

...n.
...d com-
...ual in-
...statistics

The girl, who is the aunt, another vendor in the same area, went missing on April 29 last year.

"I saw the girl going in a van..."

...back in...
...her vendor aunt, told Kuensel.
..."I was locked up in another place in Thimphu and they didn't let me go out," she said. She was pro-

...from Nepal, but police say it may be because of the pressure they put on the vendor, who is now in police custody. According to the aunt, the

2011

Report

Human Trafficking Situation in Bhutan



World Day against Child Labour

Bending the rules ... a bit

To meet the demands of the day and age

KUENGA TENDAR

The labour and human resource ministry will permit the employment of children between the ages of 13 to 17 years. Although ideally the government should not permit the employment of children less than 15 years, the ministry has decided to allow it.

penalty for such a crime is not less than a felony of third degree, which translates to a minimum of five years imprisonment.

Emerging circumstances have...

"He said the person who had my family worked for him and had extended his leave," Tendup said. "I never had any relationship with him," he said. "I have never seen him since."

The remote Laya gewog in Lasa dzongkhag experienced its first snowfall of the coming winter on October 7. Government offices and schools remained closed as the flakes continued to fall through the day. Some villagers told Kuensel that the snowfall was earlier this year. Last year, the first snowfall came in the second week of November.

Photo: Gyem Thinley

Fighting trafficking together

KINGA DEMA, PARO

Early this year, a 13-year-old girl from Gelephu, waiting to board a train to Mumbai with her stepmother, who was planning to sell her off in a brothel, was rescued by an NGO based in Assam called NEDAN foundation.

It was found that the girl, who lived with her father and stepmother in Gelephu, was regularly mistreated by her stepmother. The NGO handed her over to a women's shelter run by the Advaita students union. But before NEDAN foundation could complete the formalities to send her back to Bhutan, the girl was taken by a stranger from the hotel, said the program coordinator, Padmini Brahma. "To date, we are clueless on where she is or who could have taken her," she said.

Without a systematic process in place to deal with identification or diagnosing human trafficking cases across borders, dealing with such cases is an issue, according to national

commission for women and children (NCWC).

Now, with Bhutan and the Bodoland territorial council, Assam, India, due to sign the standard operation procedure (SOP) on transborder human trafficking and HIV, both the countries are expecting a better management of such cases.

SOP will be signed between NCWC and the NEDAN foundation in Assam, Bodoland territorial council.

"SOP will help in planning rescue, post rescue, repatriation process and other aspects of trafficking, taking into account the medical or psychological needs of a victim or a survivor," said program coordinator of NEDAN foundation, Padmini Brahma. It will help handle trafficking cases in India and Bhutan. For instance, if an Indian has been trafficked to Bhutan or the other way round, SOP would be able to deal with it.

According to the program coordinator of UNIFEM in Nepal, Sangita Thapa, Nepal is the source country of human

trafficking, with more than 200,000 Nepalese women and girls in brothels in India. Bhutan could share the same fate, she said.

"Just one country's vigilance won't solve the problem and it's important for countries sharing borders to have strong policies and monitoring mechanisms in place," she said.

ROYAL MONETARY

CALL FOR TENDERS
AUTHORITY 30 DAY
DATED OCTOBER 1
NOVEMBER

Discount Bills Serial No.: R185
Sale date: October
Settlement date: October
Submission of tenders: Tenders
Exchange brokers: Exchange

Wife and children missing, doubts abduction

SERIAL PUNJAB

What was expected to be a family reunion turned into a nightmare for 48-year-old child servant the day she and her wife and children disappeared.

Three children disappeared 10 days ago. The last he saw his family was on January 19, when Tendup Lepcha left his wife and children at his father-in-law's home in Hangey village.

In Sipsoo. He was supposed to pick them up a week later on January 24 but was shocked to learn from her sister that his family had left for Thimphu on January 21.

Kidnapper nabbed in joint operation

UDYOT POKHREL

The royal Bhutan police, with the help of their Indian counterparts, rescued a five-year-old boy from his kidnapper without having to pay a single chetrum of ransom. The police team, led by the officer in command (OC) of the Phuntsholing garrison and OC (Hase) of the Phuntsholing garrison, nabbed the kidnapper.

Missing clerk kidnapped

KINGA DEMA

A senior bench clerk with the Phuntsholing dungkhag court, who went missing on September 5, may have been kidnapped, according to sources. He was on his way to Samdrup-jongkhag to solve a land issue

when he went missing. Sources told Kuensel that the wife received a ransom call demanding Nu 1,000,000 from an Indian number and later for about Nu 500,000.

According to a dungkhag court official, the senior bench clerk from Bartsham, Trashi-

gang, took leave for two days and was supposed to join office on September 9. "He didn't come and we don't have any concrete information yet," he said.

Police, however, refused to comment.

Kidnapped to Kashmir?

A case involving trafficking comes to light and a happy ending

He said an Indian man, who was kidnapped and taken to Kashmir, was rescued and returned to his family. The man was taken to Kashmir by a trafficker who was working for a local businessman. The man was rescued by the Indian police and returned to his family.

Coming to terms with human trafficking

Bhutan can ill afford to be complacent about the issue

KINGA DEMA, PARO

ing with participants from India, Thailand, Bhutan and UNIFEM-SARO, an agency deals in the issue of



National Commission for Women and Children
Royal Government of Bhutan

call a child...
a 16-year-old non-Bhutanese...
from Darjeeling, India...
the first time a child...
ded to

June...
Karma Rigzin...
Children Protection Unit in Thimphu...
lice had gone to raid the house...
already run

process...
According to...
Penal Code of Bhutan, a defendant...
guilty of the offence of...
if the defendant

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ACKNOWLEDGEMENT

ABBREVIATIONS

CCM	Council of Cabinet Ministers
CEDAW	Convention on Elimination of all forms of Discrimination Against Women
CRC	Convention on the Rights of the Child
ECPAT	End child prostitution child pornography and Trafficking of children for sexual purposes
ILO	International Labour Organization
JDWNRH	Jigme Dorji Wangchuck National Referral Hospital
MoHCA	Ministry of Home and Cultural Affairs
NCWC	National Commission for Women and Children
NGO	Non-governmental Organizations
RBP	Royal Bhutan Police
RENEW	Respect, Educate, Nurture, Empower Women
SAARC	South Asian Association for Regional Cooperation
SAIVEC	South Asia Initiative to End Violence Against Children
UN	United Nations
UN Women	United Nations Entity for gender equality and the empowerment of Women
UNICEF	United Nations Children's Fund
UNIFEM	United Nations Development Fund for Women
UNODC	United Nations Office on Drugs and Crime

EXECUTIVE SUMMARY

This exploratory study on the situation of human trafficking is the first of its kind in the country and has been undertaken by the National Commission for Women and Children (NCWC) in response to the need to generate authentic and reliable information on trafficking. In the absence of any official report or mechanism to monitor the situation, it has been difficult to implement programs to address the issue. The observations of the CRC and CEDAW committee on the lack of information and the need to invest more efforts into assessing the situation further necessitated the initiation of this study. The study was conducted from July to August 2011 with the main objectives of:

- i. Providing evidence of the existence /occurrence of human trafficking in the country;
- ii. Finding out the vulnerable group/section to human trafficking;
- iii. Finding out and establishing the possible causes of human trafficking; and
- iv. Exploring the most common destination and the justification of luring people as victims

The methodology employed for the study consisted of in-depth desk review of all relevant publications/documents/reports, interviews with key informants, focus group discussions and analysis of case reports/data on missing persons. Field visits were undertaken in six districts which were identified as being most vulnerable following the desk review. Interviews were also conducted with some of the survivors of trafficking. For the interviews and focus group discussions the study targeted law enforcement authorities, officials from the regional immigration and labour and employment offices, and the executive officers of Thimphu and the six southern Dzongkhags sharing international border with India. The main source of information planned to be accessed for the present study was to be the data on missing persons maintained by the police, however despite several attempts the data was not made available for the study. Approval was not granted by the Ministry of Home and Cultural Affairs after it was notified by the RBP on the alarming numbers of missing persons.

An outline of the international and regional conventions in relation to Bhutan's participation has been described. National legislations that address trafficking and the strategies adopted by the government have also been summarized. On the situation of trafficking per se, there is adequate evidence that trafficking does occur in Bhutan and that the country serves both as a source and destination for trafficked victims. Evidence for this has been collected through police reports, judicial convictions, media reports and case reports from Non-Government Organizations. A number of case studies have been included to strengthen the evidence and the revelations of the survivors have further enriched the report. Although the occurrence of trafficking has been established beyond doubt, it is still difficult to gauge the magnitude of the crime. The study also looked at illegal migration and considered the possibility of trafficking occurring through this mechanism. While the numbers of illegal migration and smuggling are high, there are only few cases that merit further investigation and those involve the number of children who are apprehended for illegal migration. It is likely that they are the dependants of the adults who come to work in Bhutan illegally however the possibility of trafficking cannot be ruled out.

The cause of trafficking is multi factorial as seen around the world. It is clear though that poverty and unawareness are the main factors that make victims vulnerable to being trafficked. Unemployment, illiteracy, lack of social support, broken families and lack of care are other factors that lead to people becoming trafficked. Traffickers have used deception with promises of employment and marriage as

means to lure victims. Demand for domestic workers both within and outside the country has also given rise to trafficking with victims being trafficked out of the country as well as being brought into the country. The lack of awareness on trafficking and related legislations has enabled this crime to continue and there is strong suspicion that many formal agencies are involved in abetting the crime by arranging transportation. Ignorance, apathy and absence of strong coordination among stakeholders is seen as factors for the lack of programmatic interventions.

The most vulnerable sections of the population for trafficking are those from poor households with limited opportunities for financial independence. This is further aggravated if they are illiterate, come from broken families with minimal social support. Populations living in the poorer districts and those bordering India are particularly prone to being trafficked. With regard to trafficking into the country, majority of victims are women who are brought into the border towns, mainly Phuntsholing and to a smaller extent into Gelephu and Samdrup Jongkhar, to work as sex workers. There are also few reports of people who are trafficked into the country to serve as domestic labours although some of them have been interpreted by the law as having been smuggled. Several similar cases have been described where it is difficult to interpret and differentiate between trafficking, abduction and criminal elopement. The main destination of those trafficked outside the country are as sex workers and as domestic servants in different parts of India. Kokrajahar and Jalpaiguri in India mainly serve as transit routes for trafficked victims.

