all of eastern U.P., there is only one organization providing shelter and rehabilitation services specifically for sexually abused children. These operations lack funding and they struggle to gain the cooperation from police and government officials needed to give full protection and care to the children they assist. State governments are responsible for rescuing and rehabilitating children trafficked for sexual exploitation according to the JJ

Act, 2000, but they appear to be neglecting their duties in this regard.

3. Reintegration of rescued bonded child laborers

The labor department does not maintain shelter homes in which to keep children, relying instead on NGOs for shelter provision. In many cases of children trafficked for bonded child labor from Bihar to U.P., whole groups are brought from villages to be put to work in factories, kilns, quarries, or farms. In these cases, collective rehabilitation can be effective for children from the same village or area.

The Allahabad NGO *Bal Vikas Ashram* (BVA), for example, not only collaborates with government, police and village officials, but also ensures victim protection and reintegration in its shelter. It has conducted 19 rescue operations in only two years, freeing 127 children. Rehabilitating up to 40 rescued bonded child laborers at one time, BVA provides a safe place for boys to live during a six-month program in which they

attend primary school classes, acquire skills training in a variety of trades, and gain knowledge of their rights and how to defend them.

The BVA rehabilitation process shows the importance of viewing trafficking through the eyes of the victimized children and families. They help the children to understand what has happened to them, not as bad luck, or a sad but normal part of life, but as a violation of their human rights. As the children come to understand their right to childhood and their right not to be in forced, unpaid labor, they are less likely to be victimized by traffickers. By seeing trafficking as arising from human rights abuses in the home communities, BVA helps families to prevent future trafficking.

When rehabilitated children return home, mostly to Bihar, the NGO monitors the child's reintegration and works with the child's family to build a sustainable livelihood that precludes the need for loans that can lead to bondage. BVA's rapport with the governments of Bihar and Uttar Pradesh has led to the provision of a rehabilitation package of 20,000 rupees for each of 93 children, along with access to low cost housing and land. In pursuit of further cooperation to stem child migration, a group of children rescued by BVA courageously gave testimony to the State Assembly of Bihar.

The BVA program has now expanded to address the broader needs of origin communities. They identify crucial needs of home communities, such as making the schools work, or securing land rights for the landless. BVA sees the children who are trafficked as a measure of the vulnerability of the whole community. By doing essential rights-based work with the whole community, the same or other children will not be trafficked in the future.

This is an important and ground-breaking example of using the rehabilitation process as an opportunity to address the causes of trafficking. Not all of the NGOs working to rescue children work in this holistic way. To do so requires extra commitment and staffing to work in the children's home communities.

Funds for repatriation and compensation from district of rescue

The Labour Department's funds are not sufficient for repatriating trafficked children to their families.

Sometimes the funds for repatriating children come from the discretionary budget of the District Magistrate, but may still be insufficient. For example, the DM may allocate Rs. 100 (\$2) to transport a released bonded child laborer from Allahabad, U.P. to Saharsa, Bihar, far less than the cost of a bus or train ticket. In most cases, to ensure successful reintegration, NGOs must take the initiative and use their own funds to transport and house child survivors.

The Indian Supreme Court judgment *M.C. Mehta vs. Tamil Nadu State & Ors.* (1996), discussed in Chapter 4, requires that the local government where a child is rescued provide immediate assistance to the child, and specifies a compensation package of Rs. 20,000 (\$400). Of this package, immediate assistance of Rs. 10,000 (\$200) is to be issued at the time of rescue by the administration in the district where the child is rescued, and the remaining Rs. 10,000 (\$200) is to be provided within a reasonable time (i.e., within two to three months). Due to lack of funds, children frequently receive no compensation, and the rescuing district administration closes the case upon issuing a release certificate to the home district.

Funds for compensation from home district

According to the law, government responsibility does not end once the child reaches their home district. Rehabilitation and reintegration responsibilities are to be taken up by the home district once the child has been repatriated. In most cases, however, the local administration archives the release certificate from the rescuing district administration and takes no further action.

The legally mandated compensation package of another Rs. 10,000 (\$200), due within a reasonable time of two to three months, is only awarded by the home district when an NGO or activist puts pressure on local government. Clearly the law requiring the care and rehabilitation of freed child slaves is not being enforced fairly or given sufficient resources.

Though the law guarantees the compensation, released bonded child laborers must visit the district administration again and again to obtain their relief funds. In one case it took a year and a half for a mother of a released bonded child laborer in Bihar to get their funds. An NGO activist who helped rescue the boy and file for the relief benefits described how he had given the application to the social welfare officer with copies

to the DM and SDM and visited the district officials “about 25 times” before they awarded the compensation.¹¹⁸

Housing

In addition to the compensation funds, the administration may provide the parents of released bonded child laborers with housing through a scheme called *indira awas yojna*. Through this scheme the district administration provides a one-room brick house with concrete roof to families of a Scheduled Caste/Scheduled Tribe with household income below the poverty line.

Families of released bonded child laborers are also eligible for *indira awas yojna* as part of the rehabilitation package, even if they are not Scheduled Caste/Scheduled Tribe. Nonetheless, the political interests of *panchayat* leaders often hinder assignment of *indira awas yojna* housing. The *panchayat* recommend beneficiaries for housing to the district social welfare officers. In practice, only the people who are linked to the village *pradhan* or *mukhia* get such housing.

In Bihar, we found that the *indira awas yojna* were not distributed consistently to parents of bonded child laborers. In one particular district we found that of 400 released bonded child laborers in the district, housing was provided to the families of only 63.¹¹⁹ In one village in that district, we found that the *mukhia* issued the *indira awas yojna* to selected constituents in exchange for promised electoral support, a form of corruption locally known as “vote banking”.

Promisingly, in some cases in Bihar the district officials have taken positive action to cooperate with NGOs that rescue and rehabilitate Bihari bonded child laborers. Despite the good intentions of higher officials, however, compensation packages still fail to reach those entitled to them due to the absence of follow-through by officials at lower levels.

For example, we found a case in which the district social welfare administrators withheld the papers of one released bonded child laborer and demanded a bribe in exchange for the application for compensation. An

NGO project coordinator who was helping the boy get his compensation explained,

They say that the certificate has been “lost” or it is “missing” but they are holding it. They want to take money for the application. So now we need to fight with the official and try to get a new copy of the certificate from the labor officials in Allahabad.

(Released bonded child laborer, age 15, and NGO project coordinator, Bihar, December 2004)

There are thousands of bonded child laborers who have been rescued and sent back home, but only a few hundred get their legally mandated compensation.

A key point in NGO awareness raising is to convince parents that when compensation is paid, they must not pass it to moneylenders or landowners. Bonded families, depending on the moneylenders for loans in future crises, and lacking an understanding of the illegality of their debt bond, are often pressured to hand over funds received as compensation. This windfall for the landowners also impoverishes the family increasing their vulnerability to further exploitation. Help with planning effective, income-generating uses for their compensation, as well as the knowledge that their debt bond is, in fact, illegal are a powerful antidote to re-enslavement.

Land and livestock

Landlessness is a major cause of vulnerability for the parents of bonded child laborers, but so far, none of the rehabilitation support given in Bihar addresses this problem. Parents of released bonded child laborers rarely receive land or resources for income generation, such as livestock. If compensation can be provided in the form of assets such as livestock (cows, black buffalo, chickens, ducks, rabbits or goats), supervision is required. Livestock should be provided only after verifying that the family can afford the feed for them; otherwise this option will be a burden for the families. When the livestock are appropriate, this can be an effective way to establish assets and income generation for the family. In some parts of U.P. livestock provision has been a crucial starting point for the establishment of family economic autonomy.

¹¹⁸ Free the Slaves interviews with mother of two released bonded child laborers and NGO project coordinator, Bihar, December 2004.

¹¹⁹ Department of Social Security, Bihar, December 2004.

Education

While released bonded child laborers are enrolled in government schools, there is no government-led monitoring system to ensure that the children stay in school. For example, one released bonded child laborer in Saharsa explained how he tried to go to school after returning to his village from a rehabilitation center in Allahabad:

I wanted to go. I started going—I was even able to get to school by foot. But due to the situation of my mother [a widow] and due to personal problems, I could not stay in school. I must work since my father is not alive and I am the eldest son.

(Released bonded child laborer, age 15, Bihar, December 2004)

4. Recommendations for improving rehabilitation and reintegration

- ▶ At the most fundamental level, a holistic response is required to both rehabilitate and reintegrate trafficked children, and to prevent further trafficking and exploitation. The process of rehabilitation should create greater resilience to trafficking in the whole village. For example, a child cannot be rehabilitated through schooling, if the village school is not functioning; likewise, one cannot help a child have legal protection from future exploitation if no one else in the village knows how to assert their legal rights. Rehabilitation happens best within a process changing the overall context in the family and village. Clearly, to address fundamental issues such as poverty, power, and gender imbalance is a much more complex and involved process, but the organizations that have done so within the area of this study show that it can be done effectively and relatively inexpensively.

Collaboration

- ▶ Organize NGOs across state borders, coordinating with NGOs in other Indian states to motivate officials.

