

## Sexual Exploitation and Trafficking of the Young and Vulnerable: Reflections on a Legal, Ethical, and Human Rights Disgrace

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Sexual exploitation and trafficking of the young and vulnerable has devastating consequences for their physical and emotional development, health, and well-being. The horrific treatment they suffer bears virtually all of the hallmarks of evil made manifest. Finding effective remedies is challenging but essential. The prevalence and persistence of this phenomenon is an ethical, legal, and human rights disgrace.

For far too long, this reality remained invisible and resistant to change. In the 1990s sexual exploitation and trafficking began to receive increased attention in the media, legislative bodies, and international forums. In spite of wider recognition, progress in addressing the problem is haltingly slow in relation to its magnitude. In ethical, legal, and human rights terms this a huge problem, with profound implications for society, policy makers, judges, lawyers, health care professionals, and young people themselves.

Consider two typical cases:

Case 1: United States—“Esperanza”

Esperanza is 13 years old. Her younger brother is 10 and her younger sister is 8. Their mother is from Mexico, but Esperanza and her siblings were born in the United States. The 3 children live with their mother and her boyfriend in a

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<sup>1</sup>Supported by the Radcliffe Institute for Advanced Study, Harvard University, and by the Oak Foundation. The views expressed are those of the author alone.

<sup>2</sup>The author gratefully acknowledges the research assistance of Sophie Legros and Emma Wang.

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small apartment in a rough neighborhood. Esperanza's mother is intermittently employed and has a serious alcohol problem. The boyfriend is violent toward everyone in the family, but especially toward Esperanza, ever since he tried to have sex with her and she resisted. One day after a particularly violent episode, Esperanza leaves and goes to the mall. A young man approaches her, compliments her on her good looks, and buys her a meal. He is handsome, seductive, and romantic. They continue to meet often. Soon she is staying at his apartment most of the time. She thinks he is her boyfriend. One month when he is short on money for the rent, she reluctantly agrees to have sex with someone for money to help him out. This quickly turns into a routine, and something she cannot refuse without his becoming violent. He forces her to have sex more and more frequently—often many times a day—with paying clients, but he keeps all the money. The violent treatment by the young man and the clients results in numerous physical injuries. She also becomes infected with several STIs. After several months of repeated unsuccessful attempts to escape her pimp's control, one day Esperanza is arrested. Neither the young man nor any of the clients is arrested. Esperanza is charged with prostitution and held for several weeks in juvenile detention. Because it is her first offense, after a hearing in juvenile court, she is released on probation and instructed to live at home, attend school regularly, stay away from the young man, and avoid prostitution. She does not receive alternate shelter or housing, health care, counseling, or any other support.

#### Case 2: Nepal—"Asha"

Asha is the eldest of 6 children, living with their father and mother in a small village in rural Nepal. Asha is very beautiful and, in spite of her family's severe poverty, she has reached age 13 without serious health problems. Her family survives by subsistence farming on their small plot of land and is deeply in debt to the local moneylenders. Asha's brothers go to school, but Asha and her sisters do not. One day a man known to the family's neighbors in the village comes to Asha's home and offers to take her to "the city" where he will find her a "good job." He tells her parents he can give them an "advance" on her wages—an amount equal to about 15 US dollars—and she will send money home every month. The parents agree to let her go with the man, who takes Asha to a city near the border with India and "sells" her to another man who confines her for a week in a hotel, where she is repeatedly raped by several men. She is then drugged and transported on a bus across the border to Mumbai, where she is again "sold" to a brothel owner. In the brothel, Asha is forced to have sex every day with 15 or 20 clients. If she resists, she is locked in a basement with snakes and rodents. She receives no money, lives in squalid conditions, and becomes pregnant 3 times, compelled each time to have an abortion and return to work in a day or two. She is told she cannot leave until she has "repaid" the amount the brothel owner paid for her, a virtual impossibility due to the high interest charges continuously swelling the "debt." Asha's parents receive no money, do not hear from her, and have no idea where she is.

These two fictional accounts are replicated in real life tens of thousands of times—or more—each year, in the United States and globally.<sup>1,2</sup> Each time adolescent girls or very young women and teenage boys or very young men are exploited in this way, not only is their health and development put at risk, their very humanity is jeopardized.

How can this occur in the 21st century, with so little being done to prevent or remedy it? What makes it possible for the perpetrators of these acts to do so with impunity? Why do individuals and governments tolerate this profound violation of basic ethics, clear laws, and well-recognized human rights? How can we protect the humanity of the affected young people and prevent the widespread devastation caused when they are sexually exploited and trafficked? To answer these questions fully requires consideration of profound philosophical, social, economic, and legal problems and concepts. This chapter offers some preliminary reflections.

