



Child Trafficking in Nepal – the victim’s environment

“In Nepal increasing poverty is pushing women from a wide range of castes, including high-caste women, into selling sex. But the majority of prostitutes are from the politically marginalized hill tribes, and almost all of the girls trafficked to fill north Indian brothels are from Tamang, Lama, Magar and Gurung ethnic minorities. Their other distinguishing characteristic is that half of these girls come from families that are considered poorer than other families in their own communities. As most Nepali households are grindingly poor, this is poor indeed.

Nepal’s beauty hides desperate poverty. Tourists trek along scenic Himalayan trails taking photographs of charming villages, engaging children and breathtaking mountains. It is easy to see lots of smiles but so much harder to see poverty that leaves 50% of children with stunting as a result of malnutrition. According to the World Bank around 40% of people live in absolute poverty. In other words, their income will not provide them with enough food to meet minimum calorie requirements. Development has left many Nepalis far behind. A glance at national per capita income suggests that the average Nepali is better off now than thirty years ago. Many of the poor would dispute this, and anecdotal evidence indicates that the poor are getting poorer. Certainly the gulf between the ‘haves’ and the ‘haves not’ is increasing year by year. Girls from communities like these staff large numbers of India’s brothels and the sex industry has grown fat upon the sale of their flesh.” (Louise Brown: Sex Slaves – the trafficking of women in Asia)



Awareness poster – published by the Nepalese NGO ABC

THE VICTIM

Trafficking of women and children are different issues. Women are not children. Women need to be empowered and children need to be protected.

“Still, many initiatives focus on the fight against trafficking in women and children at the same time, as both are considered to be most vulnerable to becoming victims of trafficking. Such equalisation of the situation of women and children has, however, provoked reactions against an uncritical generalisation of the trafficking of children and adults. It not only disregards the special situation, needs and developments relevant for minors, but is also reductionism towards women when they are treated like children.” (IOM: “Combating Trafficking in South-East Asia” Geneva, 2000)

After more than a decade of seminars, research, reports etc there is still no clear picture about trafficking and the victims of traffic. There is limited information about where the girls have originated, there are no quantitative reliable data about the numbers of victims, neither where they go nor who is in fact responsible. “The average age of the thousands of Nepali girls



recruited every year for prostitution in brothels in India has reportedly dropped in the past decade from fourteen to sixteen years in the 1980s, to ten to fourteen in 1991, despite new laws promulgated in both countries in 1986 designed to stem trafficking and child prostitution. Police in areas with a high incidence of trafficking state that the average age of new trafficking victims is about thirteen. However, trafficking victims are frequently coached by captors to conceal their true ages. Girls forced into prostitution in Bombay's brothels may remain in the brothel system for more than ten years, during which time they may be sold from one brothel to another many times." (*Human Rights Watch: "Rape for Profit-Trafficking of Nepali Girls and Women to India's Brothels."* 1995). "At the point of destination, bonded labour relations were said to exist, and girls reported that they were severely tortured, mentally as well as physically." (ILO: "*Nepal: Trafficking in Girls with Special Reference to Prostitution: A Rapid Assessment.*" Geneva, 2001)

"It was found that many trafficked girls who have returned home have died or have been affected by HIV/AIDS" (*ibidem*). "Obscure beliefs like 'sex with virgin' will cure STDs and sexual dysfunctions etc increase the vulnerability of children, especially the girl child. Children are trafficked for sexual exploitation because of the belief that they have lesser chances of being HIV/AIDS carriers. Studies point out that the age of the girls being trafficked to India is declining and the demand for virgin girls is increasing," (HAQ: *Centre for Child Rights: "Child Trafficking in India"* New Delhi, 2001) since clients seem to believe that children have fewer chances to contract this disease.



