



This briefing paper has been compiled using information included in the *Out of the Shadows Index*¹ and the *ECPAT Country Overview for Nepal*²

What is the Out of the Shadows Index?

The **Out of the Shadows Index**, developed by the Economist Intelligence Unit, measures how nations are addressing child sexual exploitation and abuse. Data released for the first 60 countries demonstrate that governments, the private sector and civil society need to do more to protect children from sexual violence and meet the commitments they made to Target 16.2 of the UN's Sustainable Development Goals.

The **Index** was calculated by assessing legislation, policies and responses by national governments. It covers critical issues that underpin child sexual exploitation and abuse, including education, reproductive health, victim support, law enforcement and risks from the online world.

The **Index** also addresses environmental factors such as the safety and stability, social protections, and whether gender and other norms suppress open discussion about sex and sexual abuse. It also measures engagement of tech and travel businesses in fighting child sexual exploitation and abuse. There is an overall country score, as well as numerous sub-category scores using data from as many as 34 indicators and 132 sub-indicators.

WHAT ARE THE ECPAT COUNTRY OVERVIEWS?

ECPAT Country Overviews comprehensively present all the existing, publicly available information, and a detailed analysis of the legal framework for sexual exploitation of children (SEC) in a country. They provide an assessment of achievements and challenges in implementation, counteractions to eliminate SEC and they suggest concrete priority actions to advance the national fight against SEC.

NEPAL

SCORE **46.4**

39 OUT OF 60 COUNTRIES
SCORED BY THE OUT OF
THE SHADOWS INDEX



Nepal ranked 39 out of the 60 countries scored by the **Out of the Shadows Index** on the country's response to child sexual exploitation and abuse, with a score of 46.4. Within the region of South Asia, Nepal was ranked ahead of Bangladesh (35.3) and Pakistan (28.6), but behind India (58.2) and Sri Lanka (51.5).

Nepal's position on the lower end of the **Index's** ranking, is partially explained by an uncoordinated national policy framework on child sexual abuse and exploitation that includes loopholes and inconsistencies which hamper efforts to tackle this crime.³ There is also a lack of hard data on the prevalence of sexual exploitation of children in the country.⁴ However, Nepal has made some progress in recent years. For example, the Government has undertaken a number of preventive measures and awareness activities to address the sexual exploitation of children (SEC), in particular through trafficking and online.⁵

DEFINING SEXUAL EXPLOITATION OF CHILDREN

A child is a victim of sexual exploitation when they take part in a sexual activity in exchange for something that either they or third parties receive. Different forms of SEC include exploitation of children in prostitution, online child sexual exploitation, sale and trafficking of children for sexual purposes, sexual exploitation of children in the context of travel and tourism and some forms of child, early and forced marriage.⁶

ENVIRONMENT

62 / 100

The **Out of the Shadows Index** reports Nepal as having an adequately stable environment, with a score of 71/100 for the instability indicator.⁷ However, Nepal has witnessed a 10-year long civil war (1996 to 2006) and two earthquakes in 2015, which severely affected children through poverty, forced migration and slowed rates of economic development, which can all exacerbate risks of sexual exploitation.⁸ However, overall, Nepal has actually shown remarkable progress in reducing poverty over the years, as demonstrated by the estimated gross domestic product growth of 7.1% in 2019.⁹

Inequality is also a persistent challenge in Nepal, strongly affecting women, sexual and gender minorities, those living in poverty and socially marginalised ethnic groups. In the 2020 edition of the Global Gender Gap Report, the World Economic Forum ranked Nepal 101st out of 153 countries, with a particularly low score for the health and survival gender disparity gap.¹⁰

Societal vulnerability to natural disasters

Natural disasters can be a magnifier for sexual violence, including trafficking and sexual exploitation of children.¹¹ After the 2015 earthquakes, Nepal's government (in collaboration with international and local organisations) made proactive efforts to prevent trafficking and children being unnecessarily put in child care homes. Efforts included checkpoints and police centres in earthquake-affected districts, as well as border interception points, and banning children from traveling without guardians.¹²

Despite these responses, overall Nepal still has one of the lowest scores (25/100) among the assessed countries for the **Index's** indicator on social vulnerability to natural disasters when it comes to sexual abuse and exploitation.