Lack of facilities

- ▶ Provide police with the resources needed to provide security to victims, beyond holding them in protective shelters.
- ▶ Do not house trafficked children in remand homes with juveniles or adults in conflict with the law.
- ▶ Mandate and support NGOs to provide shelters, including for sexually exploited women, with government funds.
- ▶ Establish a children's home or shelter home in each district, whether run by government or NGO.
- ▶ Authorize NGO shelter homes to take on guardianship of trafficked children upon their rescue and through rehabilitation until they can be returned to their families.

Children trafficked for sexual exploitation

- ▶ Train officials responsible for rehabilitation and reintegration on the varying specific needs of children trafficked for labor and for sexual exploitation.
- ▶ Enact a compensation package for children rescued from commercial sexual exploitation (similar to that for bonded child laborers), including funds, educational provision, *indira awas yojna*, land, and income generation resources for the child's family.

Reintegration of bonded child laborers

- ▶ Support collective rehabilitation processes for groups of rescued children.

Repatriation

- ▶ Fund NGOs to transport trafficked children to home villages.
- ▶ NGOs work with an effective advocate who can handle the legal needs of rescued trafficked persons.

Compensation

- ▶ NGO activists continue to assist families of released bonded child laborers to solicit the compensation funds and benefits from district administration until district governments begin to fulfill their statutory obligations.

- ▶ Distribute rehabilitation and reintegration funds and other resources to the victim survivors immediately: Rs.10,000 at the time of rescue by the district administration where the child was rescued.
- ▶ NGOs collaborate with social workers and advocates to monitor the distribution of compensation packages.
- ▶ NGOs work with families of released bonded child laborers to use available right- to- information laws to monitor district administrations' distribution of compensation packages or relief benefits.
- ▶ NGOs liaise between district administration and the village *panchayat* to ensure that the village leadership distributes rehabilitation funds correctly: Rs. 10,000 should be provided within a reasonable time (i.e., within two to three months).
- ▶ Establish a transparent procedure for providing the total relief of Rs. 20,000 for released bonded child laborers. It is necessary that NGOs and community-based organizations initiate and monitor this procedure.

Other conditions in home villages

- ▶ Create greater resilience to trafficking in home villages. Rehabilitation happens within the overall context in family and village.
- ▶ Sensitize parents of released bonded child laborers to the crime of child trafficking and help them to not repay illegal debts to moneylenders.
- ▶ Assess feasibility of education; ensure village school is functioning.
- ▶ Provide education on legal rights through outreach to villagers.
- ▶ Monitor distribution of housing, agricultural land and other resources for released trafficked children and their families.

Chapter 9 - Successful Practices in Combating Trafficking

We conducted four case studies of Indian NGOs working in areas where prosecutions are increasing outside of Uttar Pradesh and Bihar. The purpose of the case studies was to identify successful measures taken in different regions of India to increase identification, prosecution, and conviction of traffickers in children.¹²⁰

Two of the organizations selected were dedicated to working only on trafficking of children and women for commercial sexual exploitation. The other two took a wider, more community-based approach to include other development activities as well.

1. Sanlaap, Kolkata, West Bengal

Since 1987 *Sanlaap* has worked for the rights of children and women forced into commercial sexual exploitation. *Sanlaap* plans its programs and services based on its own social research into needs voiced by women and children in prostitution, and the children of women in prostitution.

The goal of *Sanlaap*'s multi-level work is to stop "second generation prostitution"—in other words to break the cycle, to stop children who live in red-light areas from going into prostitution. They address the needs of these children by:

- helping them with education,
- providing support such as day care and discussion groups to children's families,
- identifying patterns of abuse and their causes, and
- working to improve conditions.

Sanlaap also works to build awareness among government officials, other NGOs, and the general public.

With over 200 staff and volunteers, *Sanlaap* maintains seven main programs to assist trafficked women and children.¹²¹

- *Sopan* Child Protection Program—14 drop-in centers in 11 red-light areas of Kolkata. This includes a program of working with women in prostitution to address the needs of their children
- *Sundar* Support Group for Women in Prostitution—weekly women's meetings in red-light area drop-in centers
- *Sneha* Shelter Program—three shelter homes in Kolkata and Jhargram, West Bengal
- *Salah* Legal Aid Cell—providing legal assistance to clients
- Documentation Unit—documenting the accomplishments of survivors, new cases, and *Sanlaap* activities
- Research—publishing studies conducted by *Sanlaap*
- *Sahayog* Campaign and Advocacy—reaching out to the public and informing government administration

Rehabilitation and reintegration

Since 1996 *Sanlaap* has independently received, rehabilitated, restored or reintegrated more than 560 girls and minors, repatriating those of foreign origin. Many of the rescued minor girls are from Agra, Bhopal, and rural West Bengal. Despite this success, none of these cases have received the legally mandated compensation.

Prosecutions and witness protection

In the past few years, *Sanlaap* has begun the prosecution of traffickers. It now has 35 cases pending, most discovered through its Women in Prostitution outreach program. However, at the time of this writing, *Sanlaap* has not seen a successful conviction of a trafficker.

Sanlaap staff explained that while they see higher prosecution rates in Delhi and Mumbai, they have persistent problems in Kolkata. They believe that the

¹²⁰ See the section on Research Methods in Appendix A of this report for a discussion on the selection and evaluation criteria for NGOs.

¹²¹ Summaries from these programs based on *Sanlaap*'s 2003-04 Annual Report. (2004).

low conviction rate is due both to the non-availability of witnesses and to lack of initiative by the police to investigate and secure witnesses.¹²²

Sanlaap acknowledges that the testimony from victims and witnesses in red-light areas is very difficult to obtain. Child victims are afraid to testify against their traffickers, because the traffickers are often their own mothers or guardians. Other witnesses who continue to live in the red-light areas have no protection from perpetrators. They do not feel safe enough to testify against traffickers, especially when witnesses who have testified are known to have disappeared or been killed.

With many victims, *Sanlaap* has been able to overcome these challenges by keeping them in a protective home located far from Kolkata's red-light areas. Staying at the shelter home helps the victims to feel physically safe. In addition, advocates from *Sanlaap*'s legal department visit the shelter home at the beginning of a possible case, in order to build rapport and explain the court process. The shelters provide victims with ongoing acceptance, counseling, and emotional support as the case proceeds. This support, and the knowledge that they have an advocate who will stand up for them in court, makes the court proceeding less traumatic.

Collaboration

When *Sanlaap* began its work, it found that the police and judiciary were unaware of the current trafficking laws and relevant legal judgments. Police failed to recognize child victims of prostitution, and denied the crime occurred in their areas of authority.

To achieve collaboration with the police and administration, *Sanlaap* has spent years building and maintaining relationships with high-level law enforcement and government officials. One especially effective step was to invite the Chief of Police of Kolkata to become *Sanlaap*'s honorary patron. With the Chief's name on their letterhead, written requests to police and administration were more likely to receive attention and action.

Today, *Sanlaap* provides much of the law-enforcement training on trafficking in its area, and its working relationship with law enforcement is improving. In addition, *Sanlaap* has developed a manual for law-

enforcement authorities to use as a reference and learning tool.

Sanlaap also cooperates with other NGOs in the red-light areas, not wishing to duplicate work or create an atmosphere of competition. To address this challenge, *Sanlaap* has developed partnerships with governmental agencies and NGOs that strengthen their anti-trafficking work.

Sanlaap has identified 28 NGOs outside of Kolkata who will work with it to ensure the safe repatriation of trafficked girls to their home states. In turn, these NGOs send the Bengali girls rescued from brothels in their states to *Sanlaap*.

Elements of success

Years of testing and learning. *Sanlaap* says it is successful because of a combination of luck, time, and a willingness to learn from mistakes. In *Sanlaap*'s 18 years of existence, it has had time to test various approaches and evolve a system that works in Kolkata.

Community-based approach. They attribute their success to an approach that works at multiple levels with survivors and the community. They stress that involvement of the local law enforcement authorities is essential to overcoming the inherent corruption that allows large red light districts to flourish.

It has to be admitted that while *Sanlaap* is successful in rehabilitation work and in bringing some prosecutions into court, it has not yet found how to stem the flow of new victims into exploitation.

2. Prerana, Mumbai, Maharashtra

Prerana has been working since 1986 in Kamatipura, the city's largest red-light area, with an estimated 20,000 sex workers. *Prerana* began with the mission of preventing children from following their mothers into prostitution. It now describes itself as an anti-trafficking NGO that works toward prevention and prosecution by assisting trafficked women and children through a rights-based legal framework.

Prerana provides children's education for prevention, legal interventions to rescue minors from brothels, and legal support aimed at obtaining rehabilitation

¹²² Sanlaap (2004), 11.

provisions for the victim. It does not work to seek punishment for traffickers. Though *Prerana* believes that punishment is essential, it does not make this a major focus, choosing to work primarily on rehabilitation of trafficked children.

There are several programs:

- An anti-trafficking resource center,
- drop-in centers for run-away girls,
- assistance in raid and rescue operations,
- a night-care center for children of mothers in prostitution,
- an institutional placement program that places children from the red-light area in outside institutions or residential care,
- an educational project that keeps children after school,
- community animators who raise awareness and organize people in the area on rights-based issues, and
- legal intervention for prosecution throughout the court system.