The victims are sold as merchandise for around 60,000 rupees (75 Nepali Rupees are equivalent to 1 USD). A brothel owner can earn up to two million rupees from one girl within a period of five to six years. A girl's working period is generally up to six years, those girls wanting to stay can still use the brothel as long as they pay fifty percent of their earnings to the brothel 'madam'. According to a brothel owner, clients are less attracted to girls who were five or six years servicing clients. (Tanka Pant: "*The death of Dignity*" in '*Mother, Sister Daughter*, Kathmandu, 2002). "The girl children interviewed for the ILO-IPEC rapid assessment describe their experiences as 'hell'. The majority of girls in the study were forced into prostitution within one day of their arrival, and the average duration of stay at a brothel was 24 months. On average, girls were forced to serve 14 clients per day, with a minimum of three and a maximum of forty persons. Three-fifths of the respondents reported that their clients used

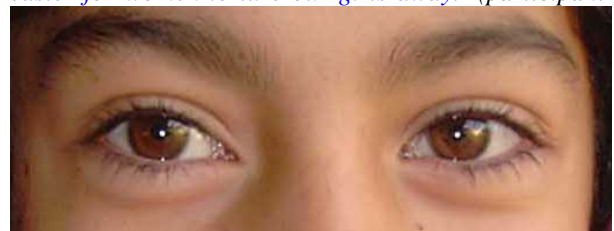
condoms sometimes, rarely, or not at all, putting the girls at high risk of contracting HIV/AIDS or other sexually transmitted diseases. Those who return home face severe social stigma and exclusion, and many are HIV positive." (ILO: "*Understanding Children's Work*". Kathmandu, March, 2003)



THE TRAFFICKERS

Besides family members and people from the communities like friends, school teachers, local politicians, unemployed adults there are the members of the organised crime syndicates like employment agents, corrupt officials, pimps, labour contractors, paedophiles and local criminal gangs. In a recent study an effort was made to understand how girls are trafficked. "Most girls reported that family and community members were involved in the process of trafficking, and only 10.8 percent cited strangers." (*The Asia Foundation: "Community Perceptions of Trafficking and its Determinants in Nepal"*; 2001). "Both the stereotyped broker and middleman, represented by a neighbour, a massage parlour owner, a restaurant owner or a truck/bus driver as well as family members including parents are actively involved in the trafficking process." (ILO-IPEC: "*Trafficking in Children – South Asia (TICSA)*" 2001). "Brothel owners are another group of girl traffickers. These are mostly Nepalese women who migrated to India in search of jobs or who had been trafficked for prostitution themselves. These women, called "GHARWALI", visit Nepal and smuggle a number of girls from Nepal to India. The parents or guardians of the girls are assured that the GHARWALI will help the girls get good jobs." (Yuabbaraj Sangroula: *Trafficking of Girls and Women in Nepal*, 2001)

"In one of the districts, community women in focus group discussions reported that these traffickers were often women because few people would suspect or even notice when two females talk with each other as compared to seeing a strange man talking to women or girls of the community: '*It is women who are trafficking our daughters and sisters. People become suspicious if a man and woman or girl talk in private but they do not suspect a woman or a girl talking to a strange woman even for a long time. Thus it becomes easier for women to lure our girls away.*' (participant



in a focus-group-discussion of community women)” But some also hinted that those involved in trafficking do not necessarily work alone and indicated a collusion between those within the community and those outside of it: ‘*We feel there is a gang of traffickers*’ (participant in a focus-group discussion of adolescent girls). *Trafficking is a coordinated activity where both villagers and outsiders are involved. The villagers take the girls from the village to the border and from there on the outsiders take over.*’ (Participant in a focus-group-discussion of adolescent girls) (The Asia Foundation: “Community Perceptions of Trafficking and its Determinants in Nepal; 2001).

Although the study of ‘New ERA’ has been conducted in 1998, the findings concerning the traffickers are still valid: “Local men and women were identified as the main agents for trafficking. Close relatives and returned commercial sex workers CSW also play a substantial role. Thus, traffickers, in which the escorts may also be included, as most of the girls are duped with promises of jobs and fake marriages even when going voluntarily, include many more kinds of people than the professional broker per se. It shows that in the villages, if people want to they can prevent most of the trafficking, as they know the traffickers. The problem arises when close relatives and parents sell girls to traffickers, knowingly or unknowingly. This finding contrasts with the general belief on overwhelming involvement of criminals in the sex trade. At grassroots level, it is the people the girl knows and trust who play a crucial role in their trafficking. Professional criminals seem to take over only afterwards” (New ERA: “A Situation Analysis of Sex Work and Trafficking in Nepal with Reference to Children.” Kathmandu, 1998).