#### **WHO, HOW MANY, AND HOW MUCH?**

Each year hundreds of thousands of girls, boys, and the youngest women and men are forced into the commercial sex trade in the United States and in countries around the world. Globally the number entering the commercial sex trade annually is estimated at 1 million,<sup>3(p11,n22)</sup> in the United States at 100,000,<sup>4</sup> with triple that number—300,000—deemed to be at risk in the United States.<sup>5</sup> Some of these young people have been trafficked across borders—from Nepal to India, or Mexico to the United States—but others are trafficked and exploited within their home countries or local communities.

Who are these young victims? In the United States they are usually girls and boys who have been previously sexually abused. Most are very young, with the average age of entering prostitution in the United States being 13 for girls and 12 for boys.<sup>4,5</sup> Many are homeless or runaways.<sup>5</sup> Many have been in foster care or the juvenile justice system.<sup>5</sup> Being lesbian, gay, bisexual, transgender, or questioning puts a young person at higher risk.<sup>5</sup> They are often, but not exclusively, poor and members of minority groups.<sup>2</sup> Young and naïve, they are targeted and recruited in malls, at bus stations, or on the street.<sup>6</sup> Sometimes they need work or are desperate for something to eat or a place to sleep and engage in survival sex.<sup>5</sup> “Sometimes they think they are falling in love and fall into the depths of depravity instead.”<sup>7</sup>

In countries around the world, girls and boys who become victims of traffickers usually live in circumstances that make them vulnerable to predators: family poverty, lack of education, limited employment opportunities.<sup>2,8</sup> Traffickers employ deceitful practices to lure them away from home, often giving their families small amounts of money to manipulate them into thinking that their son or daughter is going to a good job and will send wages home.<sup>2</sup> The poverty and desperation of families in many countries have been exacerbated by the effects of globalization

and the economic policies of international agencies that undermine local economies, thus heightening the risk of trafficking, including sex trafficking of the young.<sup>2</sup>

Who are the perpetrators who prey on these vulnerable young people? On the “supply” side, those who buy and sell the bodies of the young or facilitate the buying and selling are international organized crime syndicates; local criminal networks and individual traffickers; brothel owners and managers; sex tourism agencies; and, increasingly, operators of Web sites and online services.<sup>1,2,5</sup> On the “demand” side, the “clients” or “johns” who purchase sex with young girls and boys range from chronic sex offenders to casual entertainment seekers; sex tourists to corrupt law enforcement officials, including police; and respectable citizens from all professions and all walks of life.<sup>1,2,5</sup>

The financial stakes are huge in the enterprise of sexual exploitation and trafficking: It is big business and the profits are enormous. Revenues from human trafficking are second only to the illegal drug trade and slightly ahead of the illegal arms trade.<sup>1</sup> Recent estimates suggest that more than \$35 billion in annual profits are generated by the commercial exploitation of “sex slaves,” many if not most of whom are girls and boys, the youngest women and men.<sup>2</sup>

#### HALLMARKS OF EVIL

Before harnessing “goodness”<sup>9</sup> to prevent, reduce, and remedy sexual exploitation and trafficking, we must understand the depth of “badness” involved. In truth, in virtually every dimension, this phenomenon embodies evil.

Philosophers have struggled for centuries to define evil.<sup>10</sup> One recent theory is particularly useful.<sup>11</sup> It posits that the critical elements of evil include foreseeable or appreciable harm, culpability in the *infliction or toleration* of that harm, and deprivation of basics that are “necessary to make a life possible and tolerable or decent.”<sup>11(p16)</sup> Those “basics” include “freedom from severe and prolonged pain and from debilitating fear; affective ties with other human beings; the ability to make choices and act on them; and *a sense of one’s own worth as a person.*”<sup>11(p16)</sup>

In virtually every respect, the elements in this theory of evil are matched by what occurs when young victims are sexually exploited and trafficked. The harms they suffer include the deprivation of each of the basics mentioned: pain; loss of emotional or familial relationships; limitations on choices; and, especially, a reduced sense of their own individual human worth.

In addition to being deprived of necessary basics, sexually exploited and trafficked girls and boys also suffer profound damage to their health, including multiple pregnancies and forced, unsafe abortions; STIs, HIV, and AIDS; other communicable diseases such as tuberculosis; physical injuries; starvation and

nutritional deficits; drug addiction; psychological trauma; and psychiatric disorders.<sup>6,12,13</sup> Mostly, they suffer these harms in utter isolation, limited in their freedom to exit the situation, seek help, or voice any protest against the harms and health hazards to which they are subjected.<sup>2,14</sup>

#### FAILURE TO PREVENT OR REMEDY

Harm does not only occur through direct action, but also often results from inaction. Inaction in turn may stem from many sources: lack of knowledge or awareness, denial, confusion, fear, reckless disregard, callous indifference, or lack of will. Harm can occur when individuals act or fail to act, and when institutions or governments do so.