Prerana identifies new child trafficking cases by working closely with women in prostitution and by regularly monitoring the railway stations. At the stations, *Prerana* says they encounter a large number of girls being trafficked from Bangladesh and the northeastern states. Recently they note an increasing number of girls from Madhya Pradesh and Rajasthan.

Advocacy and awareness-raising

In addition to their direct work with women in red-light areas, trafficking victims and vulnerable children, *Prerana* is calling for state laws to stop legal dancing in bars. *Prerana* considers that dancing in bars is usually, if not always, a cover for prostitution.

Prerana has also coordinated a statewide media awareness campaign against trafficking of children and women. Submitting a charter of demands, *Prerana* launched the program through the office of the Chief Minister of Maharashtra, giving the campaign greater legitimacy. The effort to create social awareness included public meetings, posters, street plays, school campaigns, and rallies.

Collaboration

After two decades of providing sensitization and training for the police and administration, most of the challenges *Prerana* experienced in working with the police in the late 1980s and early 1990s have faded. Now *Prerana* regularly collaborates with the Tata Institute of Social Sciences to organize training for public prosecutors, juvenile judges, the Police Director-General, and other high-level officials. In addition, *Prerana* occasionally conducts training for the Mumbai Police–Social Service Branch, the Railway Police, superintendents of women’s shelter homes¹²³, journalists, and probationary officers.

Prerana collaborates with other NGOs through a network of voluntary organizations called the Network Against Commercial Sexual Exploitation and Trafficking (NACSET). Through NACSET, *Prerana* maintains close contact with NGOs working in origin states, which helps it to coordinate reintegration and repatriation for survivors of interstate and cross-border trafficking.

Prerana’s resource center has also released ARMOUR, the first Indian directory of voluntary organizations committed to anti-trafficking work.

Elements of success

Legal advocacy and judicial training. *Prerana* says well-trained lawyers are essential to their success because the judiciary system is not only oblivious to a trafficking victim’s needs, but may often include officials who are unfamiliar with applicable trafficking laws. This is especially a problem in the lower courts in which lawyers for the perpetrators typically misinterpret and manipulate the facts of the case. This can result in a judgment in favor of the trafficker, which *Prerana* often overturns in the higher courts.

Working closely with all levels of law enforcement and justice system. *Prerana* also works closely with the Maharashtra State Police on individual cases. When *Prerana* identifies a case, they notify the police and encourage them to conduct a rescue operation. Although this has been difficult in the past, they have built a positive reputation with the police over time and can now mobilize the local law enforcement authorities.

¹²³ This office is typically referred to as the “Superintendents of homes,” and is appointed to look after Government homes and shelter homes for rescued girls and women.

Prerana stays involved throughout the prosecution process, beginning with appearances in the lower courts, then Session Court, District Court, High Court and Supreme Court if necessary. *Prerana* employs well-trained lawyers to ensure that cases make it through the courts.

3. **Arz, Vasco da Gama, Goa**

Arz defines itself as a development organization, founded and managed by social work professionals to combat trafficking for purposes of commercial sexual exploitation in Goa. The approach of *Arz* is unique in that it is a grassroots community-based organization seeking social change for the whole red-light area community as a strategy to eliminate trafficking of children.

After conducting research into preventing prostitution, a small but committed group of development professionals from the Tata Institute of Social Sciences in Mumbai conceived *Arz* in 1997. Looking at NGO and government best practices regarding prostitution prevention, their study revealed gaping holes in the existing approaches.

Arz is rooted in the red-light area, a socially and politically marginalized, low-income, high-crime neighborhood. It was formed to build a community-based approach to reducing prostitution by working with three groups:

- those who are currently in prostitution (victims),
- pimps and madams who promote prostitution (perpetrators), and
- people who are vulnerable to becoming victims or perpetrators.

Arz began its first project in 1988, to prevent vulnerable girls from entering prostitution in Baina Beach, the red-light area of Vasco da Gama, Goa. *Arz* later expanded its preventive efforts to include outreach to prostitutes, the children of prostitutes, other children and youths residing in the red-light area, members of local tribes, homeless and unsupported women and girls, wives and widows of HIV-positive men, and perpetrators such as pimps and madams.

In addition, ongoing development efforts involve pressuring the local government to recognize land tenancy rights, provide health and education services,

institute non-traditional educational programs, and carry out capacity building for all community members.

Education for self-reliance

Arz's current prevention projects include:

- non-traditional educational drop-in centers for boys and girls,
- community education and capacity building for local volunteers to act as peer counselors, and
- intervention programs to create resilience in vulnerable adolescent girls.

This last strategy addresses four areas to help girls overcome vulnerabilities and crises:

- livelihood skills, such as tailoring,
- literacy,
- awareness of risks of prostitution, and
- building long-term self-reliance.

Rescue and rehabilitation

After establishing preventive programs, *Arz* also added to its work the rescue and rehabilitation of girls and women wanting to leave prostitution. *Arz* uses its dense network of community-member contacts to identify existing trafficking victims and to investigate and prosecute cases.

Arz also provides counseling, health care, after care, and rehabilitation services at the State Protective Home, as well as repatriation of girls to home states.

Prosecutions

Most recently, *Arz*'s efforts to rescue and rehabilitate children in prostitution have included the prosecution of perpetrators, and they are achieving great success in convincing state police and authorities to prosecute. To this end, *Arz* works closely with the Goa Police, the Women & Child Welfare Department, and the Mormugao district administration. Its collaboration with government authorities has taken years to achieve.

Before *Arz* began work to push through prosecutions in 2000, no cases had been filed against sex traffickers, pimps, or madams using children in Baina Beach. *Arz* reports that since 2001, it has assisted in the investigation and prosecution of 81 traffickers.

Arz's process for dealing with trafficking cases involves four vital steps:

1. Study an individual case of trafficking. Find out who is involved, who is benefiting, and who is exploited. This often involves a non-intrusive, casual investigation.
2. Mobilize the community, NGOs, and government. It is important first to get community cooperation, so witnesses are forthcoming, witnesses within the community can be protected, and hostility against the NGO, witnesses, or victim(s) is reduced.
3. Convince police, government administrators and other NGOs to include anti-trafficking training as part of their objectives.
4. Continue to provide training and to work closely with police and administration on every case.

Despite some success, *Arz* has seen only one conviction since 2001, and while many cases are pending, most were acquitted.¹²⁴

Collaboration

The development of the Goa Children's Act of 2003 helped to bring *Arz* and the government machinery together. (See Chapter 4, Section 4 for a summary of the law.) *Arz* collaborated with social workers, advocates, and state government to create the Goa Children's Act of 2003. This law updates child protection laws for sexually abused children, and mandates the involvement of specialized social workers and service-providing organizations throughout the processes of investigation, prosecution, protection, and rehabilitation of trafficked children. It is hoped that the new state child trafficking law will enable authorities to increase convictions of prosecuted traffickers.

Although *Arz's* immediate work is based in the community, their efforts have an impact outside of Goa. *Arz* liaises with social workers and community organizations in the states surrounding Goa—Karnataka, Maharashtra, Andhra Pradesh, and beyond. These are the origin states for many migrants and girls trafficked into prostitution in Goa.

Elements of success

Community integration. *Arz* believes that the community-based approach must involve the whole population that is affected, and the whole community must be included from the beginning. *Arz* began its work by providing services to people in the community. Through those services, the organization was able to build close relationships, trust, and rapport in the community. Community members are stakeholders in the organization, which has enabled *Arz* to provide protection to the children it serves, and witnesses who will cooperate in prosecutions.

Grassroots development approach. *Arz* seeks social development of the Baina Beach red-light area to prevent children from entering into prostitution and criminal activity. The development approach involves activities that are not directly related to anti-trafficking, such as land tenancy rights, health and education services, and capacity building for all community members.

Persistence with local police and magistrates. *Arz's* success in cooperation with local police and magistrates came after years of maintaining pressure. *Arz* explained to us that every time a case arose they had to "start from scratch" in pressuring the police and magistrates to investigate and prosecute the perpetrators. *Arz* noted that police inspectors and superintendents are frequently transferred, creating the need to continuously educate police on trafficking laws and procedures.

Multi-dimensional process of investigation. *Arz's* four-step process for dealing with trafficking cases ensures collaboration by relevant parties, including community involvement.

4. Uttaranchal Development Institute, Banbasa, Uttaranchal

Around 1983, a small group of social science researchers from Banaras Hindu University and the Gandhi Institute of Studies (Varanasi) founded the *Uttaranchal Development Institute* (UDI) in Champarat district, Uttar Pradesh.¹²⁵ Their first projects centered on land rights for migrants near the Indo-Nepal border, but the projects soon focused on education of women

¹²⁴ Free the Slaves interview with *Arz*, Vasco da Gama, Goa, December 2004.

¹²⁵ The state of Uttaranchal was formed in 2000. Uttaranchal was formerly part of Uttar Pradesh state.

and children. UDI has also liberated from bonded labor whole families held in secluded forest areas.

UDI began working on trafficking in 2003, while conducting an AIDS awareness training project. Having learned more during this project about problems that women and girls in the region face, UDI decided to focus on trafficking of girls on both sides of the Indo-Nepalese border. It has identified several bonded labor cases and one child trafficking case, but has yet to see a conviction of a perpetrator.