THE CLIENT

If there is no client there would be no sex industry. Interestingly there are almost no information or studies found that deal with the men as the client and, therefore, criminal who is seeking sexual services by children in the sex industry. Clients have been given remarkably little attention in research work and campaigning policies against trafficking of women and children. Even though the transaction of a sex worker is impossible without two parties, a sex worker and a client, the bulk of social research has focused on the role of the sex worker only – an indication of biased gender preference in research work. “It is undeniable fact that ‘men’ are the main consumers in the sex market. It is thus essentially regulated by male behaviour. Why then is the ‘poverty’ or ‘ignorance’ of girls or women victimized always put in forefront as cause of trafficking? Why is men’s lust for the right to buy sex through the bodies of women and girls not



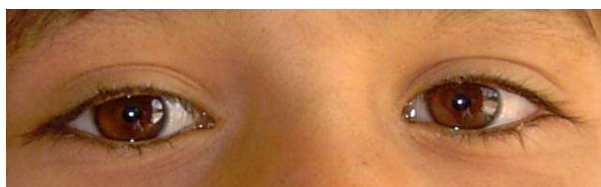
considered as a cause of trafficking? Why is the State’s insensitivity to the problem of women’s exploitation not taken into account when examining the cause behind the problem?” (Yuabaraj Sangroula: “Trafficking of Girls and Women in Nepal” 2001). If there would be no market, women and children would definitely not be taken into the business. Patriarchal domination of the society allows double standards for sexual behaviour of men and women. The plight of women and children in prostitution is never a matter of concern for the clients.

“If mentioned at all, the client is faceless, even if generally foul. On the one hand, when a girl returns to Kerala or Nepal from Bombay with AIDS, the blame is once again put on her for bringing AIDS home. Those primarily responsible for HIV movement, migrant mobile males, are off the hook. On the other hand, the discourse masks the real identities of the clients – stereotyping them as greasy old men with STD or as ignorant, sex-starved construction workers. Denying the fact that clients are just regular guys, and denying that prostitution is, in part, a male response to arranged marriage and South Asia mores take the men out of the equation – and makes enforcing measures against trafficking, child prostitution and HIV extremely difficult.” (Frederick J.: “Deconstructing Gita.” HIMAL; Kathmandu, 1998).

Although men are visiting brothels and are transmitting infections to wives and other women, they are not condemned but women and girls are ostracized, thus leading again to a double victimisation of women and girls who have been trafficked.

The procedure is that “the broker charges 100 percent extra for a Nepali girl. An additional fifty percent is charged for a fresh Nepali girl. After payment the client can spend half an hour with the girl. If the client wants more than half an hour, he has to pay extra according to prior arrangement with the ‘madam’. The charge varies from 150 to 300 Indian rupees for half an hour and 1000 to 2000 rupees for a full night.” (Tanka Pant: “The death of Dignity” in ‘Mother, Sister Daughter – Nepal Press Review on Women; Kathmandu, 2002).

“Finally, we should note that where societies are hierarchically stratified along ethnic, racial or caste lines, and/or are deeply xenophobic, then it is possible for adults from dominant groups to sexually exploit children from inferiorised groups without this interfering with their view of themselves as moral and



good. Research shows that historically and cross-culturally, a large percentage of clients seek prostitutes whose racial, ethnic, caste or national identities are different from their own. Thus we find that women and children in prostitution serving local demand are often migrants, and that men's prostitute-use increases when they are abroad." http://www.ecpat.net/eng/Ecpat_inter/projects/monitoring/wc2/yokohama_theme_sex_exploiter.pdf

LAW ENFORCEMENT

The numbers of traffickers brought to court are extremely low without any improvement over the years. Recently in an article of a daily newspaper it was stated that "only 150 cases were registered in the court last year when the number of women trafficked in a year is more than 5000." (*The Kathmandu Post: Awareness vital to curb trafficking in women. March 28, 2003*). It seems nothing has changed since 1994/1995, when "only 150 cases were reportedly investigated by the enforcement agency in the fiscal year of 1994-95. This number has decreased in subsequent years where only 133 cases were investigated in 1995-96 and 107 cases in 1996-1997." (*CeLRRd: "Impact of Corruption in Criminal Justice System on Women." Kathmandu 2000*).