For individuals and institutions to move beyond *tolerating* the widespread occurrence of sexual exploitation and trafficking of young people to *solving* the problem requires knowledge, awareness, clarity, courage, empathy, individual and political will, and a commitment to act. It also requires an understanding of human rights and laws and a determination to protect the rights and implement the laws.

For individuals, major obstacles to action are lack of awareness and denial. Sexual exploitation and trafficking is a problem that people—including me as author and you as reader—really do not want to know about. Yet it is happening on our doorsteps, “whether the doorstep is in Cambridge, Massachusetts, or Katmandu, Nepal, or Rio de Janeiro, or the Edo state in Nigeria, or Amsterdam in the Netherlands, or Amsterdam Avenue in New York City.”<sup>7</sup>

At the level of institutions and governments, failure to prevent or remedy the problem stems in part from lack of public awareness but also results significantly from a failure of political will. In the societal realm, sexual exploitation and trafficking is part of a continuum of neglect and abuse.<sup>7</sup> For all the lip service given to the importance of their needs, children and youth are often treated very badly.<sup>7</sup> Millions are forced to live in inhumane conditions and subjected to brutality and neglect. It occurs in countries around the world and in the United States.<sup>7</sup>

Children and youth are physically abused in their own homes, in foster homes, in juvenile justice facilities, on the streets, and in refugee camps.<sup>7</sup> Young people die of starvation and preventable and treatable diseases.<sup>7</sup> They are denied health care and education.<sup>7</sup> They are conscripted as soldiers and forced to kill and rape.<sup>7</sup> They are killed and raped.<sup>7</sup> A pattern emerges. As individuals and societies, we are willing to inflict severe harms on our young people or to stand by and watch (or turn away) while these harms are inflicted.<sup>7</sup> Sexual exploitation and trafficking is part of this pattern and must be understood as sharing many characteristics with other harms that are suffered by the young.<sup>7</sup> It is also a problem that merits specific attention in its own right.<sup>7</sup>

## TOWARD HUMANITY AND WHOLENESS

To ensure that girls and boys, young women and men, are protected from sexual exploitation and trafficking requires understanding, invoking, and implementing important guarantees of human rights, sound ethical principles, and effective laws. Many of these are already in place and widely recognized. Their application to the problem of sexual exploitation and trafficking needs to be better understood, and they need to be put into practice and enforced.

Many human rights treaties and declarations directly or indirectly address the problem of sexual exploitation and trafficking, particularly of children.<sup>12</sup> The Universal Declaration of Human Rights was issued by the United Nations in 1948.<sup>15</sup> As suggested by the 2 case descriptions at the beginning of this article—Esperanza and Asha—and extensively documented in the literature,<sup>1,2,5,12,13</sup> victims of sexual exploitation and trafficking are deprived of many of the rights explicitly affirmed in that Declaration as central to being human: life, liberty, and security of person; freedom from slavery or servitude; freedom from torture, cruel, inhuman, or degrading treatment; a standard of living adequate for health and well-being; medical care; freedom of movement; and freedom of expression.<sup>15</sup>

Two decades later, in 1969, the UN Convention on the Rights of the Child was adopted by the UN General Assembly<sup>16</sup> and subsequently ratified by all but two nations, the United States and Somalia.<sup>17</sup> This Convention recognizes that children have “the inherent right to life” and requires ensuring the “survival and development of the child.”<sup>16(</sup>Article 6) It also recognizes “the right of the child to the enjoyment of the highest attainable standard of health” and to “facilities for the treatment of illness and rehabilitation of health.”<sup>16(</sup>Article 24)

These general but critically important rights are supplemented by an Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution, and Child Pornography issued by the UN in 2000.<sup>18</sup> Child prostitution is defined as “the use of a child in sexual activities for remuneration or any other form of consideration.”<sup>18(</sup>Article 2) The United States is a signatory to this protocol, even though it has not ratified or assumed obligations under the Convention on the Rights of the Child.<sup>19</sup>

Thus, these and many other international declarations, conventions, and protocols recognize a series of basic human rights of critical importance in the struggle to combat sexual exploitation and trafficking. Human rights authority to defeat this problem is not lacking. What is needed is active enforcement of these rights together with active deployment of key ethical principles and implementation of effective laws.

Many foundational principles of ethics<sup>20</sup> are violated when vulnerable young people are sexually exploited and trafficked. Among the most fundamental,

particularly from the perspective of medicine and health, are respect for persons, autonomy, nonmaleficence, beneficence, and justice.<sup>20</sup> These are disregarded utterly by the perpetrators who inflict suffering on young victims.