Recommendations

- a. Provide training on human trafficking to law enforcement agencies, justice system, immigration and customs officials, labour and employment officers, officials from the dzongkhag, drungkhag and geog administration and health workers.
- b. Promote targeted awareness of human trafficking among the general public so that they are aware of the applicable laws including penalties for the offenders, the responsibilities of each individuals in regard to safeguarding against the traffickers, reporting mechanisms, protocols for rescue and rehabilitation of trafficking survivors.
- c. Develop a standard protocol for investigating trafficking cases by the law enforcement agencies and institute proper documentation through inter- agency collaboration. Partnerships and coordination should similarly focus on mechanisms to assist survivors and potential victims.
- d. Review the existing provisions in the Penal Code of Bhutan and the Child Care and Protection Bill with respect to trafficking and harmonize with the international laws to cover all dimensions of trafficking including revision of the quantum of penalties to be prescribed for the offenders.
- e. Management of data on trafficking should be strengthened by building the capacity of data managers. This data should be shared among all stakeholders while maintaining the principle of transparency and accountability. Further analysis of missing persons and cases of trafficking should be undertaken to generate estimates of its magnitude.

1. Purpose of the report

Trafficking in persons is one of the most heinous crimes in the world and is recognized as a serious violation of human rights. Every country in the world is affected by trafficking, serving either as source, transit, destination countries or a combination of these. Indeed *“human trafficking is the third largest and fastest growing criminal industry in the world...[and] is considered one of the most urgent human rights issues in the world today.”*¹

The situation of trafficking in Bhutan is not very clear due to lack of authentic information or data. While there have been debates and serious arguments on the presence and magnitude of trafficking in the country, media reports have evidenced that Bhutanese citizens have been trafficked out of the country and some of them have been rescued and repatriated. Among those that acknowledge the presence of trafficking, they believe that this could just be the tip of the iceberg and that for every one Bhutanese rescued there may be many others still languishing on foreign soil, being exploited for a variety of reasons.

The National Commission for Women and Children (NCWC) was established in 2004 by the Royal Government of Bhutan as a lead agency for the overall coordination and monitoring of activities related to promoting and safeguarding the rights of women and children in Bhutan. It is also responsible for leading programs towards fulfilling Bhutan’s obligation to the Convention on the Rights of the Child (CRC), Convention on Elimination of all forms of Discrimination Against Women (CEDAW) and related regional and international conventions.² As part of its mandate, the NCWC has been advocating for greater understanding of trafficking and to establish measures for addressing the problem. Its work in this area has been further strengthened by the government’s ratification and commitment to CRC, CEDAW and to the South Asian Association for Regional Cooperation (SAARC) convention on preventing and combating trafficking of women and children for prostitution. Furthermore the transition of the country to democracy and the adoption of the constitution has given the legal support and created a more conducive environment to partner with agencies such as the Royal Bhutan Police (RBP) and the Royal Court of Justice to take proactive initiatives to protect women and children. With support from international bodies such as the United Nations Entity for gender equality and the empowerment of Women (UN Women), UNODC and UNICEF, the NCWC has the impetus to collaborate with related partners both within and across borders to better understand, assess and institute effective strategies to combat trafficking. Towards this, two successful consultative meetings on *“countering human trafficking, promoting cross border cooperation”* were held in Paro in 2009 and 2010 with participation from regional and international agencies. The first meeting drew a common understanding of trafficking in the region and also provided a list of recommendations known as the Paro outcome, which served as the basis for the NCWC to draw up a plan of action. The second follow up meeting reviewed the

¹ Office of Justice Assistance, US 2008. Available at : <http://www.surveymonkey.com/s.aspx?sm=wTznNp5968bth%2bBo4n1rxg%3d%3d#q3>. Accessed on 26 June 2011.

² NCWC website. Available at <http://www.ncwc.org.bt/>, accessed on 25 April 2011

progress of the Paro outcome and then provided a list of activities to be implemented within the 10th five year plan. In the absence of any concrete evidence of trafficking, one of the priority activity recommended was to conduct a situational assessment of trafficking, which would then serve as the platform from where further interventions could be planned and implemented. Furthermore in July 2010, similar recommendation, to “conduct study on the situation of trafficking in Bhutan, including those trafficked from Bhutan to other countries” was made during the high level sensitization program on gender mainstreaming among parliamentarians and policy makers.³ This study report is thus the result of those efforts and provides the situation as well as the environment in which trafficking operates in Bhutan.

2. Objectives of the study

There has never been a study to assess the situation of trafficking in Bhutan, whether as a source, transit or destination country. Existing information consists of fragmented stories brought to light by media houses and some stray reports from interest groups, predominantly Non Government Organizations (NGO) based in India that inform on Bhutanese women and children having been rescued apparently as victims of trafficking. Although informative, these reports have not been validated or followed up to provide better and clearer information on trafficking.

The main objective of this study therefore, is to assess the situation of trafficking in Bhutan and provide authentic and collated information that is comprehensive and reliable. More specifically the study aims to fulfill the following objectives:

- v. Evidence the existence /occurrence of human trafficking in the country;
- vi. Find out the vulnerable group/section to human trafficking;
- vii. Find out and establish the possible causes of human trafficking; and
- viii. Explore the most common destination and the justification of luring people as victims

3. Methodology

The clandestine nature of trafficking makes it difficult to carry out any meaningful survey to study the magnitude and draw concrete statistics. As mentioned in the objectives, the main aim for the present study was to explore and provide evidence that trafficking does occur in Bhutan and at best to draw estimates. Therefore the present research relied on the information provided by relevant agencies such as the RBP, Department of Immigration, Department of Forensic Medicine JDWNRH and RENEW (Respect, Educate, Nurture, Empower Women).

A thorough desk review of all published and unpublished reports, articles, official documents, policy documents, national statistics, relevant laws and all other related literature was undertaken to assess current situation of human trafficking in Bhutan. The report also includes information on all recent anti-trafficking measures undertaken by the government including the status of legislations that address trafficking both at the national and international level.

³ NCWC. Report on the high level sensitization programme on gender mainstreaming. Thimphu, July 2010, p 7

The most useful source of data regarding trafficking is the Royal Bhutan Police. Their case files on traffickers who have been apprehended and victims who have been rescued would strengthen the evidence for the occurrence of trafficking in the country. Quantitative data on the number of people who go missing in the country every year could be analyzed to construct and substantiate the presence of trafficking. Following up with family members and close associates of those missing persons would shed more light on the possibility of trafficking having occurred. Unfortunately this rich source of information could not be accessed because of the reluctance of the government to share the data maintained by the crime division of the RBP. Limited data was however obtained from the districts and that has been analyzed and presented here in this report.

Field visit was undertaken to six districts, selected on the basis of their vulnerability to trafficking activities. This was concluded by their proximity to India, level of poverty, and media reports of missing cases and trafficked women and children. Interviews with national and local government officials such as the RBP, Immigration, Customs, Labour, dzongkhag and dungkhag administration were conducted. In addition potential victims (draying girls, street children, homeless women) and perpetrators (drivers of bus, truck, and taxi) were also interviewed. Focus group discussions were held at a number of sites in the selected districts to get better insight into such activities and vulnerabilities.

4. Limitations of the study

The present study was the first such study to document and report on the situation of trafficking in the country. Given the surreptitious nature of trafficking it was not surprising that there was very little information and knowledge among stakeholders. Unraveling the truth about an issue that has remained largely unknown, instilled suspicion and fear about retribution among some stakeholders. The biggest drawback to the study was the reluctance to share data by the government on missing persons. Initially there was cooperation and mutual desire to shed more light on trafficking in the country; however a preliminary scan of the RBP data on missing person compelled the government to retract its initial approval for sharing the data. The unexpected high numbers of reported missing persons made the RBP write a hasty letter to the Ministry of Home Affairs to reconsider giving the data for the present study. The Ministry of Home and Cultural Affairs finally disapproved access to the RBP data and this severely limited the authenticity of this study. As a result of the above there was very limited source of information and most of the data had to be collected from the print media, records maintained with the Police in the districts and a few scattered reports from non government agencies.

Relevant data and information was not shared among stakeholders and there was very limited coordination between them. Therefore information had to be collected in piecemeal and they had to be validated from different agencies. Lack of scientific and systematic documentation by law enforcement authorities and other stakeholders was another major problem in generating reliable database of human trafficking. For example, the police in many instances did not register ‘missing of person’s” in the case registers and some vital information such as gender, circumstances under which the person went missing and the contact details of the informants/survivors are not recorded. It was not possible to prepare a database of trafficking survivors for want of complete information and record keeping.

There was general lack of awareness among the stakeholders and majority of those interviewed were not well versed with different dimensions of trafficking. In many places interviewees were apprehensive about discussing trafficking and were reluctant to provide details. There was immense delay in completing this report because of non availability and long process of assessing relevant data from the concerned agencies. More over since the objective was only to confirm the presence of trafficking and to outline the vulnerable groups according to location, no attempt was made to probe and assess the magnitude of trafficking.

5. International conventions and perspectives

Bhutan became a member of the United Nations (UN) in 1971, joining the international community and committing itself to world peace and to uphold the rights of human beings around the world.⁴ In 2000, the UN introduced the convention against transnational organized crime (Palermo convention) along with the two supplementary protocols that specifically address trafficking; the *protocol to Prevent, Suppress and Punish Trafficking in persons especially women and children (Palermo protocol)* and the *protocol against the smuggling of migrants by Land, Sea and Air*. This is the main international legal instrument that is used to fight transnational organized crime and in particular trafficking of human beings. This important document also provides a comprehensive internationally agreed definition of “trafficking in persons” and “trafficking in children” and outlines a right based approach that encompasses prevention, protection and empowerment of victims.

Palermo Protocol definition of “trafficking in Persons” and “trafficking in children”⁵

Article 3 (a): “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 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

Article 3 (c): The recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation shall be considered “trafficking in persons” even if this does not involve any of the means set forth in subparagraph (a) of this article

Since Bhutan is yet to sign and ratify the convention, it is not obligated to the additional supplementary protocols. This however does not mean that the government is not committed to addressing trafficking. It was actually one of the first countries to ratify the convention on the elimination of all forms of

⁴ United Nations. The Charter of the United Nations. Available at: <http://www.un.org/en/documents/charter/>, Accessed on May 25, 2011.