VICTIM JUSTICE SYSTEM

Victims are not protected by the laws of the State of Nepal. "The victim of trafficking is an important witness of the prosecution during the trial. However, the State has no means of protecting such witnesses. The victim is often exposed to the danger of being threatened or forced by the accused to change their statement or become indifferent to the case." (*ibidem*)

The existing laws in Nepal clearly state "the victim, his/her relatives or any other person knowing about a crime must report it to the Police immediately" (*CeLRRd: "Research Report of Trial Court System in Nepal." Kathmandu, 2002*). But it is obvious that the ordinary people do not positively respond to this very law, and communities do not cooperate very much in investigation of crimes. "Despite the fact that the Constitution of the Kingdom of Nepal, like all other good constitutions, enshrines social justice system as one of its distinguishing features, it is indifferent to victim justice system. In the constitution, much is said in favour of criminal justice system almost without a word in favour of the victim justice system." (*Mukunda Das Shreshtha: "Domestic violence and the victim justice system in Nepal." MS-Nepal Newsletter, 2002*). Therefore, it is also only consequent that 'victims' rehabilitation has not been a concern of the State. For example, fines paid by offenders go to the State's exchequer rather than victims. Thus, crime is a source of revenue for the



State, and the State's responsibility is confined to declaring a judgement rather than dispensing justice; hence, no further investigation is further carried out if a person prosecuted is not found guilty." (*CeLRRd: "Research Report of Trial Court System in Nepal." Kathmandu, 2002*)

There are many factors, which prevent victims, especially girls, to file complaints against traffickers. The majority of victims have no access to lawyers who could represent their interest or concerns. The victims are also left vulnerable to revenge from offenders, since they are not protected by law. They are unwilling to file a case because it takes too much time until the case will be taken up by a court or the procedure is too intimidating.

"In particular, the harassment caused by long, tedious and treacherous cross-examination is something that is most beautifully entertained by the defence counsels, the court clerks, the witnesses of the accused, the press and the public in general. As discovered by the interviews of 12 victims, who had been cross-examined, 3 of them had severely been screwed with the following kind of sexually harassing questions without any objections of the courts and prosecutors:

How many people did you sleep with a day in the brothel?

Answer: Silence

Does your silence mean you have not been in the brothel?

Answer: No. I was.

Then why don't you answer the question?

Answer: Three/four people a day.

Could you tell us in detail what happened to you the first day, and how many years you spent in the brothel?

Answer: The victim cries out." (*CeLRRd: "Impact of Corruption in Criminal Justice System on Women," Kathmandu 2000*)

"Very few victims come forward to vent their grievances let alone lodge a complaint to the police station. Consequently, few cases end up in the court. Even if they do, very few verdicts go in favour of the victims" (*ibidem*). "A careful study of 51 cases in three districts of Nepal mainly Sindupalchowk, Kathmandu and Nuwakot revealed that only 26 per cent of the accused were prosecuted. Out of 41 per cent cases, it was found that only in 4 per cent cases, the government



prosecutors had ordered the police for further investigations. While in 59 per cent cases, adequate evidences were not collected. This is a clear reminder of insensitivity of police and prosecutors on the plight of the victims. Similarly, only 36 per cent of victims reported prompt acceptance of complaints by the police. While 54 per cent complaint of harassment and obstruction by the police while lodging the complaint. The victims also claimed incidents of police setting free the accused in 4 per cent cases after taking bribe. This shows the callous nature on the part of police. Similarly in 41 cases, judges were found to be absent. Interviews with 83 people involved in the prosecution processes such as judges, police and government prosecutors were taken to gauge the effectiveness of criminal justice system in Nepal. Ironically, only 3.61 per cent expressed satisfaction with the present state in the system. While the majority of 54.22 per cent expressed misgivings about the system” (*ibidem*).

“Participation of victims during trials is not considered important. There is a belief among judges that the absence of victims during trials makes no difference to judgment. Often, victims know nothing of decisions made by the courts. Obviously, victims are simply forgotten during the trial.