UDI relies on a network of community informants to uncover trafficking cases. UDI raises awareness through a network of village *panchayat* leaders, the union of rickshaw pullers, and hotel owners. Informants come from a variety of backgrounds as diverse as rickshaw pullers, police, and rural women's self-help groups. When they supply information about trafficked girls, UDI alerts the police.

If the girl is Nepali, the Indian police hand the girl to the Nepalese police at the border checkpoint. The procedure then is for the police to place the girl in a transit home in Nepal. UDI collaborates with Nepalese NGOs so that when the police hand the girl over, there is a reliable NGO prepared to help her in Nepal.

Collaboration

Prior to taking up the issue of trafficking, UDI worked closely with the police on land and AIDS issues, and through this work built a good rapport with the police of the region. UDI has now organized local workshops on trafficking that included the police. The Commanding Officer of Police responded positively and attends regular meetings or sends officers to them so they can be trained.

UDI benefits from police cooperation. Senior officers are sympathetic to UDI and the Director General of Police for Uttarakhand is particularly concerned about the trafficking problem. UDI is able to work with the constables and officers with the help of the Director General of Police who issues orders for local police cooperation.

In August 2004, the Director General of Police ordered the formation of an Anti-Trafficking Task Force and mandated increased police intervention to detain and question suspected traffickers on the Indo-Nepal Border at Banbasa, Champawat district. That order specifically

mentioned the important role of NGOs in identifying trafficking cases.

Elements of success

Anti-Trafficking Task Force. The collaboration of multiple agencies in the state task force was described above in Chapter 6.

Anti-trafficking cross-border action committee. The *Uttarakhand Development Institute* has further formed a cross-border committee of NGOs and police officials to address the problem of trafficking from both sides of the Indo-Nepalese border. Through this network, UDI is able to increase reporting of cases to police by identifying trafficking at the border, and by rescuing trafficked girls and taking them to the police. UDI also achieved a working rapport with local police through building interest of the highest-ranking police officials.

Conclusion

The four NGOs reviewed above have created somewhat different approaches to the problem of child trafficking. We note, however, that all of these groups work to base their response on sound research, to protect victims, to bring expertise to their care and legal remedies, and to build collaborative relationships with both government and other NGOs. We feel that what works for each NGO may be examined and possibly adapted to the efforts of emerging anti-trafficking projects in other regions of India.

Chapter 10 - Conclusion

The overall aim of this research was to find ways to increase the successful prosecution of traffickers in India. We found that a central precondition will be to dismantle the unacceptable consensus of the authorities in some of these districts that it is normal for children to be taken away as slaves, and it is not in anyone's interest to try to exert themselves against it. Among officials at high and low levels, there are plenty of exceptions to this consensus, but they are often swimming against the tide—or rather against a deadly inertia.

At the level of the poorest villages, we found a parallel and yet more painful consensus: the belief that letting children go away is a tragedy that parents should cope with in silence on their own, but like death itself, it is normal and inevitable. It is just one more circumstance that is beyond their control.

Children are paying for this brutal consensus with their broken lives. This unspoken consensus must be broken. To do that, people of goodwill, concerned officials in these districts, NGOs, the international community, and above all, the families most affected by trafficking, need to unite and replace it with a consensus focused on the human rights of the children.

Justice is fundamental to this change. Human rights emerge and progress in their implementation when societies look at what is happening from the point of view of those most affected. At present, criminals are not being prosecuted and victims are not receiving justice because the rights of poor children who are trafficked are treated as disposable in the face of other considerations.

We admit that this is a question of political will, more than it is a legal question. We have looked at efforts to implement Indian and international laws against trafficking from a technical point of view (highlighting limitations of particular laws, delays in the system, etc.), but in order to be useful this report must do more: The persistent lack of prosecutions and convictions, indeed what could be seen as the sheer irrelevance of the criminal justice system at this time in terms of stopping trafficking in northern India, is more deeply illuminated and explained through a human rights-based approach to the question. What does this mean? The factors driving the sale of children into slavery

emerge with stark precision when we look at each stage of trafficking from the point of view of the victimized child, family, and home community. Suggested solutions must measure up to whether they are workable from the real context of the worst-affected families and communities.

We have found we needed to ask questions that initially seemed unsympathetic, such as: Why do parents allow traffickers to take children into slavery? Why do villages in Bihar allow known traffickers to be present and then passively consent to the drift of their youth into slavery? Yet asking these questions and seeking to know the perspectives of these victimized people is in fact a constructive approach. These are questions that imply that these families and villages could ultimately be in a position to take different decisions. They suggest that solutions can be in the hands of the victim. Such questions show us that addressing the context in which victims and their families function is ultimately going to have more results than relying on the goodwill of outsiders who might continue to rescue victims or to shepherd individual cases through a disjointed and disinterested legal system. Our perspective is that human rights violations, especially violations of social rights, are best brought to an end when potential victims are strengthened in substantive ways, and when they acquire the means with which to withdraw compliance with the processes of abuse.

Our findings are hopeful: There are factors related to trafficking that can be addressed. The most fundamental of these factors is to make the home communities more resilient to the pressures to allow children to migrate for work. Access to and control of productive resources and to relief in times of crisis would offer families more hope for their children than is currently offered to them by the traffickers. To solve trafficking we have to put these fundamental and transformational policy options on the table—not just look for technical fixes.

Specific Recommendations

Our work explored many dimensions affecting child trafficking in northern India. What follows are the specific recommendations for each of those dimensions.

Recommendations regarding the Socio-Economic Context

Many of the ways in which the social and economic vulnerability of poor families to trafficking can be reduced are well-understood. Many of the following recommendations are already codified in law, but not carried through. Some of these recommendations are local and relatively simple; others require central government commitment and resources, such as the need for all citizens to have some form of identity documents through which they could access food relief. We have included all actions that we feel could bring immediate reductions to the chance of child trafficking.

Land and loans

- ▶ Accomplish and monitor re-distribution of agricultural land, with the help of appropriate central government agencies and NGOs, ensuring it follows allocation schemes mandated in existing legislation.
- ▶ Ensure rural poor communities understand how to claim their rights to different forms of land and have access to paralegals to assist them to pursue claims.
- ▶ Amend land tenancy laws to create legal protections, regulation and monitoring of tenancies so that tenant farmers may access legal loans or credits, thus helping them avoid the usurious illegal loans from landlords.
- ▶ NGOs should be encouraged and supported to assist in the formation of village self-help groups for the creation of small-scale savings and micro-credit schemes which can give access to fair credit.
- ▶ NGOs should help loan recipients to understand their rights under the laws regulating credit.

Economic subsistence

- ▶ Give preference to women for the 100 days of employment under the proposed Act, with additional employment days for those with larger families.
- ▶ Provide innovative non-agricultural work projects during flood seasons, with safeguards to prevent corruption.
- ▶ Support the establishment of community-based savings schemes, whereby women can save small amounts during seasons when work is

available and can then use these funds to survive during flood season.

- ▶ Encourage rural development initiatives based on cooperatives, self-help groups and income generation schemes.

Food and food supplies

- ▶ Continue food supplies for impoverished families in drought, flood, and low-work seasons, including pulses and other proteins in addition to grains. NGOs and community organization in villages need to create systems for monitoring distribution—with access to District leadership to report abuses and corruption of middle level officials.
- ▶ Ensure that Ration IDs or ration cards for food relief are given to all people with incomes below poverty line.
- ▶ Give food supplies directly to villagers, not to landowners or rural leaders to distribute.

Education

- ▶ Remove obstacles to schooling, prioritizing villages that are known to be a source of trafficked children for improvement of educational access and teaching facilities for children up to age 14.
- ▶ Ensure that education-promotion allowances reach all Scheduled Caste/ Scheduled Tribe children and eligible rescued bonded child laborers.
- ▶ Provide midday school meals to all children.
- ▶ Include in school curricula a variety of programs that increase the economic value of schooling for villages, especially for the children of the most vulnerable ages.

The provision of midday meals in school needs special mention. Midday meal provision has emerged as a crucial anti-trafficking/anti-child labor approach, both in India and elsewhere. Parents who may not understand the value of education will send their children to school if they know they will be fed there—and conversely, they will not send an unfed child to school. When parents are enlisted to help prepare midday meals, they are better able to monitor both their children and whether teachers are regularly in attendance. Teachers who suffer from irregular payment of their wages also benefit from access to midday

meals. It goes without saying that better fed children are better able to learn and benefit from school.

Gender

- ▶ Through community outreach, reduce the power imbalance between the sexes, through girls' education, rights training, and women's empowerment in family relationships.
- ▶ Include female members in outreach teams so that women can be addressed separately.
- ▶ Place more women in upper-level enforcement positions, such as supervising officers and investigators, with one women's police station or section per sub-district.
- ▶ Introduce women's help contact points in police superintendent offices in each district. Create known points of contact including help lines for women under threat of violence or exploitation.
- ▶ Place more women in positions of political power, including elected positions, and monitor to ensure that they are in fact the ones exercising power.

Recommendations regarding Trafficking Patterns and Public Awareness

Demand for child labor

- ▶ With NGO collaboration, create industry-wide systems of monitoring industries known to use illegal child and migrant labor to allow transparency and public reporting.