⁵ United Nations. Protocol to prevent, suppress, and punish trafficking in persons especially women and children; 2000. Article 3 (a) and (c).

discrimination against women, having done so in 1981, and where article 6 mandates states to *“take all appropriate measures, including legislation, to suppress all forms of traffic in women and exploitation of prostitution of women”*.⁶ Similarly in 1990, just one year after the introduction of the convention on the rights of the child (CRC) by the UN, Bhutan ratified the convention. This convention is the most comprehensive legal instrument for the protection of children including trafficking, wherein Article 35 clearly compels state parties to *“take all appropriate national, bilateral and multilateral measures to prevent the abduction of, the sale of or traffic in children for any purpose or in any form”*.⁷ In addition there are a number of other articles that address other similar issues such as violence, injury, abuse, and negligent treatment (Article 19), economic exploitation (Article 32), exploitation for drug trafficking (Article 33) and sexual exploitation (Article 34). In 2005, Bhutan further demonstrated its allegiance to the CRC by signing both the optional protocols, one on the sale of children, child prostitution and child pornography⁸ and the other on the involvement of children in armed conflict⁹.

Historically in 1949, the UN had approved a convention related to trafficking, which became effective from 1951.¹⁰ Although informally known as the “Trafficking convention”, it was more focused on prostitution and on trafficking of persons for the purpose of prostitution. The definition of trafficking was therefore interlinked with the purpose of prostitution and accordingly mandated state parties to *“to punish any person who, to gratify the passions of another: procures, entices or leads away, for purposes of prostitution, another person, even with the consent of that person; exploits the prostitution of another person, even with the consent of that person; keeps or manages, or knowingly finances or takes part in the financing of a brothel; knowingly lets or rents a building or other place or any part thereof for the purpose of the prostitution of others.”*

Another international covenant that mentions and addresses trafficking to some degree is the international Labour Organization (ILO) convention number 182 which is related to the worst forms of child labour. The convention is aimed at prohibiting and eliminating the worst forms of child labour and in that respect, Article 3 clearly categorizes trafficking of children and exploiting them as one of the worst forms of child labour. In the case of Bhutan, this is important because following the approval of the council of cabinet ministers (CCM) the government has begun the process of applying for membership to the ILO and if granted then it will have to abide by all the conventions including convention 182.¹¹ As outlined above, this will not be difficult as the National Labour and Employment Act has already incorporated this definition in its Articles.

⁶ United Nations. Convention on the elimination of all forms of discrimination against women; 1979, Article 6.

⁷ United Nations. Convention on the Rights of the Child; 1989; Article 35.

²⁵ United Nations. Optional Protocol on the sale of children, child prostitution and child pornography

²⁶ United Nations. Optional Protocol on the involvement of children in armed conflict

¹⁰ United Nations. Convention for the suppression of the traffic in persons and of the exploitation of the prostitution of others.

¹¹ Kuensel. The ILO initiative. 3 January, 2011

ILO Convention 182; Article 3: For the purposes of this Convention, the term *worst forms of child labour* comprise;

- (a) All forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and serfdom and forced or compulsory labour, including forced or compulsory recruitment of children for use in armed conflict;
- (b) The use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances;
- (c) The use, procuring or offering of a child for illicit activities, in particular for the production and trafficking of drugs as defined in the relevant international treaties;
- (d) Work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children.

6. Regional Conventions and Strategies

Bhutan is a founding member of the South Asian Association for Regional Cooperation (SAARC) which was formed in 1985 to promote peace and dedicated to economic, technological, social, and cultural development emphasizing on collective self-reliance.¹² The region is home to nearly one fifth of the population of the world out of which, more than 500 million people live on less than US \$1.25/day.¹³ Besides poverty, other factors such as discrimination and violence against women and children, weak legislations and poor enforcement of laws, illiteracy and negligible social security make the region highly vulnerable for trafficking. While it is extremely difficult to collect data on trafficking, estimates such as those released by the State department of USA suggest that, of the 1-2 million trafficked every year nearly 150,000 come from South Asia.¹⁴ More recent estimates show that the prevalence of trafficking from Asia and the Pacific region is 3/1000 population as compared to the global prevalence of 1.8/1000 population.¹⁵ Given this high prevalence, the governments of the seven SAARC countries agreed to combat trafficking in persons and accordingly drew up several initiatives.

One of the earliest initiatives was taken in 2001 at the “Dhaka consultation” where representatives from the seven SAARC countries, International agencies, NGO’s and children held discussions for three days as a prelude to the second world congress against commercial sexual exploitation of children.¹⁶ The outcome was the development and endorsement of the **South Asia Strategy** which covered broad proposals related to legislative reform. With regard to trafficking, it called for the development of a

¹² SAARC Charter. Available at <http://www.saarc-sec.org/>, accessed on 24 May 2011.

¹³ World Bank. South Asia: Regional Strategy 2011. Available at <http://web.worldbank.org/WBSITE/EXTERNAL/COUNTRIES/SOUTHASIAEXT/> Accessed on 24 May 2011

¹⁴ Miko FT, Park G. Trafficking in women and children; The US and International Response. CRC Report for congress, 2002.

¹⁵ Department of State USA. Trafficking In Persons report; 10th Edition; June 2010.

¹⁶ South Asia Strategy. Available at <http://www.ecpat.net/eng> , accessed on 3 July 2011

national plan of action and creating a legal framework in accordance to the CRC, CEDAW and the Palermo protocol. Strengthening community support systems, capacity development, establishment of regional network and creating partnerships was also highlighted in the strategy. The drawback to this consultation however was the narrow definition of trafficking, in that it addressed only those trafficked for the purpose of sexual exploitation.

Following that in 2002 one of the most important regional instruments, the **SAARC Convention on Preventing and combating trafficking in women and children for prostitution** was adopted. Like the 1951 “trafficking convention”, the main focus of this regional statute was on trafficking for the purpose of prostitution only. It defined trafficking as *“the moving, selling or buying of women and children for prostitution within and outside a country for monetary or other consideration with or without the consent of the person subjected to trafficking.”*¹⁷ Further Article 1.5 defined “persons subjected to trafficking” as *“women and children victimized or forced into prostitution by traffickers by means of deception, threat, coercion, kidnapping, sale, fraudulent marriage, child marriage, or any other unlawful means”*. Anti-trafficking organizations have criticized the narrow definition used for trafficking and expressed reservation on the breadth of application and the lack of enforcement mechanisms.¹⁸ The non conformity of the definition to international legal standards and lack of gender inclusiveness by focusing only on women and children are other major criticisms. Notwithstanding it is one of the first such treaties to address trafficking in Asia and for the SAARC region, a major impetus by the governments of the eight countries to cooperate in cross border law enforcement and promote activities to eradicate trafficking.

Another convention that supplements the SAARC convention on preventing and combating trafficking in women and children for prostitution is the 2002, **convention on regional arrangements for the promotion of child welfare in South Asia**. This convention obliges the SAARC countries to *“ensure appropriate legal and administrative mechanisms, social safety nets and defenses are always in place to protect the child from any form of discrimination, abuse neglect, exploitation, torture or degrading treatment, trafficking or violence.”*¹⁹ Article 5 (d) of the convention further mandates state parties to *“strengthen the relevant SAARC bodies that deal with issues of child welfare to formulate and implement regional strategies and measures for prevention of inter country abuse and exploitation of the child, including the trafficking of children for sexual, economic and other purposes.”*²⁰ This convention puts the rights of the child at the center and the scope of the convention is also expanded to include economic and other forms of exploitation in addition to prostitution.

¹⁷ SAARC. SAARC Convention on preventing and combating trafficking in women and children for prostitution, South Asian Regional Association for Regional Cooperation, Kathmandu, Nepal, 2002; article 1.3

¹⁸ Fatima R. Review of the SAARC Convention and the current status of implementation in Bangladesh. ADB & IOM, Dhaka Bangladesh, Oct 2009.

¹⁹ SAARC convention on regional arrangements for the promotion of child welfare in South Asia. South Asian Regional Association for Regional Cooperation, Kathmandu, Nepal, 2002; article 4.3

²⁰ SAARC convention on regional arrangements for the promotion of child welfare in South Asia. South Asian Regional Association for Regional Cooperation, Kathmandu, Nepal, 2002; article 5 (d)

In May 2005, the SAARC governments met in Islamabad to discuss the global study on violence against women. An important milestone from that meeting was the creation of the **South Asia Forum (SAF)** for ending violence against children. Since then several regional consultations have been held and in 2010 the governments decided to create a new institutional framework to address and eliminate violence against children. The SAF was thus changed to **South Asia Initiative to End Violence Against Children (SAIVEC)** and was strengthened with a permanent secretariat in Kathmandu Nepal. One of the key issues being addressed by this agency is trafficking of children. In addition to all of these regional initiatives there are a number of other agreements and non binding instruments that aim to expand cooperation in addressing the issue of trafficking.²¹

Besides the government undertakings, civil society groups in the region have been very active and involved in addressing issues related to trafficking. They have lobbied for legislative reforms, established programs to rescue, protect and rehabilitate trafficked persons and also engaged in forging regional networks. Agencies such as ECPAT (End child prostitution child pornography and Trafficking of children for sexual purposes), Sanlaap in India, Maiti in Nepal and Aparajeyo in Bangladesh have collaborated on common projects and met regularly to share experiences. There has not been much representation from Bhutan as the civil society in Bhutan is just emerging, however organizations such as RENEW and YDF are already taking responsibility in rescuing and rehabilitating women and children who are exploited.

7. National legislation and policy response

The laws in Bhutan have always attempted to prohibit and prevent the practice of trafficking and slavery. Even the founder of Bhutan, His Eminence Shabdrung Ngawang Namgyal had laid down a clear code against slavery by stating that *“the sale and purchase of slaves (plainmen) must not be permitted. Anyone persisting in it should be reported to the Durbar authorities”*.²² This is highly significant since the code set by Shabdrung serves as the foundation on which the legal system of Bhutan has been built, and all laws enacted in the country thereafter being based on this. It was however only during the reign of the third king that a complete written set of codified law, the *Thrimzhung Chhenmo* (Supreme law) was enacted by the national assembly in 1959.²³

Subsequent to this, several events further compelled the nation to develop and strengthen its national laws. Becoming a member of the UN in 1971 necessitated it to fulfill a number of international obligations. The planned development activities that begin in 1961 was another factor that not only brought marked changes to the lives of Bhutanese but also confronted it with many new challenges. While basic services and human development indicators improved drastically, the adversity and

²¹ These informal regional agreements include, but are not limited to, the 1998 Bangkok Accord and Plan of Action to Combat Trafficking in Women; the 2001 South Asia Strategy against Commercial Sexual Exploitation of Children and Child Sexual Abuse; the 2002 Bali Ministerial Conference on People Smuggling, Trafficking in Persons and Crime; the 2005 South Asian Forum against Violence against Children (SAF-VAC); and the 2007 South Asia Regional Conference on Trafficking for Sexual Exploitation which adopted the Delhi Declaration against Human Trafficking in South Asia.