An example of increased vulnerability for children can be seen in the phenomenon of child, early and forced marriages, which – closely linked to gender inequality and social norms – are shown to increase in times of crisis as families can view marrying off dependent girls as both a way of coping with economic hardship and potentially protecting them from sexual violence.¹³ Anecdotal evidence and reports by field practitioners indicate a likely increase in child, early and forced marriage in Nepal as a consequence of the 2015 earthquakes.¹⁴ According to the 2019 edition of UNICEF State of the World's Children report, Nepal has the 17th highest prevalence rate of child marriage in the world with 40% of women and 10% of men married by the age of 18.¹⁵

Social attitudes and social protections

Nepal scored 67/100 for the **Index's** indicator on societal attitudes towards sex, sexuality and gender and 52/100 for the **Index's** indicator on social protections provided to children.

Social norms that de-value girls and women, or consider them only as a 'burden' on the family compared to sons that bear economic responsibilities, perpetuate gender discrimination in the country.¹⁶ Similarly, indigenous groups and low caste communities are marginalised, making them highly susceptible to various forms of sexual violence, including sexual exploitation.¹⁷ Discrimination based on caste and gender, is further exacerbated by poverty.¹⁸ Indeed, girls and women from poor families who are in search of economic opportunities are attracted into working in the entertainment sector,¹⁹ which can foster the conditions where sexual exploitation thrives, including of children. A 2019 Freedom Fund report on the prevalence of minors in Kathmandu's entertainment sector found that over 60% of the workers aged 17 and under (270 out of the 600 respondents aged between 12-21) were exposed to flirting, groping, performing sexual massages and engaging in sexual acts. 6% of respondents reported they were exposed to severe forms of sexual exploitation such as being forced to watch pornography and performing sexual intercourse.²⁰

WAY
FORWARD

Nepal develops programmes to target families and communities to raise awareness of the harmful consequences of child, early and forced marriage and enable alternative and sustainable solutions to the push factor of economic hardship

Nepal implements programmes to generate real attitude and behaviour change of gender discrimination through community engagement

Nepal has ratified the main international instrument against SEC and is also party to a number of relevant international and regional frameworks.

Nepal has gradually adopted and amended numerous laws regarding domestic violence, child sexual exploitation and human trafficking to align with its international and regional commitments. In particular, the Act relating to Children 2018 (also known as Child Act 2018) is a comprehensive piece of legislation, which provides a legislative and institutional framework for the rights of the child.²¹ Among other outlawed conduct, the Child Act 2018 prohibits the exploitation of children in prostitution or other sexual work²² and covers some aspects of online child sexual exploitation.²³

However, limitations still exist in the legislation, especially with an absence of statutory rape provisions for boy victims,²⁴ and shortcomings in the criminalisation of the sexual exploitation of children online and in the travel and tourism context. Nepal has yet to ratify the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (Palermo Protocol), and has major loopholes in its existing trafficking legislation as described in the box below.