Methods of recruiting children

- ▶ Increase community outreach to origin villages to educate parents and adolescents (especially if not in school) on:
 - common recruiting offers and deceptions. This may require different messages for mothers and fathers, and strengthening mothers in the context where the economic transaction seems to often be between the father and the trafficker. Women need to be aware of the pattern of men being targeted by traffickers to take money for children to go away.
 - risks of migration and risks for children traveling alone, since many children in

Bihar are tempted to leave their homes in search of work or education opportunities. Different messages may be required for girls/young women who could be trafficked for prostitution, and boys being trafficked for other labor such as rug weaving.

- the possibility of exploitation even when a child is sent with relatives.
 - ways to check the destination before a child travels such as: getting addresses, labor department contacts, and addresses and working phone numbers of appropriate agencies for assistance
 - rights in employment and to being paid for work.
 - recognizing debt bondage and that it is illegal.
 - laws on employment of children. (See Chapter 4 for child labor laws.)
- ▶ Children need to perceive trafficking in a different way—not that they are being given a chance to fulfill their family responsibilities, but that their rights to education and freedom from slavery are being stolen. We need to remove children's and adolescents' willingness to migrate or work and not go to school.
 - ▶ Create employment opportunities for young women so they can find safer ways to improve their lives.
 - ▶ Educate families about how women can receive an education and build a career while still maintaining family traditions.

Public and official awareness

- ▶ Use public media to disseminate information on the prevalence and illegality of child trafficking.
- ▶ Provide official information and directives to government employees, alerting them to prevalent trafficking patterns and motivating them to take appropriate actions.

Recommendations regarding the Legal Context—to improve federal and state legislation

Central government

- ▶ Improve national laws pertaining to trafficking to meet child survivors' rehabilitation and reintegration needs.
- ▶ Revise the CLA to give greater authority to inspectors to make inquiries to confirm a child's age, allowing for rebuttal of a medical certificate with other evidence or a second medical opinion.
- ▶ Strengthen current laws to include increased benefits for guardians of rescued trafficked children.
- ▶ Amend the JJ Act to include a provision for the concealment of the identity of a child victim.
- ▶ Amend the JJ Act to require, rather than simply recommend, that states put in place Child Welfare Committees and Juvenile Justice Boards.
- ▶ Enact new laws that provide employment or economic activities for the unemployed and low income populations.

State governments

- ▶ Fully implement current laws that provide employment or economic activities for the unemployed and low income populations, to reduce re-enslavement.
- ▶ Institute comprehensive state laws in U.P. and Bihar that complement and implement national legislation, integrating trafficking and prohibited child labor laws, and meet child survivors' rehabilitation and reintegration needs. (The Goa Children's Act of 2003 serves as a good model.)
- ▶ Provide additional salaries, vehicles, and other equipment needed to investigate and prosecute trafficking cases.
- ▶ Immediately constitute Juvenile Justice Boards and Child Welfare Committees in every district of Bihar and U.P.
- ▶ Require regular inspection visits to licensed entertainment venues, thus enabling local administration to prevent such venues being used as a cover for forced prostitution.

Suggested improvements

- ▶ Allow NGOs that are registered with the State government to file a First Information Report (FIR) in trafficking cases.
- ▶ Increase transparency by application of state Right to Information laws.

Recommendations regarding the Institutional Context

Promotion of integrity and equal protection under the law

- ▶ NGOs working to assist trafficking victims should strengthen their capacity and expertise to assert the legal rights of trafficking survivors, focusing on this as much as they focus on carrying out rescue and direct rehabilitation.
- ▶ Professionalize police procedures and press for enforcement of existing anti-corruption laws, as well as improvement of these laws through making it easier to report incidents of corruption.

Limited awareness

- ▶ Address general and official denial of the problem of child trafficking for sexual exploitation and for labor through educational workshops and symposia.
- ▶ Increase understanding of child trafficking, and recent laws, including changes in technicalities, through such workshops and symposia provided by Labour Department and law enforcement with assistance from NGOs.
- ▶ Provide periodic update seminars and symposia for judiciary and senior administrators on child trafficking patterns, relevant recent legislation and landmark rulings.
- ▶ Facilitate, through NGO and NHRC cooperation, educational seminars for District Magistrates and their immediate subordinates on all forms of child trafficking.

Training

- ▶ Develop, through Labour Department, Police and NGO collaboration, curricula on child trafficking to be included in pre-service and in-

service training for police and labor officers at multiple levels. Such curricula should include:

- current child labor laws and their provisions,
 - landmark judicial rulings,
 - legal responsibilities of officers,
 - gender-based violence, crimes against women and ITPA,
 - identifying and investigating bonded labor and trafficking cases,
 - evidence-gathering in trafficking and child labor cases, and
 - filing appropriate FIRs and charge sheets.
- ▶ Adapt such training to the needs of *chowkidars* and other constables.
 - ▶ All police should be trained in the requirements of immediate collection of medical evidence in cases of rape and violence against women and children. A female sub-inspector or special police officer appointed to each station who can assist in training on ITPA offenses.
 - ▶ Provide government prosecutors with updates and skills training on evidence-gathering for, and prosecution of, trafficking and child labor cases.
 - ▶ Facilitate collaboration of NGOs and child advocates by providing training in the proper completion of FIRs and charge sheets.

Collaboration

- ▶ Adopt a multi-agency approach, training LEOs and police together to foster collaboration.
- ▶ Mobilize collaboration between NGOs and government officials by long-term building of rapport.
- ▶ Keep the location of raids confidential to prevent possible leaks; only the NGO or labor official guiding the rescue party should know their destination.
- ▶ Multi-agency training should extend to all those with relevant responsibilities—officials, NGOs and community representatives—with a focus on joint planning of response throughout each stage of dealing with a trafficking case.

Recommendations regarding Law Enforcement –to increase identification and investigation

Overcoming barriers to reporting

- ▶ Increase NGO presence and outreach in villages so villagers will feel confident to report missing and potentially trafficked children.
- ▶ Send NGO outreach workers, particularly women, to work sites to identify and assist people who fear their employers.
- ▶ Enable NGOs and community representatives to have a recognized presence and active involvement in District Vigilance Committees on bonded labor.
- ▶ Post women police officers in every police station to receive reports of abuse.
- ▶ Organize NGO campaigns to sensitize the public, building on existing leadership such as *panchayats*, self-help groups, school teachers, etc.
- ▶ Educate media to publish stories without disclosing the identities of victims, perpetrators, and witnesses.

Inter-agency task forces

- ▶ Establish interagency anti-trafficking task forces that include women police and social workers and members of the district Child Welfare Committee.
- ▶ Build long-term relationships and rapport to allow collaboration between NGOs and government officials.

Investigations

- ▶ Mobilize all authorities to take action. State Labour Commissioners and Directors General of Police can require District Magistrates to cooperate with the enforcement of trafficking laws.
- ▶ Allow NGOs that are registered with the state to file FIRs.
- ▶ Have an independent advocate or activist acting on behalf of victims who can provide evidence in the form of affidavits of witnesses, especially if overlooked by the investigating officer.
- ▶ Fund NGOs to employ qualified advocates to monitor the progress of cases throughout each stage.

- ▶ Provide labor officials with equipment and skills to record evidence photographically whenever possible. However, this may present a security risk in some areas.
- ▶ Keep location of an impending raid confidential from all but the most essential members of the district administration and law enforcement in order to prevent the possibility of a warning being given to perpetrators.

Recommendations regarding Law Enforcement –to achieve effective prosecutions

Lack of will

- ▶ NGOs must stay involved through the process from raid and rescue to prosecution. This will require additional resources and personnel for nearly every NGO.
- ▶ In the absence of a system of government accountability, NGOs need to work with all levels of the administration bureaucracy when pushing a trafficking case through the criminal justice system.
- ▶ Educate the media about child trafficking. NGOs should encourage them to publish stories calling on district administrations to take action against traffickers and to rescue trafficked children. But the media must also be educated in concealing the identity of trafficked persons.

Separation between investigation and prosecution

- ▶ NGOs and advocates for trafficked children should work with the police investigator to ensure that the FIR is filed appropriately, all leads on evidence are followed, witnesses' statements are taken in writing, and the charge sheet is filed correctly.
- ▶ Allow early appointment of public prosecutors when someone makes a child labor or trafficking FIR, and require regular communication between investigators and prosecutors during the enquiry.
- ▶ NGOs should involve an independent lawyer to safeguard the interests of the victim throughout investigation and prosecution, including the bringing forward of witnesses overlooked or excluded by the Investigating Officer.

Updating prosecutors

- ▶ Selection committees should maintain a list of prosecutors with experience in trafficking and child labor cases and appoint them in accord with their experience.
- ▶ NGOs and/or advocates must maintain contact and communication with victims and witnesses, prepare them to be examined before magistrates in court, and help the prosecutor prepare arguments according to the charges filed.

Cases delayed

- ▶ Place a time limit on the prosecution phase for trafficking and bonded labor cases including no more than one postponement of not more than one month by the defense and prosecution. Initial court scheduling should take place within two weeks and the sentencing phase should be limited.