²² Sharma SK, Sharma U. The code of Shabdrung Ngawang Namgyal. In: Documents of Sikkim and Bhutan. Anmol Publications Pvt Ltd; New Delhi 1998; p 145

²³ National assembly Secretariat. Resolutions adopted during the 12th session of the national assembly. In: Proceedings and resolutions of the national assembly from 1st to 30th session. Thimphu; p 22

emerging problems of modernization also began to confront Bhutanese. In response to this, His Majesty, the fourth King therefore commanded the drafting of the penal code in 1995 to address these new issues by consolidating all the various acts and to include sections that safeguarded the dignity of victims of crime and provided opportunities for rehabilitation to the perpetrators.²⁴ In 2004 the Penal code of Bhutan was enacted by the National Assembly and in the same year capital punishment was abolished by Royal Decree on March 20th.²⁵ Although the definition of human and child trafficking is not as exhaustive as the Palermo convention, the penal code does cover significant aspects of trafficking. A summary of the articles related to trafficking in the penal code is provided in the table below.

Table 1: Provisions of Penal Code of Bhutan relating to different dimensions of human

Article No	Description
154	A defendant shall be guilty of the offence of trafficking a person, if the defendant transports, sells or buys the person within, into or outside of Bhutan for any purpose
155	The offence of trafficking a person shall be a felony of the fourth degree
152	A defendant shall be guilty of the offence of the selling or buying of human organ, if the defendant sells or buys any human body organ for money or profit
153	The offence of illegal selling or buying of human organ shall be a misdemeanor
227	A defendant shall be guilty of the offence of trafficking of a child, if the defendant, sells, buys or transports a child for any illegal purpose
228	The offence of trafficking of a child shall be a felony of the third degree
375.	A defendant shall be guilty of the offence of promotion of prostitution, if the defendant: ... Procures a person for a house of prostitution; ... Encourages, induces, or otherwise purposely causes another to become or remain as a prostitute; ... Solicits a person to patronize a prostitute; ... Procures a prostitute for a patron;
379	A defendant shall be guilty of the offence of trafficking a person for prostitution, if the defendant transports, sells or buys the person within, into or outside of Bhutan with the purpose of engaging that person in prostitution
380	The offence of trafficking of a person for prostitution shall be a felony of the third degree; second degree if the persons is a child of above twelve years and below eighteen years; or first degree if the person is a child of twelve years and below
169.	A defendant shall be guilty of the offence of criminal elopement, if the defendant takes or entices away any person whether married or otherwise from a place with intent that the person may have illicit intercourse with the defendant or any other person.
165.	A defendant shall be guilty of the offence of abduction, if the defendant removes another person from a place of abode or business or from a place where the person was present and unlawfully confines the person or takes the person to another place.

²⁴ Royal Court of Justice. Penal Reforms. Available at: <http://www.judiciary.gov.bt/html/reform/penal.php>, Accessed on 03 May 2011.

²⁵ *ibid*

Article No	Description
166.	A defendant shall be guilty of the offence of abduction, if the defendant unlawfully takes or entices a child or incompetent person from the custody of the person's parent, guardian, or other lawful custodian.
173.	A defendant shall be guilty of the offence of felonious restraint, if the defendant knowingly: (a) Restrains another person unlawfully in circumstances that exposes the person to a risk of serious bodily injury; or (b) Holds another person in a condition of involuntary servitude.
162	A defendant shall be guilty of the offence of kidnapping, if the defendant unlawfully removes another person from a place of abode or business or from a place where the person was present and unlawfully takes the person to another country.
163	The removal or confinement is unlawful, if: (a) It is accomplished by force, threat, or deception; or (b) In the case of a child or incompetent person, without the consent of the parent, guardian, or other person responsible for general supervision of the person's welfare.

His Majesty the fourth Druk Gyalpo also commanded the drafting of the constitution which commenced on November 2001 and after wide national consultation was finally enacted on 18 July, 2008 by the first democratically elected government. Although the constitution provides protection from trafficking to women and children, the Article may not be enforceable, as the statement is merely a call for good governance.²⁶ Article 9.17 of the constitution articulates that, *“the State shall endeavor to take appropriate measures to eliminate all forms of discrimination and exploitation against women including trafficking, prostitution, abuse, violence, harassment and intimidation at work in both public and private”*, while article 9.18 focuses on children by saying that, *“the State shall endeavor to take appropriate measures to ensure that children are protected against all forms of discrimination and exploitation including trafficking, prostitution, abuse, violence, degrading treatment and economic exploitation”*.²⁷ These two articles also is a revelation of the country’s commitment to CEDAW and CRC, both of which have been ratified.

The other instrument that protects victims rather than the act of trafficking is the Labour and Employment Act of Bhutan which was enacted in 2007. Section 6 in chapter II states that, *“No person shall make use of, cause or permit any form of forced or compulsory labour that is extracted from any person under the menace of any penalty and for which the person has not offered himself or herself voluntarily”*.²⁸ In addition it also regulates minimum age for work and the working conditions including occupational health. Article 9 focuses on worst forms of child labour and specifically mentions about trafficking as outlined in the box below.

²⁶ UNICEF. South Asia in action: Preventing and responding to child trafficking; Analysis of anti-trafficking initiatives in the region. Innocenti Insight; August 2009

²⁷ Constitution of the Kingdom of Bhutan. 2008; p20

²⁸ MoLHR. Labour and Employment Act of Bhutan; 2001; p 3

“No person shall subject a child to:

- (a) any form of practices such as sale and trafficking, debt bondage, forced or compulsory labour, including recruitment for use in armed conflict;
- (b) the use, procuring or offering of the child for prostitution, for the production of pornography or for pornographic performances;
- (c) the use, procuring or offering of the child for illicit activities, in particular for the production and trafficking of drugs;
- (d) work under particularly difficult conditions such as work for long hours or during night or work where the child is unreasonably confined to the premises of the employer; or
- (e) work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of a child including:
 - (i) work which exposes a child to physical, psychological or sexual abuse;
 - (ii) work underground, under water, at dangerous heights or in confined spaces;
 - (iii) work with dangerous machinery, equipment or tools, or which involves the manual handling or transport of heavy loads; or
 - (iv) work in an unhealthy environment that may expose the child to hazardous substances, agents or processes, or to temperatures, noise levels, or vibrations damaging to his or her health.”

The Child Care and Protection Act, 2011 is one of the most recent legal instruments that have articulated the offence of trafficking in children. Enacted by the National Assembly on 1st June 2011, it awaits accession by His Majesty the King before it can become law. Section 225 of the Act states that *“a person shall be guilty of trafficking of a child, if a person recruits, transport, transfer, harbour or procure a child by means of threat, use of force, coercion, abduction, fraud, deception, abuse of power, position of vulnerability, transaction involving payments or benefits to achieve the consent of a person having control over another person for the purpose of exploitation. The offence of a child shall be a felony of the third degree.”*²⁹ The definition used here is more in line with the Palermo protocol as the statement *“for the purpose of exploitation”* covers all other areas besides trafficking for prostitution only.

²⁹ The Child Care and Protection Bill, 2011. Royal Government of Bhutan; p 35

8. Situation of trafficking in Bhutan

The geographical location of Bhutan as a landlocked country, sandwiched between two large nations has made its people vulnerable to traffickers and to them being trafficked. This is evidenced from historical records, which reveal that kidnapping and trafficking of people was a frequent reason for border disputes between the then British Raj in India and Bhutan.³⁰ Historically Bhutan served as a major trade route between India and Tibet, and there was frequent movement of people from both sides. The small population of the country was not able to till the lush and fertile valleys of Bhutan and as a result many people from the plains were trafficked into the interiors of the country. This gave rise to the establishment of serfs in the country, with many of them having been brought into the country either as captives following border skirmishes or as a result of having been trafficked. The serfs were bonded for generations to wealthy families and were mainly employed as labours. The British Political Officer Pemberton noted in 1838, that there were some thousands of these serfs in the hills and were restricted to undertaking most of the menial jobs.³¹ Many of them had married Bhutanese people of lower grade and with children of their own did not find the heart to leave and go back to the plains in India. This system of modified slavery, also known as serfdom was to last for 120 years when His Majesty, the third King of Bhutan abolished slavery by royal edict in 1958.³² In addition the third King implemented many other social reforms such as abolishing the caste system, granting equitable distribution property rights and improving the position of women in society.³³

There have however been no studies or reports published on trafficking in Bhutan. As acknowledged during the first national consultation on countering human trafficking in Paro Bhutan, *“the situation of trafficking in Bhutan is still not very clear and no specific studies have been undertaken as of now; there is also no structured or dedicated surveillance mechanism in place to monitor the situation”*.³⁴ In October 2005, during the national consultation on women and child friendly procedures, the RBP recommended that studies should be initiated on issues of trafficking, missing persons and children in conflict with the law.³⁵ The committee on the elimination of discrimination against women, noted the absence of data on “trafficking of fairer sex” in its report in 2002 and in its response to Bhutan’s seventh report in 2007 specifically pointed out that, “as per official records, there continues to be no reports of human trafficking within, into or outside of Bhutan”.³⁶ In its concluding observations it urged the “state party to intensify its efforts to combat all forms of trafficking, to undertake research to

³⁰ Collister P. Bhutan and the British. UBS Publishers’ Distributors’ LTD, New Delhi; 1996 p 51, 66

³¹ Pemberton BB. Report on Bhutan. In: Political Missions to Bhutan. Asian Educational Services (Publishers), New Delhi 2001; p 81

³² Singh N. Bhutan: A Kingdom in the Himalayas; Thomas Press India Limited, New Delhi; 1978; p 109

³³ Parmanand. The Politics of Bhutan, Retrospect and Prospect. Pragati Publications, Delhi; 1998; p 87

³⁴ NCWC. Report of the national consultation on countering human trafficking & HIV/AIDS and promoting cross border cooperation. Paro Bhutan; October 2009.

³⁵ CEDAW. Consideration of reports submitted by States parties under article 18 of the Convention on the elimination of All Forms of Discrimination against Women .Seventh periodic report of States parties; CEDAW/C/BTN/7; p 42

³⁶ Ibid p

determine the scope of the problem and to collect and analyze data on trafficking available to the police and international sources.”

The NCWC with support from UNIFEM organized two rounds of national consultation on countering human trafficking and promoting cross border cooperation along with participation from regional partners in 2009 and 2010. The conclusions from both rounds was that there was very little information on trafficking in Bhutan and it was recommended that a study be undertaken to assess the situation with a thorough “retrospective desk review of missing persons” in collaboration with law enforcement agencies. It was reiterated that following up of the missing cases registered in the RBP would enable the establishment of concrete evidence of trafficking and an estimate of the magnitude. Despite the repeated calls for analyzing the data of missing persons and the need for research on issues of trafficking/missing persons by the Police themselves, ultimately there was immense reservation about releasing the data for this study. The only reason for this reluctance can be inferred from the letter sent by the Police to the Minister of Home and Cultural Affairs where it says that, “in view of the alarming number of cases of missing persons for the last 10 years and the sensitivity and due diligence required” it was up to the Minister to issue necessary clearance for sharing the case statistics. Apparently the “alarming number of cases” caught both the Police and the government off guard and the decision was made to withhold the “sensitive” data.