Confidential hearing of cases concerning private matters is so far not a practice in Nepal. Even the most heinous crimes such as rape, which are most deserving of sensitivity, are tried in open court, subjecting victims to terrible sexual harassment. Closed camera courts are never used in the trial of cases where the issue of sexual relations is a matter for decision. In such circumstances, victims are shy to talk about what happened to them, and unfortunately their reticence is used against them. This situation is evidence of gender biases in justice, and denies women access to criminal proceedings. Their situation alone prevents the realization of impartial justice.” (*CeLRRd: “Research Report of Trial Court System in Nepal.” Kathmandu, 2002*)

“Under the Nepalese criminal judicial system, a victim can make no access to appeal independently. If the State do not want to proceed the case in appellate level, the victim can do nothing of her own. If the Government intends to withdraw the charges, it can do so without consent of victim. Her disagreement to withdrawal has neither force nor remedy.

In the past, the Nepali Congress [Party] and Communist Party of Nepal (United Marxist-Leninist) governments withdrew 500 criminal cases without notifying the victims. A majority of cases was related to crimes related to trafficking. Indeed, under the



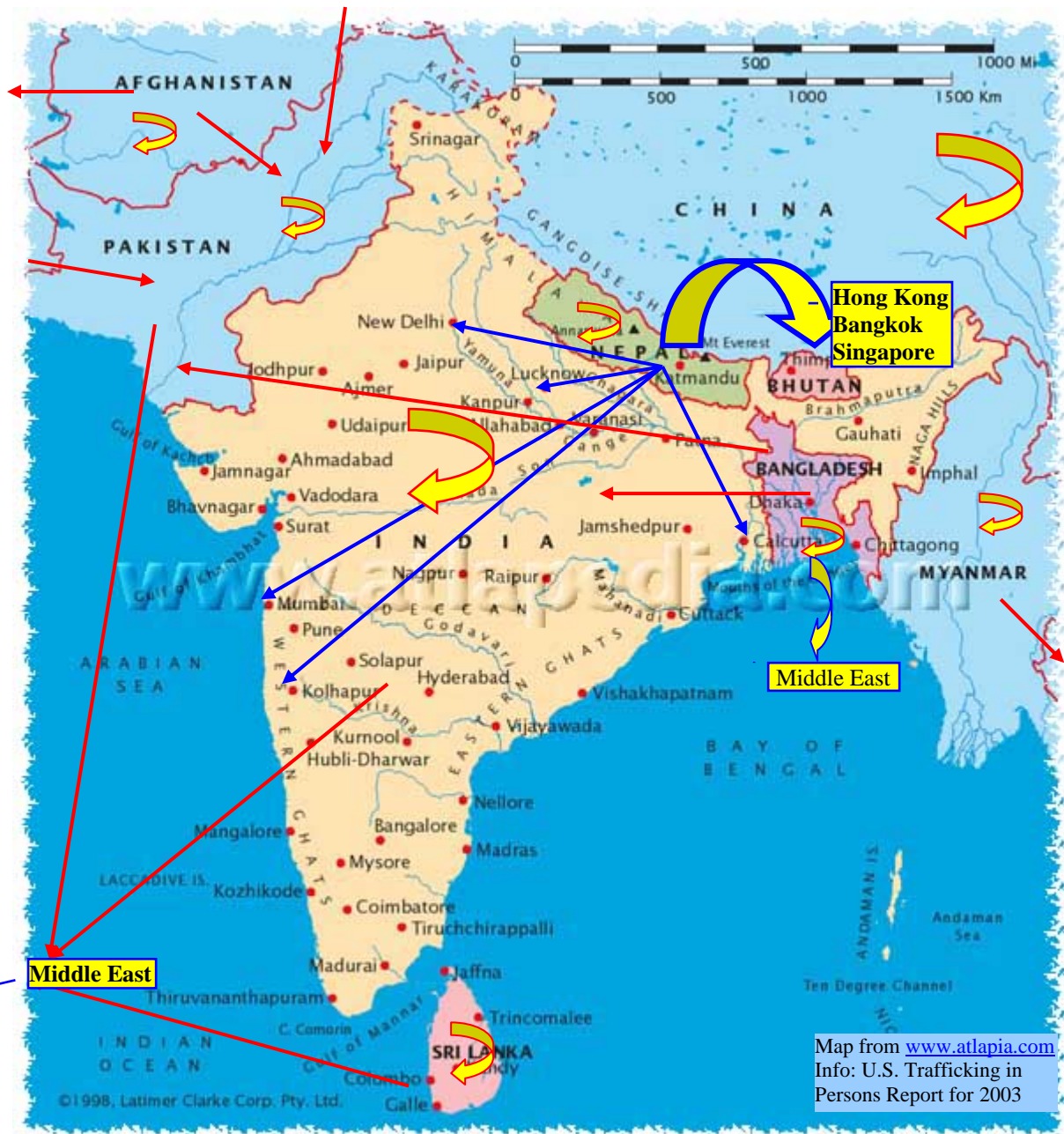
present circumstance in Nepal, criminal justice means nothing for the victims: they are neither compensated for suffering nor are involved in the criminal proceeding as an essential witness” (*CeLRRd: “Impact of Corruption in Criminal Justice System on Women,” Kathmandu 2000*).