Witness tampering and obstruction

- ▶ Police should take written testimony of all witnesses. Whenever possible, witnesses should give testimony in person to a magistrate, thus making the testimony official and potentially removing the need for future appearance in court. For this, investigators need resources to transport witnesses to and from magistrates.
- ▶ The court should seal the documents in trafficking and bonded child labor cases, until needed during prosecution. This would help protect the victims and witnesses involved.

Recommendations for improving rehabilitation and reintegration of trafficked children

At the most fundamental level, a holistic response is required to both rehabilitate and reintegrate trafficked children, and to prevent further trafficking and exploitation. The process of rehabilitation should create greater resilience to trafficking in the whole village. For example, a child cannot be rehabilitated through schooling if the village school is not functioning; likewise, one cannot help a child have legal protection from future exploitation if no one else in the village knows how to assert their legal rights. Rehabilitation happens best within a process changing the overall context in the family and village. Clearly, to address

fundamental issues such as poverty, power, and gender imbalance is a much more complex and involved process, but the organizations that have done so within the area of this study show that it can be done effectively and relatively inexpensively.

Repatriation

- ▶ Fund NGOs to transport trafficked children to home villages.
- ▶ NGOs should work with a good advocate who can handle the legal needs of rescued trafficked persons.

Collaboration

- ▶ Organize NGOs across state borders, coordinating with NGOs in other Indian states to motivate officials.

Lack of facilities

- ▶ Provide police with the resources needed to provide security to victims, beyond holding them in protective shelters.
- ▶ Do not house trafficked children in remand homes with juveniles or adults in conflict with the law.
- ▶ Mandate and support NGOs to provide shelters, including for sexually exploited women, with government funds.
- ▶ Establish a children's home or shelter home in each district, whether run by government or NGO.
- ▶ Authorize NGO shelter homes to take on guardianship of trafficked children upon their rescue and through rehabilitation until they can be returned to their families.

Children trafficked for sexual exploitation

- ▶ Train officials responsible for rehabilitation and reintegration on the varying specific needs of children trafficked for labor and for sexual exploitation.
- ▶ Enact a compensation package for children rescued from commercial sexual exploitation (similar to that for bonded child laborers) including funds, educational provision, *indira awas yojna*, land, and income generation resources for the child's family.

Reintegration of bonded child laborers

- ▶ Support collective rehabilitation processes for groups of rescued children.

Compensation

- ▶ NGO activists should continue to assist families of released bonded child laborers to solicit the compensation funds and benefits from district administration until district governments begin to fulfill their statutory obligations.
- ▶ Distribute rehabilitation and reintegration funds and other resources to the victim survivors immediately: Rs.10,000 at the time of rescue by the district administration where the child was rescued.
- ▶ NGOs should collaborate with social workers and advocates to monitor the distribution of compensation packages.
- ▶ NGOs should work with families of released bonded child laborers to use available right-to-information laws to monitor district administrations' distribution of compensation packages or relief benefits.
- ▶ NGOs should liaise between district administration and the village *panchayat* to ensure that the village leadership distributes rehabilitation funds correctly: Rs. 10,000 should be provided within a reasonable time (i.e., within two to three months).
- ▶ Establish a transparent procedure for providing the total relief of Rs. 20,000 for released bonded child laborers. It is necessary that NGOs and community-based organizations initiate and monitor this procedure.

Other conditions in home villages

- ▶ Create greater resilience to trafficking in home villages. Rehabilitation happens within the overall context in family and village.
- ▶ Sensitize parents of released bonded child laborers to the crime of child trafficking and help them to not repay illegal debts to moneylenders.
- ▶ Assess feasibility of education; ensure village school is functioning.
- ▶ Provide education on legal rights through outreach to villagers.
- ▶ Monitor distribution of housing, agricultural land and other resources for released trafficked children and their families.

BIBLIOGRAPHY

Court Records

All India Records. 1982. SC 1473.

Criminal. Misc. Application No. 4621 of 2004. Pushpa vs. State of U.P. and the City Magistrate of Agra and others. Court No. 22. July 16, 2004.

FIR, Cr. No. 84/2000, Sections 3, 4, 5, 6, 8, 9, 15 Immoral Traffic (Prevention) Act. Upper City Magistrate (IVth) vs. S. Singh and V. Pathak. Shivpur Police Station, Varanasi. May 24, 2000.

India Acts and Laws and Government Orders

Bonded Labour System (Abolition) Act No. 19 of 1976. Pub: R.A. Garg, Commercial Law Publishers (India) Pvt. Ltd. Delhi, India, 2004.

Child Labour (Prohibition and Regulation) Act No. 61 of 1986. Pub: Universal Law Publishing Co. Pvt. Ltd. Delhi, India, 2003.

Children (Pledging of Labour) Act No. 2 of 1933. In: The Child Labour (Prohibition and Regulation) Act No. 61 of 1986. Pub: Universal Law Publishing Co. Pvt. Ltd. Delhi, India, 2003.

Goa Children's Act No. 18 of 2003. In: Official Gazette, Government of Goa, Extraordinary No. 5. Series I No. 5. Panaji, India. July 14, 2003. 949-966.

Government Order by Labour Department, Government of U.P. "Suspension of Inspector Raj." Lucknow, U.P. August 29, 2003.

Immoral Traffic (Prevention) Act No. 104 of 1956, with State Amendments. Pub: Ms. Shikha Arora, Professional Book Publishers, New Delhi, India, 2004.

Indian Criminal Procedure Code. Chapter XII. "Information to the police and their powers to investigate." Sections 154 - 176.

Indian Penal Code, 1860. Chapter XVI. "Of kidnapping, abduction, slavery and forced labour," Sections 359 - 374.

Indian Penal Code, 1860. Chapter XVI. "Sexual Offences," Sections 375 - 376-D. (Revised by the Criminal Law (Amendment) Act No. 43 of 1983, S. 3 and 5.)

Indian Penal Code, 1860. Chapter XVI. "Of unnatural offences," Section 377.

Juvenile Justice (Care and Protection of Children) Act No. 56 of 2000. Pub: Ms. Shikha Arora, Professional Book Publishers. New Delhi, India, 2003.

International Conventions and Protocols

ILO Convention 182. "Convention Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour." 1999.

United Nations Convention on the Rights of the Child. 1989.

United Nations "Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention Against Transnational Organized Crime." 2000.

News articles

- Baldauf, Scott. 2004. "India retrieves pivotal Hindu-Muslim hate crime." *Christian Science Monitor*. July 23, online edition: <http://www.csmonitor.com/2004/0723/p07s01-wosc.html>, last accessed August 15, 2005.
- Farooq, Omer. 2004. "Andhra boy freed from father's chains." *The Pioneer*. Lucknow, U.P., December 12, 3.
- Gupta, Smita. 2004. "Promises to keep." *Frontline*, December 31, 45-47.
- Hindustan Times*. 2005. "Beware, violators of labour laws!" Varanasi, U.P., Jan. 1, A3.
- Krishner, Frank. No date. "Child Labour Commission ineffective?" *Bihar Times*, online edition: <http://www.bihartimes.com/articles/general/childlabour.html>, last accessed August 15, 2005.
- Mishra, Subhas. 1999. "Tiny silky fingers are bonded (Bandhua hai nanhi reshmi unglyia)." *India Today*, Hindi edition, July 7, 39.
- Narrain, Siddharth. 2004. "For informed action." *Frontline*, September 24, 81.
- New India Press*. 2005. "Human trafficking a violation of rights." July 20, online edition: <http://www.newindpress.com/NewsItems.asp?ID=IEA20050720022529&Page=A&Title=Southern+News+-+Andhra+Pradesh&Topic=0>, last accessed July 20, 2005.
- Parsai, Gargi. 2005. "India will overtake China's population by 2050." *The Hindu*, Feb. 26, online edition: <http://www.hindu.com/2005/02/26/stories/2005022602581200.htm>, last accessed August 15, 2005.
- Sridhar, V. 2004. "From debt to death." *Frontline*, June 19-July 2, pp.
- The Telegraph*. 2005. "Sex worker law sent back to limbo." Kolkata, June 29, online edition: http://www.telegraphindia.com/1050630/asp/nation/story_4932492.asp, last accessed on June 29, 2005.
- Times of India*. 2004. "Missing report: Only 60% cases reported." Lucknow, U.P., November 5, A6.

Reports and Papers

- Asian Development Bank. *Combating Trafficking in Women and Children in South Asia: India Country Paper*. New Delhi: Asian Development Bank, July 2002.
- Bhatt, K. N., "Integrated Area Specific Approach against Hazardous and Exploitative Forms of Child Labour in Firozabad: An Evaluation Report." Allahabad: G.B. Pant Institute for Social Science Research, December 2003.
- . "Integrated Area Specific Programme on Elimination of Child Labor from Hazardous Glass and Bangle Industry of Firozabad: An Evaluation Report." Allahabad: G.B. Pant Institute, December 2003.
- Bureau of Democracy, Human Rights, and Labor. *Country Reports on Human Rights Practices, 2002*. Washington, DC: U.S. State Department, March 2003.