8.1 Review of police cases of Missing Persons

The inhibition of the concerned agencies to release the data on missing persons is both disappointing and surprising. This is because the government’s stand on trafficking has always been that it does not occur and even if it did, the magnitude was very small. Therefore the high number of cases of missing persons as suggested by the Police should not be viewed as cases of trafficking. Rather as expressed during the focus group discussions, majority of the missing persons are a result of those that leave home without informing their relatives, runaway cases and lovers who elope. Majority of the people interviewed and participants in the focus group discussion also shared the same view that trafficking was very rare in Bhutan. At the same time the number of people that were found and the percentage of cases solved could shed more light on the circumstances of people going missing. Given the small population in Bhutan and the close network of shared by many people, it is unlikely that people who run away or elope will remain missing for long durations. Similarly trafficked victims within the country are also unlikely to remain unidentified whereas victims who are trafficked outside the country have minimal chances of being rescued. The reason for the latter is due to lack of understanding on trafficking by concerned agencies, strong network of traffickers across the borders and insufficient cross border partnership. Despite these shortcomings, some Bhutanese victims have been rescued in India by civil society organizations and by law enforcing agencies.

A review of missing persons was conducted by NCWC in 2007-2008 that looked at police records for the preceding three years. The report revealed that a total of 71 cases of 'missing of persons' had been reported by 17 police stations out of the 23 police stations covered by the study.³⁷ Of the 71 reported missing persons, 50 persons were found alive, 5 were found dead and the status of 16 individuals were still unknown at the time of the review. The majority of the missing persons were in the age group 11-30 years, constituting 57.7 % of those missing. Among the people who were found, the most common reason for their going missing was inability to inform their relatives while journeying and the next common reason was elopement. None of the police stations had reported any case of "trafficking in humans" and the review concluded that this was because the police did not record trafficking as a separate heading in its data. Under sexual offences three Indian women aged 18, 20 and 26 years were found to have been apprehended in Phuntsholing for the offence of prostitution. In their statement to the police, they had revealed that they were brought from Kolkata by a woman who had promised them jobs in Bhutan. Despite the dearth of data on trafficking the report highlighted that trafficking for prostitution was "common, if not rampant" in the border town of Phuntsholing.

8.2 District records on 'missing of persons' in the six districts

Although national data was unavailable for the present study, police data from the districts of missing persons was obtained and analyzed. In addition the recording system and details of the police records was also scrutinized for completion and consistency. Since data till 2007 had already been analyzed in the earlier review conducted by NCWC, it was decided to evaluate only those data from 2008 onwards. The findings of the data according the districts is presented in the table below.

Table: Summary of police records from six districts on "missing of persons"

Police Database on Missing of Persons							
Police station	Year	No of Missing Persons		Persons found/returned		Status still Unknown	
		Male	Female	Male	Female	Male	Female
Pemagatshel	2008	1	0	0	0	1	0
	2009	1	0	1	0	0	0
	2010	0	1	0	0	0	1
Samdrup-jongkhar	2008	2	2	1	2	1	0
	2009	2	4	1	3	1	1
	2010	4	1	2	0	2	1
Gelephu	2008	1	5	0	4	1	1
	2009	3	8	3	7	0	1
	2010	4	11	3	9	1	2
Sarpang	2008	1	2	0	2	1	0
	2009	5	0	4	0	1	0

³⁷ Dukpa P, Gyeltsen N. Report on the sensitization tour to the districts on NCWC, CRC, CEDAW and Violence against women and children. NCWC; 2007-2008; Thimphu Bhutan.

Police Database on Missing of Persons							
Police station	Year	No of Missing Persons		Persons found/returned		Status still Unknown	
		Male	Female	Male	Female	Male	Female
Zhemgang	2010	3	2	3	2	0	0
	2008	0	0	0	0	0	0
	2009	0	1	0	1	0	0
	2010	1	0	1	0	0	0
Panbang	2008	0	0	0	0	0	0
	2009	0	0	0	0	0	0
	2010	2	0	2	0	0	0
Total		30	37	21	30	9	7

A total of 67 people were reported as missing over the three year period which compromised of 30 males and 37 females. Out of these, 51 people were ultimately found and the reason for their going missing was similar to the ones given in the earlier review such as inability to inform relatives during travel, elopement, runaway and unsoundness of mind. However the whereabouts of 9 males and 7 females were still unknown. As stated earlier the probability of some of these people being victims of trafficking cannot be ruled out especially considering that all of these were people from the border districts. However making concrete inferences about trafficking from the records of missing persons is difficult because the police do not maintain any other information. The circumstances and the reason for the person going missing and the final remarks are insufficiently filled to come to any conclusion. It is also well known that many people who are initially reported as missing, do return and failing to inform the police results in the data not being updated.

Name list of Missing of Persons w. e. 1.01/01/2008 to 19/04/2011													
Year	Name of Missing Person	Date of birth	Father Name	Village	Block	Dzongkhag	Date of Missing	Date of Found	Reason for Missing	Name of informant	Ref. No.	Sig/L. No.	Remarks
2008	Ugyen Wangmo	1989	Ugyen Thinley	S/Jongkhar	S/Jongkhar	S/Jongkhar	12/2/2008	1/5/2008	Nil	Ugyen Thinley	MP-2-78	287/2008	Found
2008	Sheshu Lhamo	2001	Tandin Wangchuk	Deothang	Deothang	S/Jongkhar	31/03/2008	3/4/2008	Nil	Tshewang Nidup	MP-2-88	465/2008	Found
2008	Tshewang Wangchuk	1983	Phajo	Gomdar	Gomdar	S/Jongkhar	Jun-08		Nil	Passang Wangmo	MP-2-160	728/2008	Still not found
2008	Chado	1948	Nil	Khoovar	Gomdar	S/Jongkhar	24/11/2008	30/11/2008	Nil	Nil	MP-2-190	2268/2008	Found
2009	Ugyen Wangchuk	1998	Ugyen Dema	Dagapela	Dagapela	Dagana	Jan-09	28/07/2009	Nil	Pema Dorji	MP-3-6	63/2009	Found
2009	Zangmo	1944	Nil	Darung	Lumang	Trashigang	6/1/2009	21/01/2009	Nil	Choki Dorji	MP-3-7	96/2009	Found
2009	Penden Lhamo	1979	Darjay	Martshala	Martshala	S/Jongkhar	Dec-09		Nil	Karchung	MP-3-36	363/2009	Still not found
2009	Thinley Chozom	1988	Nil	Ralung	Nanong	P/Gatsel	29/06/2009	22/07/2009	Nil	Tandin	MP-3-88	881/2009	Found
2009	Bishnu Kumari												
2009	Ghalley	1981	Nil	Changmari	Changmari	Samtse	30/08/2009	25/08/2009	Nil	H.K. Ghalley	MP-3-135	2168/2009	Found
2009	Kuenga Wangdi	1999	Sangay	Pemathang	Sicholing	S/Jongkhar	3/9/2009		Nil	Ugyen Dema	MP-3-142	2053/2009	Still not found
2010	Khasu Om	1961	Passang Tshering	Chagay	Uzorong	Trashigang	2/2/2010		Mentally disturbed	Tashi	MP-4-18	145/2010	Still not found
2010	Tshewang Dorji	1980	Tenzin	Denchi	Gomdar	S/Jongkhar	17/07/2010		Nil	Tashi Gyetshen	MP-4-133	863/2010	Still not found
2010	Nar Bdr Tamang		Jit Bdr Tamang	Karmathang	Lhamoyzingkha	Dagana	29/08/2010	3/9/2010	Due to consumption of sweets from unknown person, they were unconscious and misplaced to Dzong	Pancha Lal Tamang	MP-4-163	971/2010	Found
2010	Aita Tamang		Siri Lal Moktan	Lower Goshi	Goshi	Dagana	29/08/2010	5/9/2010	Due to consumption of sweets from unknown person, they were unconscious and misplaced to Dzong	Pancha Lal Tamang	MP-4-163	971/2010	Found
2010	Suresh Pradhan	1973	R.N Pradhan	Bownitar	Changharey	Samtse	Jul-10		Went for medical treatment at Silguri after that didn't return back	Krishna Giri	MP-4-225	1771/2010	Still not found

It is vital that the Police record more detailed information about missing persons especially regarding the circumstances under which they go missing and also under which they are found. Such details would assist on clearly separating trafficking from other categories of persons missing and this would enable a better understanding of the presence and magnitude of trafficking. With many of the police data feeding into the national data compiled by the crime division of the RBP, it is likely that similar impediments hinder the final conclusion about trafficking.

8.3 *Legal cases involving trafficking*

Till date there have been only three cases of trafficking that have been tried by the courts. **Descriptions of the three cases from the police/judiciary.**

8.4 *Media reports*

The print media has been the only source of information on trafficking in Bhutan often writing about the heinous crime to inform and educate the public. Over the last few years it has also reported on few cases that were apprehended and charge sheeted by the courts. It is clearly evident from those reports that trafficking does occur in Bhutan, although in very small numbers. It also firmly establishes the country as both a source as well as a destination place for trafficking. Reviewing the media reports, the evidence as a source country comes from two articles published in Kuensel in 2010 about a 12 year old Bhutanese girl who was trafficked to Nepal and a 16 year old boy trafficked to Kashmir.^{38,39} Both children were rescued and subsequent information provided by the children and further investigation by the Police confirmed these to be cases of trafficking in humans. Similarly as a destination country, the first case of trafficking in Bhutan involved a 16 year old girl trafficked from Darjeeling to work as a baby sitter in Bhutan.⁴⁰ Several sex workers have also been apprehended in the border town, all of who have been reported as being victims of trafficking giving been brought into Bhutan with promises of lucrative jobs.³⁷

The first case of internal trafficking was reported from Pema Gatshel in August 2011 that involved the trafficking of three girls by a man claiming to be a monk. Two of the victims were from Chukha and one was from Trashigang and they were rescued with the help of Police and RENEW. The man was convicted of trafficking under section 154 of the penal code and also for harassment under section 462. All three victims were interviewed for this study and their story is presented as a case study in the box below. The case highlights the circumstances under which trafficking occurs and also the background of the victims.