Online child sexual exploitation

The Nepal Government's 2019 Digital Nepal Framework mentions that Nepal has undergone rapid success in digital adoption, with mobile penetration exceeding 100% and Internet penetration reaching 63%.²⁵ According to the latest data available from the International Telecommunications Union, in 2018 there were approximately 139.45 mobile cell phone subscriptions per 100 inhabitants in the country.²⁶

A 2017 survey conducted by ECPAT Luxembourg and Voice of Nepal with 452 children (212 girls and 240 boys) aged 5- 12 years in Kathmandu, showed that 75% of participants did not have sufficient information to protect themselves from possible online sexual exploitation.²⁷ Nearly 15% of children in the survey reported experiencing online abuse. 47% of those who reported experiencing abuse were boys and 53% girls.²⁸

Despite recent digital development and data suggesting that Nepalese children are indeed vulnerable to online sexual exploitation, relevant legislation on the topic is lacking. Aside from older clauses prohibiting "producing or selling obscene books, pamphlets",²⁹ the Penal Code doesn't have specific provisions defining and criminalising child sexual abuse material or any other form of online child sexual exploitation. Similarly, the definition of child sexual abuse material provided by the Child Act 2018,³⁰ falls just short of the OPSC standards as it only includes visual materials.

Nepal does not impose any legal requirement on Internet Service Providers to report child sexual abuse materials. These loopholes explain the score of 0/100 in the **Index's** indicator for online grooming and 33/100 for Internet protections.

Trafficking of children for sexual purposes

Nepal enacted the Human Trafficking and Transportation (Control) Act (HTTCA) in 2007.³¹ The Act covers both 'human trafficking', which includes exploitation in prostitution,³² as well as 'human transportation' - an expression used to refer to a wide range of conduct related to the movement of a person for the purposes of exploitation.³³

Although this Act provides for increased penalties when the victim is a child,³⁴ it fails to capture the most important aspect of the Palermo Protocol when it comes to child trafficking. The Protocol, unlike the Nepali legislation, stipulates that in law children can never consent to be willing participants in their own exploitation: the definition of trafficking children differs from that of adults by not requiring any specific 'means' be present in order to be defined as exploitation (e.g. need for threat, use of force, coercion, abduction, etc.).³⁵ The HTTCA does not differentiate between adult and child victims in the description of the crime of human trafficking and does not outline that a child can never consent.³⁶

Nepal amends the age of sexual consent provision in the criminal legislation to include boys and protect them from rape

Nepal amends and consolidates its legislation related to online child sexual exploitation and criminalises all related conduct including online grooming of children and live streaming for sexual purposes

Nepal ratifies the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (Palermo Protocol) and amends its legislation accordingly

Nepal is in the process of developing a National Action Plan on Child Sexual Abuse and Exploitation and Online Safety based on the SAIEVAC Regional Action Plan to End Child Sexual Abuse and Exploitation including Online Exploitation. Although an expert review meeting to review the draft of this plan took place in February 2019,³⁷ no information is publicly available regarding the launch of the final plan. At present, a number of policies and frameworks related to children partially address the issue of sexual exploitation of children.

An example is the National Master Plan on Child Labour (2018-2028) by the Ministry of Labour, Employment and Social Security, which addresses issues of child trafficking, child labour and sexual exploitation of children in entertainment venues, and child labour in the hotel and restaurant industry.³⁸ However, very little public information and data could be found regarding the implementation, effectiveness and monitoring of this and other plans and policies.

Access to recovery and reintegration for child victims of sexual exploitation

Beyond national and regional obligations, the rights of child victims to recovery and reintegration are enshrined in a number of instruments including the UN Convention on the Rights of the Child³⁹ and its OPSC.⁴⁰ Being bound by these international provisions, states are the primary duty bearers when it comes to ensure child victims access to recovery and reintegration support programmes and services. The Government of Nepal has made a number of positive steps in this regard.