- Daksh, Vijay. "Tour Report of Mrs. Vijay Daksh, Member, NCW, at Varanasi on Return Journey from Mau on 1.6.2000." Unpublished. Submitted to National Commission for Women, New Delhi, India, June 2000.
- Deshta, Sunil and Kiran Deshta. *Law and Menace of Child Labor*. New Delhi, India: Anmol Publications, 2000.
- Free the Slaves. "Semiannual Program Report No. 1." Unpublished. Submitted to Office to Monitor and Combat Trafficking, U.S. State Department. Washington, DC, February 2005.
- Government of India. Ministry of Human Resource Development. Central Social Welfare Board. *Prostitution in Metropolitan Cities of India*. New Delhi, India: Government of India, May 1994.
- _____. Ministry of Human Resource Development. Department of Women & Child Development. *Report of the Committee on Prostitution, Child Prostitutes and Children of Prostitutes & Plan of Action to Combat Trafficking & Commercial Sexual Exploitation of Women and Children*. New Delhi, India: Government of India, 1998.
- _____. Ministry of Home Affairs. National Crime Records Bureau. *Crime in India: 1999*. New Delhi, India: Government of India, 1999.
- _____. Ministry of Home Affairs. National Crime Records Bureau. *Crime in India: 2003*. New Delhi, India: Government of India, 2003.
- Human Rights Watch. *Small Change: Bonded Child Labor in India's Silk Industry*. Vol. 15, No. 2 (C). New York, NY: Human Rights Watch, January 2003.
- _____. *World Report 2003*. New York, NY: Human Rights Watch. 2004.
<http://www.hrw.org/wr2k3/asia6.html>, last accessed August 15, 2005.
- Joint Women's Programme & UNICEF. "Brainstorming Meeting on Child Trafficking and Prostitution in Uttar Pradesh." Unpublished seminar report and recommendations. Submitted to UNICEF. New Delhi, India: Joint Women's Programme, September 2001.
- Joint Women's Programme & Caritas India. "Human Trafficking: How to Address the Issue." New Delhi: Joint Women's Programme, no date.
- Khan, Shamshad. "Migrant Child Labour in the Carpet Industry in Mirzapur-Bhadohi." *Neglected Child: Changing Perspectives*. Amod Kanth & R.M. Varma, eds. New Delhi: S. Chand & Co. Ltd., 1993.
- Labour Department of Uttar Pradesh. "Noninvasive Survey of Child Labour in Mirzapur District, Uttar Pradesh." Unpublished. Submitted to District Primary Education Programme. Noida: National Labour Institute, 2002.
- _____. "Child Labour/Bonded Labour Eradication & Rehabilitation." Seminar Report. Bhadohi: Institute of Carpet Technology, October 26, 2004.
- Mishra, Lakshmidhar. *Child Labour in India*. New Delhi: Oxford University Press, 2000.
- Narayan, Swati. "Unemployment and migration." 2004.
<http://www.indiatogether.org/2004/mar/eco-migration.htm>, last accessed May 28, 2005.
- Office to Monitor and Combat Trafficking in Persons. *Trafficking in Persons Report 2003*. Washington, DC: U.S. State Department, June 2003.

Rozario, M. R. "Trafficking in Women & Children in India." Unpublished report. Submitted to Joint Women's Programme, New Delhi, no date.

Sanlaap. *A Situational Analysis of Child Sex Tourism in India (Agra, Delhi, Jaipur)*. Kolkata, India: Sanlaap, December 2003.

_____. *2003-04 Annual Report*. Kolkata, India: Sanlaap, 2004.

Shakti Vahini. *Trafficking in India Report-2004*. Faridabad, Haryana, India: Shakti Vahini, 2004.

Sridhar, Madabhushi. *F.I.R., Arrest & Bail*. Hyderabad, India: Asia Law House, 1999.

UN. *World Population Prospects: The 2004 Revision Highlights*. New York: United Nations, 2005.

UNDP. *India Country Assessment*. Office of the UN Resident Coordinator. New Delhi, India, March 2000.

UNICEF. *State of the World's Children 2005*. New York: UNICEF, 2005.

Upadhyaya, Krishna. "Bonded Labour in South Asia: India, Nepal and Pakistan." The Political Economy of New Slavery. Christien van den Anker, ed. New York: Palgrave Macmillan, 2002.

World Bank. *Poverty in India: The Challenge of Uttar Pradesh*. Washington, DC. World Bank, May 2002.

Appendix A - Research methods, data sources and limitations

1. Data collection

We interviewed 155 individuals and representatives of organizations who had first-hand experience with trafficked children. The participants included:

- Trafficked children
- Parents or guardians of trafficked and missing children
- Immediate relatives of trafficked and missing children (aunts, uncles, brothers, sisters, cousins, and in-laws)
- Teachers in village schools
- Executive Magistrates (District Magistrates, Sub-Divisional Magistrates, Additional District Magistrates)
- Senior Superintendent of Police
- Superintendent of Police
- Deputy Superintendent of Police
- Police Sub-Inspectors
- Women Police Sub-Inspectors and constables
- Police Station Officers in Charge
- *Chowkidars* (village constables)
- District Labour Commissioners
- Assistant Labour Commissioners
- Labour Enforcement Officers
- NGO activists
- Trafficked and bonded child labor rehabilitation center coordinators
- Village *panchayat* Heads
- Local political leaders (Members of Legislative Assembly and Members of Legislative Council)
- Bar Association Attorneys (“Advocates”)

Because the interview respondents had different areas of expertise and different experiences, we conducted interviews with two foci.

We interviewed District Magistrates, executive magistrates, police, Labour Department officials, NGOs and attorneys about the obstacles to enforcement, especially the need for specific training and for inter-departmental cooperation in investigating and responding to reports of trafficking. We also invited discussion and review of cases they have handled and why they did or did not result in successful prosecutions.

We interviewed parents, guardians and relatives of missing or trafficked children, trafficked children themselves, village level officials, *panchayat* representatives, and community members about what assistance might make it more likely for them to report on the presence of traffickers or of employers using child slaves.

We collected this information between September 2004 and January 2005. The team of U.S. and Indian researchers (two female and two male) collected the data through field work in Bihar and Uttar Pradesh, focusing on the districts of Araria, Purnia, Katihar, Saharsa, and Khagaria in Bihar, and on Varanasi, Bhadohi, Allahabad, Mirzapur, and Sonebhadra in U.P.

After collecting the data, we coded and analyzed it using the qualitative data analysis software QSR*NUDIST. This program allowed us to group interview answers and compare them to identify trends, similarities, and differences.

We also sought to conduct case studies, to collect data from cases of trafficked children and to analyze them from the perspectives of the individuals involved, to assess what led to the person being trafficked, to their discovery or

escape, and whether there was subsequent investigation, prosecution and conviction. This approach, however, failed to be fruitful for the lack of sufficient interview participants and case documents. It did not prove possible to compile complete information about a case.

Selection of participants

We used purposive sampling to select interview respondents, based on their involvement in being trafficked, trafficking children, losing a child or their role relative to traffickers, enforcing laws, administering justice, or rescuing and rehabilitating trafficked children.

Establishing interview rapport

Encouraging productive interviews involves a process of negotiation. For complicated sociological and political reasons it would be wrong to characterize this negotiation as a simple conversation and agreement between the researchers and the participants. Indeed, we (the researchers) were aware of our power and privilege in relationship to the interview participants. Not surprisingly, it was difficult to establish rapport and trust with research participants, given the social and cultural differences, as well as time constraints.

One example occurred in Bihar district, the District Magistrate (DM) considered our project of high importance, and insisted on providing protection for us on a field visit to the interior rural areas of the district. The DM ordered a Block Development Officer to guide us through the rural areas to the affected villages where children were missing and had been trafficked to U.P. The DM also assigned two heavily armed¹²⁶ police officers to travel with us in the *block*. Finally, the DM also provided us with a Mahindar jeep for the day.¹²⁷ While this was a generous act on the part of the DM, it created a clearly visible and intimidating power imbalance between us and the people in the rural areas.

2. Limitations of interview data

While we accepted the respondents' interview answers, it was difficult to assess the verity of these responses. In some cases, the potential participants refused to be interviewed. This happened several times, particularly with high-ranking police officers and district administrative officials.

The difficulty of accessing data from officials was not limited to respondent's refusal to participate. Due to frequent transfers to different posts, officials may not have had enough experience with or knowledge about their districts to be able to comment on law enforcement trends. In many districts, the officer or administrative official was so recently appointed that he or she could not be interviewed.

In reaching selected respondents, there were also barriers that were beyond our control. Such barriers included strikes and holidays, when government officials were out of their offices, and sometimes hiding, and therefore could not be reached. Similarly, elections made it difficult or impossible to reach governmental interview participants. Election dates are declared one month in advance, and from the date of the election's announcement the code of conduct of elections must be followed by the government, resulting in a complete ban on distributing any relief, new services, and so on. The intention is to ensure that officials cannot influence voters with benefits.

It is useful to note that the Election Code of Conduct not only made it difficult for us to interview officials but also complicates anti-trafficking projects that depend on government action in the form of distribution of leases, land grants, compensation funds, and welfare benefits. The Code's attempt to address corruption in the political process results in the neglect of the needs of the most vulnerable people.

¹²⁶ One officer carried an M-1 military rifle; the other officer carried an automatic sub-machine gun.