³⁸ Kuensel. Women Vendor detained; 24th August 2010

³⁹ Kuensel. Trafficked to Kashmir;

⁴⁰ Bhutan Times. Human Trafficking from Bhutan; Jan 25 2009; Available at:

http://www.bhutantimes.bt/index.php?option=com_content&task=view&id=1048&Itemid=1

First convicted case of internal trafficking

Victim 1: SZ is a 18 year old girl from Pangthang village in Kanglung Trashigang. She was interviewed in Pemagatshel hospital where she had been admitted for seizure disorder after having been rescued and the following is her account.

As a child she had witnessed and been subjected to domestic violence in the family at the hands of her parent, both of who were alcoholics. Her mother passed away 4 years ago. At the age of 12 she was brought to Thimphu by her aunt who was married to a policeman, to live with them and go to school. However she was made to do all the domestic chores and her aunt treated her badly often beating her using cables. After 2 years of immense hardship she returned to her village and continued with her studies. However she had to drop out of class IV after she started having repeated episodes of seizures. In one instance, she was nearly run over by a passing vehicle when she lost consciousness during a seizure episode. One fateful day a man claiming to be Lam Namgay visited her village and befriended her father. The lam claimed that he could cure her illness provided she came to live in his house in Tsatsi under Nanong geog in Pemagatshel. Believing the Lam, SZ accompanied her father who also suffered from seizure disorder to the Lam's village where she resided for nearly one year. At Tsatsi, the Lam gave her medications prepared from animal bones along with other medicines which he procured from Samdrupjongkhar. Under the pretext of treatment, the Lam arranged for SZ to sleep with him while the father was made to sleep elsewhere. He raped her several times and even proposed marriage but did nothing to call her his wife. Her father was made to work in the field, look after the cattle and collect firewood. When it finally dawned that the Lam had deceived them they tried to leave however the Lam started threatening them with 'ngen' (black magic) and warned them that he would disable them physically.

Victim 2: PB is a 20 year old girl and second of five children from farmer parent in Metaykha in Chukha Dzongkhag. Her three younger brothers had died in their childhood and her elder sister also worked on the farm. At a young age she was made to marry a man from her village with who she had a son, however her husband soon left her for another woman. Her alcoholic and dominant father used to constantly torment her about her divorce. Despite the occasional support given by her mother, PB was soon frustrated with her environment especially by her father's constant harassment. One day in March 2011 she dialed some random numbers on her mobile and was surprised when it got answered by SZ (victim 1). During the course of their conversation SZ suggested to PB that she should consider enrolling in a nunnery to overcome her domestic problems. After a few days PB received a call from the same Lam Namgay claiming that he had a nunnery and that there was a vacancy if she wished to enroll. She next discussed the matter with her mother who was reluctant to let her leave because she was concerned that there would be no one to work in the field. PB by then had decided to leave and was joined in her desire by her cousin sister TD who lived nearby.

Victim 3: TD, also 20 years of age, divorced and a mother to a two year old daughter. She recollected her former mother-in-law as a scheming woman who interfered in her marital life and provoked her husband to beat her frequently. After her divorce her alcoholic father, who is a former policeman and is also deaf, troubled her repeatedly with both verbal and physical abuses. She was most upset with his verbal abuses calling her a 'bastard' and a "prostitute". Therefore she was determined to leave when

she got a call from her cousin sister PB regarding a vacancy in a nunnery. She also started receiving calls from Lam Namgay who encouraged her to come and join his nunnery or, to perhaps run a shop that he would help set up.

The two girls finally decided to leave their village to become nuns and informed Lam Namgay who after a week arrived at Tsimalakha to fetch the girls. He was dressed in a '*gomchen's* robe and spoke very warmly about their decision to become nuns. They spent the first night at Tsimalakha in a house that belonged to a relative of the Lam, and the next day headed towards Phuntsholing where they spent a night in a small hotel located near the truck parking. The girls were lodged in one room while the Lam stayed in another. In Samdrupjongkhar they stayed at the house of someone known to the Lam and he also purchased *anim's* robes for the two girls. When they finally reached Tsatsi, the two girls were introduced to SZ who was already living with the Lam. In the next few days SZ taught the two girls some verses from '*dor-choe*' while Lam Namgay did not even talk about religion. The two girls were made to work in the field most days and graze cattle. Soon they realized that the Lam had deceived them and that he could not even write in Dzongkha. When they tried to protest, the Lam punished them by denying them meals and kept them starved. In one incident, PB had managed to inform her sister in Chukha about her predicament and when Lam namgay came to know about it, he snatched her mobile phone and banged it against the wall destroying it completely. After months of imprisonment they finally decided to escape and go back to their village, however the Lam discovered their plan. He told them that they could leave if they paid him Nu. 5000 each and if they did not then he threatened them with '*ngen*' to render them "*choeloms*" (mad). Becoming frightened, they relented and reconciled to their fate. For this insubordination and planning to escape the Lam punished them by denying them food for the next 3 to 5 days.

They were finally rescued after her sister informed the police. With the help of RENEW volunteers and the Dzongkhag administration the victims were all provided temporary shelter at Pema Gatshel and SZ was assisted in getting appropriate medical attention for her seizure disorder. Lam namgay was arrested and convicted of the crime, giving him a sentence of three years and one month imprisonment.

Besides these stories reported by the Bhutanese media there have been occasional articles in the Indian media of Bhutanese victims being rescued in the bordering states of India.⁴¹ Some reports have also indicated that the district of Jalpaiguri in West Bengal was serving a transit route for girls trafficked from Bhutan to their destination in Kolkata and Mumbai.⁴² An NGO based in Kokrajahar, Bodoland territorial Council in Assam recorded two Bhutanese girls as having been rescued from traffickers.⁴³ The same foundation also apprehended an elderly woman with a young Bhutanese girl in 2009 boarding the train

⁴¹ Subba MB. Collaboration required to combat trans border human trafficking. Bhutan Today; 2010. Available at: <http://www.bhutantoday.bt/?p=711>, accessed on 04/05/2011

⁴² IDLO. Preventing and combating the trafficking of girls in India using legal empowerment strategies. A rights awareness and legal assistance program in four districts of West Bengal. June 2010-March 2011. West Bengal India

⁴³ Nedan Foundation data. Available at <http://nedan.in/success-stories/year-wise-rescued-by-nedan>, accessed on 11 August 2011

to Kolkata in an apparent bid to traffic the girl. She was rescued and taken to the hostel maintained by the foundation to be repatriated, however another person lured her from the hostel and she was again reported missing. All these reports clearly indicate that trafficking does occur in Bhutan and with the paucity of information it is difficult to make any estimate of its magnitude.

Fighting trafficking together

KINGA DEMA, PARO

Early this year, a 13-year-old girl from Gelephu, waiting to board a train to Mumbai with her stepmother, who was planning to sell her off in a brothel, was rescued by an NGO based in Assam called NEDAN foundation.

It was found that the girl, who lived with her father and stepmother in Gelephu, was regularly mistreated by her stepmother. The NGO handed her over to a women's hostel run by the Adivasi students union.

But before Nedan foundation could complete the formalities to send her back to Bhutan, the girl was taken by a stranger from the hostel, said the program coordination, Padmini Brahma. "To date, we are clueless on where she is or who could have taken her," she said.

Without a systematic process in place to deal with identification or diagnosing human trafficking cases cross border, dealing with such cases is an issue, according to national

commission for women and children (NCWC).

Now, with Bhutan and the Bodoland territorial council, Assam, India, due to sign the standard operation procedure (SOP) on transborder human trafficking and HIV, both the countries are expecting a better management of such cases.

SOP would be signed between NCWC and the Nedan foundation in Assam, Bodoland territorial council.

"SOP will help in planning rescue, post rescue, repatriation process and other aspects of trafficking, taking into account the medical or psychological needs of a victim or a survivor," said program coordination of Nedan foundation, Padmini Brahma. It will help handle trafficking cases in India and Bhutan. For instance, if an Indian has been trafficked to Bhutan or the other way round, SOP would be able to deal with it.

According to the program coordinator of UNIFEM in Nepal, Sangeeta Thapa, Nepal is the source country of human

trafficking, with more than 200,000 Nepalese women and girls in brothels in India. Bhutan could share the same fate, she said.

"Just one country's vigilance won't solve the problem and it's important for countries sharing borders to have strong policies and monitoring mechanisms in place," she said.

ROYAL MON

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Child Trafficking

Woman vendor detained

12-year old girl returned to guardian

KUENGA TENDAR

Thimphu police have detained a woman, a vendor at the Lungtengzampa bus terminal, for allegedly trafficking a 12-year old girl to Nepal last year.

CRIME

The girl, who helped her aunt, another vendor in the same area, went missing on April 29 last year.

"I saw the girl going in a maruti van with the other vendor," the girl's aunt said. "She insisted on going with the other woman, saying that she would return."

When the girl did not return home that night, she reported the matter to the police. "That night at 11 pm, we went to Changbangdu, where the other vendor stayed," the aunt recalled.

The other vendor told police that she had no idea of the missing girl, and even signed a document to attest that she had nothing to do with the missing girl, said the 35-year old aunt.

On July 22 this year, police detained another woman, who was seen with the missing girl

in a maruti van in Gelephu town. Police said they were tipped off by the husband of the girl's aunt, who had been called by the Sarpaing police for questioning.

"I hid behind a washing machine, when the police came to the other woman's house (in Changbandu) in search of me," the 12-year old, who is now back in Thimphu and helping her vendor aunt, told Kuensel.

"I was locked up in another place in Thimphu and they didn't let me go out," she said, adding that she was provided food and not beaten. "She promised gold and money if I went with her."

The girl said that, about a month later, she was taken to Phuentsholing in a vehicle, disguised as a sick person. "From Phuentsholing, the other woman took me to a place in Nepal, where she had relatives. There, I was made to look after 20 goats," she said, adding that her new owners told her that she had been sold, and it was now her duty to look after the goats properly, or else they would beat her.

It is not clear why the girl was brought back to Bhutan



She promised gold and money if I went with her"

The 12-year old victim

from Nepal, but police say that it may be because of the pressure they put on the vendor, who is now in police custody.

According to the aunt, the main culprit also came to Gelephu in search of the girl, after her friend, the other woman, who was sent to collect the girl, did not show up. "She was asking people around the police station about a girl, who was in a van, and that is how she was caught," the aunt explained.

The detained woman has been charged in court for trafficking and giving false information by the child protection unit of the royal Bhutan police. It is not clear whether money was involved in the incident.