Notably, a rehabilitation fund was established by the Government of Nepal in 2008,⁴¹ following the adoption of the HTTCA Act.⁴² The rehabilitation fund, under the ambit of the Ministry of Women, Children and Senior Citizens, has an annual allocated budget of 1 million rupees (approximately 8,700 USD as of January 2020) every year.⁴³ It is funded partially by the government budget and partially from fines collected from convicted perpetrators of trafficking.⁴⁴ The fund is utilised at the central and district levels for various activities such as anti-human trafficking programmes and campaigns, supporting victims in the operation of rescue, repatriation and rehabilitation, psychosocial counselling and others.⁴⁵ The fund is also used for the operation of rehabilitation centres for victims of trafficking in Nepal.⁴⁶

The Government has also established rehabilitation centres for victims of trafficking and financially supports these, which are run by NGOs in Nepal under the Guideline for the Operation of Rehabilitation Centre (2011).⁴⁷ As of 2018, there were 10 rehabilitation centres across Nepal with one long-term centre,⁴⁸ providing services such as social rehabilitation, family reintegration, physical and emotional health services.

However, while the general Women and Children Service Centres⁴⁹ and a toll-free child helpline can be accessed by all,⁵⁰ there is in effect a lack of services for child victims of forms of sexual exploitation other than trafficking, in particular online forms. Moreover, an analysis of the budget allocations for the above-mentioned services and centres shows that male victims are largely overlooked.⁵¹

Nepal develops a system for monitoring all government actions addressing sexual exploitation of children (as per existing plans) with regularly updated public data on progress, disaggregated for gender and types of sexual exploitation

Nepal expands its resource allocation to rehabilitation services to provide support to child victims of all forms of sexual exploitation and facilitates access to these



The efforts of Nepalese civil society in preventing, raising awareness and providing support to child victims of sexual exploitation are praiseworthy. Most rehabilitation centres for victims of trafficking are run by NGOs.⁵² Similarly, the toll-free child helpline is run in 12 districts by local NGOs providing a wide range of services including rescue, relief and support, psychological counselling and rehabilitation.⁵³

However, Nepal scored 0/100 in the **Index's** indicator on the availability of professional support and guidance that is provided to frontline support workers. This support should be aimed at enhancing and facilitating workers' appropriate response to sexual abuse and exploitation of children.

Private sector engagement

*Responses to SEC from the mobile telecoms and Internet industries as well as engagement of the media is very weak in Nepal, as shown by the 0/100 score for all three related **Index's** indicators.*

In travel and tourism, Nepal scored 100/100 for the two indicators related to commitment to the Code of Conduct for the Protection of Children from Sexual Exploitation in Travel and Tourism (The Code); a global initiative which trains workers in the tourism industry to recognise and respond to sexual abuse and exploitation of children.⁵⁴ As of January 2020, 17 international companies operating in Nepal and 4 local companies are members of The Code.⁵⁵ However, in terms of its response to sexual exploitation and abuse of children, the Nepalese travel and tourism sector scored 0/100, due to an overall omission to include these issues as clear priorities in their work, annual reports and organisational codes of conduct.

No data exists on children exploited in the context of travel and tourism in Nepal. Yet with the Ministry of Culture, Tourism and Civil Aviation recording an estimated 1,173,072 international tourist arrivals in 2018 – demonstrating a 25% increase compared to 2017 –⁵⁶ it would be expected that Nepalese children are at risk in this context.

The 2016 Global Study on SECTT identified that sexual exploitation of children was becoming visible in emerging tourism destinations such as Nepal,⁵⁷ with examples of child sexual abuse and exploitation happening in orphanages by foreign volunteers.⁵⁸ 'Volun-tourism' has been increasingly commercialised into a lucrative industry involving volunteer-tourists in activities with direct contact to children. While the majority of tourists are of course well-meaning, these practices have a range of harmful consequences on children, including the risk of sexual exploitation.⁵⁹

WAY FORWARD

-  Nepal develops guidelines for professionals working in direct contact with children and provides related training to guarantee an efficient implementation of these nationwide
-  Nepal regulates and monitors the use of international volunteers ('volun-tourism') through, for example, international police clearances and codes of conduct in children care centers and activities with direct child contact and does not allow volunteers to work in residential care facilities for children
-  Media and social media companies operating in Nepal adopt ethical practices and terminology guidelines for reporting on sexual exploitation of children into their codes of conduct

Endnotes

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