¹²⁷ Free the Slaves researchers' notes from interview with District Magistrate, Bihar, November 2004.

3. NGO projects and case studies

A part of the research was to review the policies, practices, and relationships implemented between NGOs and local government in areas where prosecutions are increasing, to determine “what works”. To this end we selected four NGOs outside of Uttar Pradesh and Bihar that we assessed as relatively successful in their work to increase law enforcement activities against child trafficking and prosecutions of perpetrators. The criteria for the assessment were:

- number of cases in pending judgment,
- number of cases prosecuted (now and annually),
- number of children and families (of bonded child laborers or child survivors of sex trafficking) that received compensation (i.e., if judge issues compensation order, NGO sees that the order is carried out by local *panchayat*; or in cases of sex trafficking, when the judge orders damage compensation)
- evidence of collaboration with police, labor officials, and local administration, especially to get release certificates and other documents and evidence,
- extent of collaboration with other Indian NGOs or grassroots organizations,
- extent of work in home districts with local *panchayat* and community committees,
- record of permanent rehabilitation (women and children not re-trafficked),
- use of preventative measures such as activities addressing the socio-economic situation of the vulnerable populations such as income generation, adult education, land and labor rights education, health training, birth control and sexual health education, literacy, etc.,
- activities to address the problem of corruption such as witness protection measures, application of Right to Information Act, following up cases, investigation, and relief distribution orders to ensure the administration does what it is supposed to do,
- diversity of NGO staff including women, tribal people, people from Scheduled Castes, and former bonded laborers or trafficked women (if possible), and
- agency’s consistency with cases (i.e., not selective, but taking a range of cases and as many cases as possible).

In addition to the above criteria, location, travel time, travel costs, and availability of personnel to share information limited the selection of the NGOs.

Appendix B - Table of Key Indian Laws

Act/Law	Offenses	Penalties
Immoral Trafficking Act	Keeping a brothel or allowing one's premises to be used as a brothel.	Imprisonment up to 2 years, and with fine up to 2,000 rupees.
	Repeat offense of keeping a brothel or allowing one's premises to be used as a brothel, after previous conviction.	Rigorous imprisonment up to 5 years, and with fine. ¹
	If (over 18 and) living on the earnings of prostitution. This may include someone who lives with or is habitually in the company of, acts as a tout or pimp for, or controls a prostitute.	Imprisonment up to 2 years, or fine up to 1000 rupees, or both.
	If (over 18 and) living on the earnings of the prostitution of a child or minor (person under 18).	Imprisonment for 7-14 years.
	Procuring, inducing, taking, or attempting to procure or take any person for prostitution.	Rigorous imprisonment for 3–7 years, and fine up to 2000 rupees.
	“If any offense under [the above] is committed against the will of any person, the punishment of imprisonment for a term of seven years shall extend to imprisonment for a term of fourteen years. ²	Rigorous imprisonment for 3 - 14 years, and fine up to 2000 rupees.
	Detaining a person, with or without consent in a brothel or in a place where it is intended that prostitution will take place.	Imprisonment for 7 years–life, or up to 10 years ^{3*} with a fine. ^{4**}
	A person engaging in prostitution and the person with whom the prostitution is carried on, in or in the vicinity of public places.	Imprisonment up to 3 months.
	A person engaging in prostitution or the person with whom the prostitution is carried on, in or in the vicinity of public places, if one party is under 18 years.	Imprisonment for 7 years–life, or up to 10 years* with a fine. **
	Being a keeper of an establishment and knowingly, or having reason to believe, allowing prostitution to carry on in their establishment.	Imprisonment up to 3 months, or fine or up to 200 rupees, or both.

¹ The fine here is not specified. We assume the fine is the same as that for the original offence: up to 2,000 rupees.

² It is not clear from the language in the law whether the term of imprisonment is from 7 to 14 years, or from 3 to 14 years. Also, it is not clear whether the fine applies under the longer prison term, although it is assumed here.

^{3*} The language in the law does not state that there is any minimum imprisonment of 7 years when a fine is applied, but it may be implied.

^{4**} The court may, for “adequate and special reasons” reduce the prison term to less than 7 years.

Act/Law	Offenses	Penalties
Immoral Trafficking Act, continued	Repeating the offense after previous conviction of being a keeper of an establishment and knowingly, or having reason to believe, allowing prostitution to carry on in their establishment.	Imprisonment up to 6 months, or fine or up to 200 rupees, or both. If establishment is a hotel, the hotel operating license will be suspended for 3 months to 1 year (if a child is involved then the hotel license may be cancelled).
	Any person who seduces or solicits, by words, gestures, or willful exposure (this may include exposing oneself while sitting by a window or on a balcony), or by obstructing public places and decency, for the purpose of prostitution.	Women: Imprisonment up to 6 months, or fine up to 500 rupees, or both. Men: Imprisonment of 7 days to 3 months.
	Any person who seduces or solicits, by words, gestures, or willful exposure, or by obstructing public places and decency, for the purpose of prostitution, after previous conviction.	Women: Imprisonment up to 1 year and fine up to 500 rupees. Men: Imprisonment of 7 days to 3 months.
	Any person who has custody of, or who is in a position of authority over a person and then seduces that person for the purpose of prostitution.	Imprisonment for 7 years–life, or up to 10 years* with a fine. **

Act/Law	Offenses	Penalties
Child Labour Act	Employing any child or permitting any child to work in violation of section 3 of the Act. Section 3 states that no one shall employ a person under 14 in any prohibited occupation (for example cinder picking or catering at railway platforms) or to undertake <i>any</i> prohibited process (for example <i>bidi</i> -making, carpet-weaving, cloth printing, dyeing, or weaving ⁵).	Imprisonment for 3 months - one year, or fine of rupees 10,000–20,000, or both.
	Repeating section 3 offence, after previous conviction under section 3.	Imprisonment for 6 months–2 years.
	As an ‘occupier in relation to an establishment,’ failing to give notice to appropriate authorities within 30 days of commencement of the act, if employing a child ⁶ ; failure to maintain a register as prescribed under section 11 (register must include ages of child workers and their duties), or failure of rail and port authorities and occupiers to display a notice displaying abstract of sections 3 and 14, as required under section 12, or failure to comply with or contravention of any other provision.	Simple imprisonment up to one month, or fine of up to 10,000 rupees, or both.

⁵ Fabric finishing, such as trimming threads from silk *saris*, is not included in the list.

⁶ This is laid out in section 9, and requirements under sections 7, 8, and 9 do not apply to children working for their families or in any government-related school.

Act/Law	Offenses	Penalties
Children (Pledging of Labour) Act	A parent or guardian making an agreement to pledge the labour of a child.	Fine up to 50 rupees.
	Making an agreement with a parent or guardian whereby the parent or guardian pledges the labour of a child.	Fine up to 200 rupees.
	Knowingly (or having reason to believe) employing, either directly or on premises, a child whose labour has been pledged.	Fine up to 200 rupees.
Bonded Labour System (Abolition) Act	Compelling any person to render any bonded labour after this law's enactment.	Imprisonment up to 3 three years and fine up to 2000 rupees.
	Advancement of any bonded debt after this Act.	Imprisonment up to 3 three years and fine up to 2000 rupees.
	Failure to restore possession of property to bonded laborers.	Imprisonment up to one year, or fine up to 1000 rupees, or both. Out of the fine, if recovered, payment goes to the bonded laborer at a rate of 5 rupees per day that possession of the property was not restored.
	Abetment of any offence punishable under this Act.	Same punishment as that provided for the offence that was abetted.

Act/Law	Offenses	Penalties
Juvenile Justice Act	A person who is under 18 and: is being or is likely to be grossly abused, tortured or exploited for the purpose of sexual abuse and illegal acts; or who is found vulnerable and is likely to be induced to drug abuse of trafficking; or who is likely to be abused for unconscionable gains.	Is a child in need of care, protection and treatment; as such, they will also be brought before the Child Welfare Committee.
	A juvenile who commits a crime with a non-juvenile.	The juvenile may not be charged or tried for any offence together with the person who is not a juvenile.
	Any person who has charge or control over a juvenile or child and who assaults, abandons, exposes, willfully neglects, causes or procures someone else to do the above in a manner likely to cause the juvenile harm.	Imprisonment up to 6 months or fine or both.
	A person who employs or uses a child as a beggar.	Imprisonment up to 3 years and liable to fine.
	A person charged with the care of a juvenile or child who abets commission of the above.	Imprisonment up to 1 years and liable to fine.
	A person who procures a child for hazardous employment, keeps a child in bondage, or withholds a child's earnings.	Imprisonment up to 3 years and liable to fine.
	A person who gives a juvenile or child intoxicating liquor in a public place or any narcotic or psychotropic substance.	Imprisonment up to 3 years and liable to fine.

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The views expressed are those of Free the Slaves.

The real names attributed to individual children in this study (case studies or photographs) have been changed for their privacy and protection.

Free the Slaves is a non-profit, non-partisan organization dedicated to ending slavery worldwide. Founded in 2000, Free the Slaves works to empower grassroots anti-slavery organizations, educate the public about the existence of slavery, eliminate slave-made goods from product supply chains, encourage governments to enact and enforce anti-slavery laws, and conduct social science-based research on slavery and human trafficking.

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