8.5 Immigration cases

Illegal migration and trafficking are two different phenomena although they share common pathways when it comes to transportation. In many cases it may be difficult to differentiate the two and this similarity is often utilized by traffickers to transport victims in the guise of migration. Illegal migration as opposed to trafficking almost always consists of travel, where agents are often hired to transport people and who provide assistance in gaining entry into another country, and after arrival at the destination are free to find their own way. These aspects make illegal migration and “people smuggling” different from trafficking.

In Bhutan, it has always been known that there are many illegal migrants working in Bhutan, both in the formal and the informal sectors. The Government has often taken massive exercises to flush out illegal migrants and to deport them with the last exercise having been carried out in the beginning of 2011. Though exact numbers of illegal migrants caught and deported have not been released, media reports indicate that a substantial number have been apprehended. Authorities who were involved in the exercise agree that some of the people apprehended could have been victims of trafficking had the definitions been strictly applied especially those that were below the age of 18 years. While details of illegal migration are difficult to obtain, the following table provides an insight into the magnitude of illegal migration. From the table it can be seen that there are few children and with the limited information it is impossible to establish their status. Although officials from the Department of Immigration opine them to be dependents of illegal migrants, they did not deny that few of them could have been trafficked into the country to work as baby sitters and household maids.

Table 2: Number of illegal immigrants apprehended between July 2010 to June 2011

Regional Office	Age in Years			
	Below 10	14-Oct	15-18	19 and above
Thimphu	19	09	13	95
Gelephu	04	00	04	56
Samdrup Jongkhar	00	00	00	04
Samtse	00	00	00	34
Phuntsholing				120
TOTAL	23	09	17	309

Source of information: Department of Immigration, Thimphu

8.6 Cases handled by Non-Government Organization (NGO)

RENEW (Respect Educate Nurture and Empower Women) is a well established NGO that seeks to empower women and girls in Bhutan and focuses on the victims and survivors of domestic violence. Since its establishment in 2004, it has assisted a number of women who have been rescued from difficult circumstances, however only four cases have been specifically labeled as trafficking. In two of the cases the traffickers were identified and taken to court where they were successfully charge sheeted and sentenced according to the law. A summary of the cases is provided in the table below and one of the cases has been provided as a case story.

Table 3: Confirmed cases of trafficking handled by RENEW

SI No	Age (Yrs)	Sex	Circumstances
1.	16	F	Indian citizen from Darjeeling and from an economically disadvantaged family. Father died and lives with her mother who is the only bread earner. She was lured by a woman from Bhutan to come and visit the country as a tourist and after arrival was made to work as a maid servant. The husband of the women attempted to rape her and this made her report to the police who then referred the girl to RENEW. She was repatriated to Darjeeling to her mother.
2.	17	F	She is a resident of Samdrup Jongkhar with no educational background. She was brought by an “uncle” to Thimphu and then given employment in one of the Drayangs to sing and perform dances. She suffered both physical and verbal abuse which made her finally turn to RENEW for help. She was rescued and provided an alternative job and is currently being followed up by RENEW
3	21	F	Economically disadvantaged girl was abducted from Samdrup Jongkhar and taken to India to work as a sex worker. Initially led to Siliguri and later taken to Kolkata. Rescued by a boyfriend and returned to Bhutan, however continued to sell sex to earn a living. Apprehended by the Police and kept under detention for a year. Referred to RENEW and successfully rehabilitated.
4	16	F	Resident of Samtse and comes from a poor family. She was offered an office job in Thimphu, however on arrival was made to sing and dance in a draying. She was forced to sign an agreement that essentially placed her under bondage to the employer. After receiving both physical and verbal abuse she garnered all her courage and reported to RENEW who ultimately repatriated her back to Samtse.

Case Story

RD is a 21 year old girl from Samdrup Jongkhar. She comes from a poor family with little land holding and has not received any education. In 2004, at the age of 18 she was forcibly abducted and taken to Siliguri where she was raped and then made to work as a sex worker. Later she was taken to Kolkata where she continued to work as a sex worker for another year. She met a Nepali man who she began to trust and he helped her escape and return to Bhutan. She was too ashamed to return to her village and living in Thimphu became a huge challenge especially with no income. She thus began to sell sex to earn money and was ultimately nabbed by the Police and kept in detention for 1 year. Thereafter she was referred to RENEW who began the long process of counseling and rehabilitating her. She was provided with training in a vocational skill and has been successfully rehabilitated since.

8.7 *Focused Group Discussions*

Focused group discussions with District officials including Dzongdag, Dzongrab, officials from the regional immigration and labour and employment office and police officers were directed primarily at eliciting their current level of knowledge and understanding on various aspects of human trafficking, the human trafficking situation in their respective jurisdictions, and existing system, if any, of reporting on migration of people from or to their areas.

The main observations gleaned out of interactions with the district officials include:

- a. Only one district had ever reported a case of trafficking and that involved the trafficking of three girls in Pema Gatshel. This was the first ever case of trafficking reported at the district level with none of the other districts ever experiencing trafficking.
- b. The executive officials of the Dzongkhag and dungkhag administration and regional offices of immigration and labour are not familiar with the dimensions of human trafficking. Except for one immigration official from Gelephu, none of the other officials have ever attended a conference, training or workshop on human trafficking.
- c. While admitting that some people from their districts or dungkhag have migrated to other parts of the country in search of better opportunities, the dzongkhag executive officials admitted to having no existing policy or institutional mechanism of reporting on the status of migrants between the geog and dzongkhag administration and between the dzongkhag and other stakeholders.
- d. There was general consensus on the need to impart training and build capacity of the district stakeholders in the fight against human trafficking. The respondents also agreed on the need for all the stakeholders to share information and work collaboratively with one another.
- e. The officer In-charge of a police station is said to have interacted with a Sharchoy girl, probably from Trashigang, working as a commercial sex worker in the G.B. Road, New Delhi in 1999-2000.
- f. Another Police Officer shared a story of two young girls having been found after more than a decade of having been reported missing in Jalpaiguri when he was in posted at Phuntsholing some 5 years ago. The girls were apparently taken by a driver from Bumthang and taken to West Bengal where they lived with a family who employed one as domestic help and sent the other to school. At the time of their repatriation the girls could only speak in Hindi for they had forgotten their language. They were ultimately reunited with their families.
- g. Most of the participants agreed that trafficking does take place although the scale was probably very small. The most vulnerable people were those who were uneducated, poor and daily wage workers. The population living in the southern districts were most prone to being trafficked especially those from Samtse, Pema Gatshel and Samdrup Jongkhar.
- h. The general lack of information provided by the law abiding agencies and the lack of awareness among the communities was cited as the main reason for this crime taking place.

9. Causes of Trafficking

Given the limited number of cases it is difficult to specifically enumerate the causes of trafficking in Bhutan; nevertheless it is still possible to draw some basic conclusions. All of the victims of trafficking reported so far came from poor families with limited opportunities for earning a decent living. The lack of livelihood opportunities seems to play an important role as this is used by traffickers to deceive potential victims with promises of good jobs. This factor is present universally and as reported widely, perpetrators posing as employers or placement agents is one of the most common methods of luring victims. In the case of Bhutan, few sex workers in the border towns reported that traffickers had brought them promising them good jobs. That poverty is a major cause for trafficking is undisputed as seen from the socioeconomic backgrounds of the victims so far rescued. All of them came from poor rural backgrounds and while some were lured with promises of good fortune, others were kidnapped. The girl from Samdrup Jongkhar who was sold for prostitution in Kolkata and the boy sold to work as a domestic helper in Kashmir India are cases in point. Both the victims had been kidnapped by traffickers and then transported across the border to India and the common factor in both was that they both came from poor households.

Other causes influencing trafficking are illiteracy and unawareness. While this characteristic is most common among the victims, often overzealous employers inadvertently get involved in trafficking because of their lack of awareness on trafficking and the related laws. This is most commonly seen with employment of domestic helpers and baby sitters in the country. In addition the demand for girls in this sector has created a huge demand which is often met with the supply of young girls both from within and from across the border. Unawareness on the part of officials, especially those from the armed forces and expatriate workers has also raised suspicion in their abetting the crime by transporting the victims. The vehicles that are exempted from being checked at the police check posts on the national highways have been accused of being responsible for trafficking illegal workers into the country and to address it the national consultation in Paro 2010 had agreed to establish mechanisms to inspect all vehicles.⁴⁴ The judiciary too has been quite lenient in passing sentence and also in its interpretation of this sort of crime as reflected with the first case brought before the court in 2007. Although the police had charged the employer with trafficking in person, the court interpreted the circumstances as a case of illegal migration. (Case story in box)

First case of trafficking tried in court

In June 2007, the Police along with NCWC rescued a 16 year old non-Bhutanese girl after it received complaints against the employers for mistreatment. The employers were charge sheeted for trafficking in persons and case was forwarded to the court. During the investigation it was revealed that the lady employer was married to a Bhutanese and that they had befriended the young girl's mother in Darjeeling. On the pretext of taking her to visit Bhutan, the girl was brought to Thimphu by the

⁴⁴ NCWC. Report on the follow up consultation on countering human trafficking promoting cross border cooperation and finalization of the standard operating procedure(SOP). December 2010, Paro

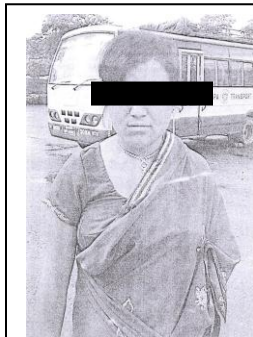
employers without any valid documents and claiming that the girl was their daughter. Once she arrived here, the girl was made to work as a domestic helper and was often locked in the house. The judge however concluded that after “Considering the nature, conditions, and circumstances of the household where she was employed, the economic status of the victim and degree of economic liability of the victim’s family, it was found that the girl was not brought for any illegal purposes”.⁴⁵ The court further ruled that the defendant had not violated section 9, 171, and 175 of the Labour and Employment Act 2007 on minimum age for employment and the prohibitions of worst forms of child labour. In the end the court asked the defendant to pay the young girl Nu. 3,000 as minimum wage for a month’s work and return her to India.

Similarly there have been other cases where the legal interpretation of the circumstances could refute the charge of trafficking. This is seen in the case of illegal elopement and abduction. Several young Bhutanese girls have been enticed and often kidnapped by foreign workers to be their brides. All of them are taken by the men to India and thereafter their welfare becomes unknown. Reports from NGO’s such as Maiti Nepal and Sunlaap have identified this modus operandi as one of the ways in which traffickers transport girls into the flesh trade from the region. This is especially the case among poor communities where potential grooms agree to marry girls without any demand for dowry. With no structured or dedicated surveillance mechanism in place to monitor the situation, it is likely that some of these women end up being exploited.