In addition there is a series of weaknesses in the criminal justice system, which might also contribute to low or even falling numbers of crimes reported to the police and prosecuted, as stated in CeLRRd’s research paper (*CeLRRd: “Research Report of Trial Court System in Nepal.” Kathmandu, 2002*): During investigations there is “the tendency of delegating or shifting the responsibility for investigation over to inexperienced and minor Police personnel, Police personnel are largely insensitive to the human rights of both victims and detainees, the common practice of ignoring victims as important witnesses of the prosecution is widespread, the interests and rights of victims are rarely considered while prosecution is made, courts are unconcerned with the situation of victims, victims lack of representation does not bother judges when dispensing justice, delays in justice are a common phenomenon.”

“Corruption in the law enforcement bodies as well as in judiciary has resulted in extensive distrust of the police and the criminal justice system. Gender-based discrimination exists at every stage of the criminal proceedings. For example, police do not consider an offence against a woman a crime that poses a serious threat to the security of the society. A common perception among both law enforcement and members of the community is that women who are victimized deserve it because of their own ‘immodest’ dress, or BAINSE (acting seductively). Moreover, failure on the part of the lawyers and courts to scrutinize all available evidence and investigate all relevant documents seriously hinders the attainment of a just result. Consequently, many women see no reason to bother with the humiliating process of reporting an assault, allowing thousands of incidents of rape, violence and trafficking to be committed without redress.” (*Yuabaraj Sangroula: “Trafficking of Girls and Women in Nepal.” Kathmandu, Nepal, 2001*)

ILLEGALITY FACTOR OF VICTIMS

Due to their illegal status in the host country victims of trafficking are further criminalized and victimized. The extreme vulnerability of trafficked persons is due to the fact that almost everything regarding their status is illegal, which forces them to live hidden and invisible lives in shadow economies and which is further victimizing them:



Map from www.atlapi.com
 Info: U.S. Trafficking in Persons Report for 2003

-  Internal Trafficking: Afghanistan, Pakistan, India, Bangladesh, Sri Lanka, Myanmar, China and Nepal
-  External Trafficking from Nepal to India, Hong Kong, Bangkok and Singapore
-  External Trafficking from Iran to Pakistan, from Central Asia to Pakistan, from Bangladesh to India, Pakistan and Middle East, from Afghanistan to Iran and Pakistan, from Pakistan to Middle East, from Sri Lanka to Middle East, from Myanmar mainly to Thailand and from India to Middle East

- Without valid travel documents their status of living is illegal
 - Their age is often below the legally stipulated age of employment
 - The conditions of work are illegal
 - The brothels in which they reside are illegal
 - The 'business' environment like pimps, brothel owners, and co-sex workers are illegal
- The illegality factor prevents victims of trafficking not only to access their basic human rights, but forces them to avoid any law enforcement on them. In addition it strengthens the ability of their employers or exploiters to further exploit them.

“She wondered why the Nepali government did nothing to rescue them since there were so many Nepali girls in Mumbai brothels.” (Tanka Pant: “The death of Dignity”; in ‘Mother, Sister Daughter’ – Nepal Press Review on Women. Kathmandu, 2002)

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