But these ethical principles must guide health care professionals and legal professionals as our awareness of the problem increases and must motivate us to act and shape our actions. Many exploited and trafficked victims never find their way to a health care professional or a lawyer. Traffickers, pimps, and brothel owners confine them in isolated circumstances, preventing them from accessing health care or legal help. Sometimes “arrangements” are made with unethical doctors to provide an abortion or treat an injury or STI, while remaining silent about the reality of the situation.<sup>2</sup> Sometimes lawyers “represent” girls or boys who are prosecuted for prostitution by engaging in standard plea bargaining, without challenging the injustice of the way these young people are treated by the legal system while the traffickers, pimps, and johns go free.<sup>6</sup> Ethical behavior by health care professionals and lawyers must encompass both sensitivity and care for individual victims and public advocacy to advance their human rights and ensure their protection by just laws.

In the United States, many federal and state laws exist that can be used to reduce sexual exploitation and trafficking of girls and boys, young women and young men, or to redress the harms they suffer when they are trafficked.<sup>5</sup> These laws include the federal Trafficking Victims Protection Act (TVPA)<sup>21</sup> and numerous state laws such as laws against human trafficking, criminal laws outlawing sex with minors, child abuse reporting laws, and “safe harbor” laws. The TVPA generally requires “force, fraud, or coercion” for commercial sex to be considered sex trafficking; but in the case of young people younger than age 18, who are considered children, this requirement does not apply, and any commercial sex with a minor is “per se” trafficking.<sup>21</sup>

The emphasis in existing US laws is, overall, on prosecutorial approaches, which sometimes target the traffickers but, especially in the case of state laws, often target the young girls and boys who are victims, resulting in their arrest for prostitution rather than their rescue and rehabilitation. It is shameful that in the United States of America in 2011, a 13-year-old girl who is commercially exploited by a pimp can be arrested, tried, and incarcerated or put on probation for prostitution while the pimp and the johns walk away.

In Sweden, and a few countries that have followed Sweden’s lead, a law was passed that criminalizes johns, pimps, and traffickers, but decriminalizes prostitutes and victims of trafficking and exploitation.<sup>22</sup> And in New York State, the first Safe Harbor for Exploited Children law was enacted to require that children who are sexually exploited be treated as needing services, including shelter, counseling, and health care, rather than consigned to arrest and detention.<sup>23</sup> These provide important models for future policy.

Considering once again the two girls described in the cases at the beginning of the chapter, Esperanza in the United States and Asha in Nepal, what can be done to help girls and young women or boys and young men like them? Creative and dedicated survivors and advocates have created programs and established services to meet their needs.

Rachel Lloyd is a British-born survivor of the sex trade in Germany. After moving to the United States, she came into contact with girls in Harlem who were sexually exploited, as she had been. She established Girls Education & Mentoring Services (GEMS) in her apartment, using \$20 a week sent by her mother and another \$20 a week sent by her grandmother as the initial support for GEMS. Eventually she secured grants from foundations, and today GEMS is a \$3 million a year program, providing housing for 13 girls and their children, services to 330 survivors, and outreach to 1500 at risk girls.<sup>6,24</sup>

Anuradha Koirala is the crusader behind Maiti Nepal, a rehabilitation center and shelter in Katmandu, Nepal, she cofounded with social workers, teachers, and journalists. The center currently houses 400 women and children who are survivors of sex slavery, mostly in the brothels of India, and of other forms of torture and forced labor. Some of these young women become border volunteers. They watch for girls being trafficked from Nepal into India. They stop the buses and prevent the girls from being taken across the border, working with the border guards. As survivors of trafficking, they are familiar with the devious methods used by the traffickers, enabling them to identify victims. Anuradha Koirala has incurred significant personal debt to keep the organization afloat and help the girls she has rescued.<sup>25</sup>

Encouraging steps are being taken here in the United States and in other countries to address the problem of sexual exploitation and trafficking. Governments have enacted laws pursuant to international treaties, conventions, and protocols, but implementation lags behind the articulated goals. Numerous nonprofits and NGOs are working hard to prevent young people from being exploited and trafficked, to identify victims, and to provide services to survivors. Some of the most effective programs and organizations have been created by survivors themselves. They have helped to chart a path that helps us know what needs to be done.

The question remains whether we will do it. To take these programs “to scale” and reach all the affected young people, funding is needed that is far beyond the reach of the founders, individual donors, foundations, and even existing international and domestic government programs, many of which are currently at risk due to the recession and politics. Health care professionals and lawyers, working together, can help to raise the visibility of the problem; advocate for enactment and effective implementation of laws and treaties; demand necessary funding; and provide direct services to at risk youth, victims, and survivors. This begins to give a louder voice to the voiceless, visibility to the unseen, and help to those who are harmed.

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