Is it Trafficking *OR* Criminal elopement *OR* abduction?



HMG, 15 years old from Gelephug was studying in class VI in a school in Thimphu and living with her parent. In July 2010 she was reported missing by her parent. After several months of investigation the mother found that her daughter had eloped with an Indian construction worker and was living in Jalpaiguri. She went there and forcefully brought her daughter back to Thimphu and kept her under close observation. In the beginning of 2011, the worker returned to Thimphu and then “abducted” her back to India again. The parent claims that their daughter has been kidnapped and that she was being kept in India against her will. The girl is now also a mother of a child.



SY, a 18 year old girl from Trashiyantse “eloped” with an Indian worker to India.

⁴⁵ Judge, Bench IV. Thimphu District Court. In: Women convicted on lesser charge. Kuensel; 6 September 2007

10. Vulnerable group/section of the population for being trafficked

Limited data does not allow us to map the vulnerable population accurately although some assumptions can be made. The few cases that have emerged in recent times reveal that children, mostly girls from **poor** households, who are **illiterate** and often from **broken families** are the most vulnerable. This is further aggravated when they are **victims of domestic violence** and in those with **no social support systems**. Although there are no specific districts which is highly vulnerable, evidence reveals that the major **border town** of Phuntsholing (and probably at a smaller scale in Samdrup Jongkhar and Gelephu) serves as a destination site for women trafficked from India for the purpose of sex work.

Reports from India also suggest that children from the border districts of Bhutan are being trafficked to parts of India in particular Kashmir to work as domestic helpers.⁴⁶ While this relates to external trafficking, it is common knowledge that many children and in particular girls from rural areas are “internally trafficked” to work as domestic helpers and baby sitters in the larger urban towns. Recent data from the Bhutan Multiple Indicator Survey 2010 reveals a high percentage of child labour at 18.4% and it is likely that some of these children are victims of trafficking. The Education Ministry has also expressed its concerns not only on the number of children who are not in school but for those who are not with their parent in their place of residence.⁴⁷ The breakdown of joint families into nuclear families because of rapid urbanization has fuelled the **demand for domestic helpers** and this has resulted in the exploitation of young girls from poor families to become baby sitters. With no contract or question of consent, many of these children are trafficked from the poorer districts of Samtse, Zhemgang and Pema Gatshel to Thimphu and other towns.⁴⁸

One of the gravest causes of trafficking is utter **lack of awareness** among both the general public and government officials including law enforcing agents. This lack of awareness leads to victims being easily coerced into trafficking while concerned officials are unable to investigate and monitor the situation stringently. Many people have also unknowingly become entangled in trafficking cases because of their ignorance of the laws related to trafficking such as the Penal code and Labour and Employment Act.

Some of the major causes of trafficking seen in Bhutan have been summarized however it must be understood that there is no one particular cause. In most cases it is a constellation of factors that lead to someone becoming trafficked and of we are to prevent such acts from happening then a multitude of causes need to be addressed together. For this to succeed it is important that all agencies including the public must work together with common understanding.

⁴⁶ Tribune News Service. Kidnapped Bhutanese boy rescued. The Tribune; February 10, 2011, Srinagar; Jammu India

⁴⁷ Lyonpo TS Powdyel. International day against child labour 2011. Promise and reality. *Bhutan Observer*; June 17, 2011

⁴⁸ NCWC. Situation of child labour in Bhutan. March 2009

11. Conclusion

This is the first study report on trafficking in Bhutan and was undertaken following the recommendations made by the two national consultative meetings on trafficking held in 2009 and 2010. The CRC and CEDAW committees had also raised the need for the government to invest more efforts in assessing the situation and addressing it appropriately. While trafficking is not recognized as a major problem in Bhutan with officials often denying its existence, the close proximity to India with its reputation as a major hub for trafficking, makes it likely that trafficking does occur in Bhutan. This was further substantiated by stories in the media, both within and outside the country. Several reports from international and national NGO's have also confirmed that Bhutan serves as a source for trafficking.

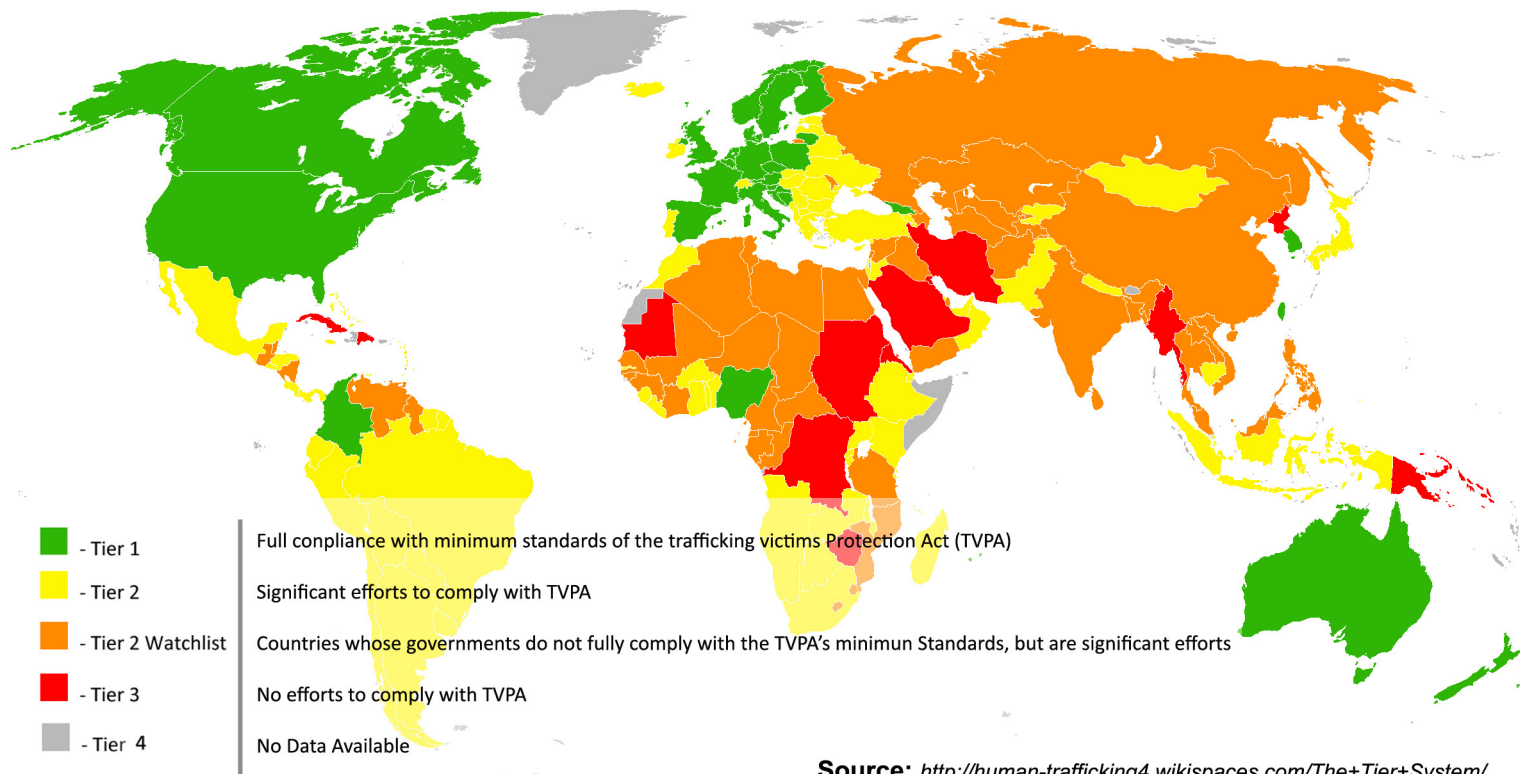
The present study has clearly presented the evidence of trafficking occurring in Bhutan and has described few case studies to that effect. Relevant data gathered from several agencies including the Judiciary, RBP, Department of Immigration and RENEW have firmly established the existence of trafficking in the country. Analyses of the available data and interviews with few victims and their relatives have attested the suggestion that Bhutan served both as a source and destination place for trafficked victims. Information gathered in this report also demonstrates that trafficking is prevalent both internally and externally. Majority of victims are trafficked for the purpose of labour as domestic servants and also for sex work, the latter being more common among those trafficked into the country in the border towns.

A profile of the vulnerable groups has been constructed from the stories of trafficking provided by police records and the media. Like elsewhere the poor, illiterate and unemployed segment of the population is most vulnerable and this is all the more likely if victims come from broken homes with abusive relationships. The general lack of awareness and apathy shown by concerned agencies enables this crime to go undetected. It also engulfs ignorant employers and official agencies who abet the crime because of lack of knowledge on trafficking and related national laws.

The limitation of the present study is that estimates of trafficking could not be provided even though it was not part of the objectives. The main source of information identified for the study was the rich data held by the RBP, in particular the data on missing persons. The Police department had always been a major partner of the NCWC and both individually and in partnership had called for more research on the issue of trafficking. However during the course of this study, the RBP was hesitant to release the data especially after it realized that the numbers of missing persons was alarmingly high. When approval was sought from the Ministry of Home and Cultural Affairs, the Minister who had earlier approved the study, relented and disallowed the release of data from the RBP. Despite this setback, data on missing persons from the districts as well as a review of an earlier data collected by NCWC was analyzed to inform the present study.

12. Recommendations

- (i) Provide training on human trafficking to law enforcement agencies, justice system, immigration and customs officials, labour and employment officers, officials from the dzongkhag, drungkhag and geog administration and health workers. The existent level of training on human trafficking is limited as indicated by the study and this might lead to less comprehensive services.
- (ii) Promote targeted awareness of human trafficking among the general public so that they are aware of the applicable laws including penalties for the offenders, the responsibilities of each individuals in regard to safeguarding against the traffickers, reporting mechanisms, protocols for rescue and rehabilitation of trafficking survivors, and scope and responsibilities of service providers.
- (iii) Develop a standard protocol for investigating trafficking cases by the law enforcement agencies and institute proper documentation through inter- agency collaboration. Partnerships and coordination should similarly focus on mechanisms to assist survivors and potential victims.
- (iv) Review the existing provisions in the Penal Code of Bhutan and the Child Care and Protection Bill with respect to trafficking and harmonize with the international laws to cover all dimensions of trafficking including revision of the quantum of penalties to be prescribed for the offenders.
- (v) Management of data on trafficking should be strengthened by building the capacity of data managers. This data should be shared among all stakeholders while maintaining the principle of transparency and accountability. Further analysis of missing persons and cases of trafficking should be undertaken to generate estimates of its magnitude.



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