

04



# CHILD PROTECTION

**TRAFFICKING  
COMMERCIAL SEXUAL EXPLOITATION  
VIOLENCE AGAINST CHILDREN  
JUVENILE JUSTICE  
CHILD INJURY**

For every child  
Health, Education, Equality, Protection  
**ADVANCE HUMANITY**

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# SITUATION REVIEW ON TRAFFICKING

## Regional characteristics

The trafficking of children and young people in the East Asia and Pacific region is a major social problem that represents a large-scale and unacceptable violation of fundamental rights. In addition, trafficking also causes rights violations by systematically restricting children's access to education and other social services and by compromising their rights to development and participation – a situation which in turn fosters the perpetuation of a social and economic environment that is conducive to further exploitation. While exact figures are impossible to confirm, it is estimated that around one third of the global trafficking in women and children occurs within or from Southeast Asia. Trafficking is increasing, at least in part, because of widening disparities both within and between countries. Lured by the proximity of comparative wealth, children – especially those who are marginalized – are increasingly easy targets for traffickers. At the same time, rapid urbanization is eroding traditional security networks within both families and communities.

## Dimensions of trafficking

There is a close link, and sometimes a fine line, between migration and trafficking in the East Asia and Pacific region. In many cases, young people and women migrate in search of better employment opportunities and a better future, only to find themselves in exploitative situations when they reach their final destination. Growing disparities within and between countries perpetuates and exacerbates this situation. If migration occurs, the exploitation (inherent in trafficking) can start at several different points including: the community or village; in transit; and at the destination. In the community or the village, children and young people can be deceived, or coerced and sold, while still in the village by an intermediary; in transit a child or young person can be tricked or coerced on the way to a real or supposed destination; and at the destination, where children and young people who have willingly undertaken the migration often find themselves in a situation of harm. Such a situation can reveal itself immediately (for example when the migrant is detained by an employer against his or her will, beaten, forced to work in difficult conditions or sold into sex slavery) or at a later point in time (for example when at the end of the contract the worker does not receive wages). This end-situation defines a migration experience as trafficking retrospectively.

It is important to note that commercial exploitation is a common purpose or consequence of trafficking and that trafficking often results in a chain of criminal acts that culminate in a child or young person suffering sexual exploitation. Children who migrate, are coerced to migrate, or are indeed trafficked

for other reasons apart from commercial sexual exploitation are still vulnerable to exploitation and sexual abuse. Isolated from family, community and normal protection mechanisms, often unable to speak the language and deprived of legal status, children trafficked for other purposes are at risk of sexual exploitation and abuse.

## Trafficking routes and purposes

Trafficking occurs within, between and through countries of the East Asia and Pacific region and all countries are involved in some way, either as the place of origin, as the place of destination and/or as transit locations. However, the trafficking of women and children is most serious in the Greater Mekong sub-region (Cambodia, Lao People's Democratic Republic (Lao PDR), Myanmar, Thailand, Viet Nam and the southern provinces of China), where borders are easily crossed and economic disparities are great. In Indonesia and the Philippines, children and young people are trafficked between the many islands as well as to industrialized countries. Destinations to where children and young people are trafficked within the region include Hong Kong and Japan, with smaller numbers of children and young people being trafficked to China, Malaysia, and outside the region, to North America, the Middle East and Western Europe.

Young people in search of better opportunities arrive, for example, in Thailand, from Myanmar, Lao PDR, China and Cambodia, and find themselves in factories, brothels, or households, in debt bondage or physically unable to escape. In Thailand and Lao PDR, ethnic minority children from poorer provinces are trafficked into the entertainment and commercial sex industry. In Viet Nam, young women go to China in search of marriage and instead, often find themselves sold as domestic slaves. Girls from Thailand and the Philippines are recruited for the entertainment industry in Japan and elsewhere only to find themselves bonded to prostitution by debts imposed upon them by traffickers. Other purposes of trafficking in the region include:

- trafficking from Cambodia, China, Lao PDR and Myanmar to Thailand for forced labour and other forms of labour exploitation, including the sex trade – within the context of widespread and irregular migration;
- trafficking from Cambodia to Thailand for begging, and lately from Viet Nam to Cambodia and Thailand for the same purpose;
- in-country trafficking of kidnapped children in China for adoption, and of girls for forced marriage; and
- trafficking of girls from Viet Nam to Cambodia for the sex trade, and from Indonesia and Thailand to Malaysia for same purpose.

### Overarching vulnerability factors

A complex set of interrelated factors contribute to making children and families vulnerable to the crime of trafficking. Poverty and lack of employment opportunities force both children and adults to seek alternative means of survival. Cities are increasingly magnets for migration, and rapid and uneven economic growth has led to increased levels of migration from poorer areas to richer ones, both internally and across national borders. Children and young people are lured or enticed to move in search of jobs, consumer goods and a better life. In particular, recent and substantial increases in access to electronic media, and the parallel and increasing reach of corporate advertising across the region has resulted in children and young people being more and more exposed to images of affluence that promote consumerism. Consequently, unrealistic expectations and materialistic aspirations are drawing people away from rural livelihoods to urban areas where they are vulnerable to exploitation and abuse. Other overarching factors relating to vulnerability include:

- lack of *citizenship* which is a major vulnerability factor for ethnic minority children and those whose births are not registered. Citizenship is often a necessary legal prerequisite that enables access to education, health and legal services, employment and land ownership;
- lack of *quality education* and a lack of access to information regarding the realities of migration prevents children and their care-givers from making informed choices;
- *abusive family environments* (sometimes influenced by alcohol and drug addiction and sometimes associated with the presence of step-parents), which can encourage children to leave home, thus putting them at risk of being trafficked;
- *gender inequalities* leading to a disregard for the rights and well-being of girls;
- *unemployment* among primary care-givers, which forces children to earn money; and
- *armed conflict* or war situations which push refugees out of their homes and communities and often into situations of extreme vulnerability.

### Major findings of research and study conducted on trafficking

A number of research studies and surveys including the First National Study on Trafficking in Lao PDR and the Trafficking from Community to Exploitation Project conducted in Thailand and Lao PDR, have highlighted the complexity of trafficking issues in the EAP region.

### Personal and community vulnerability

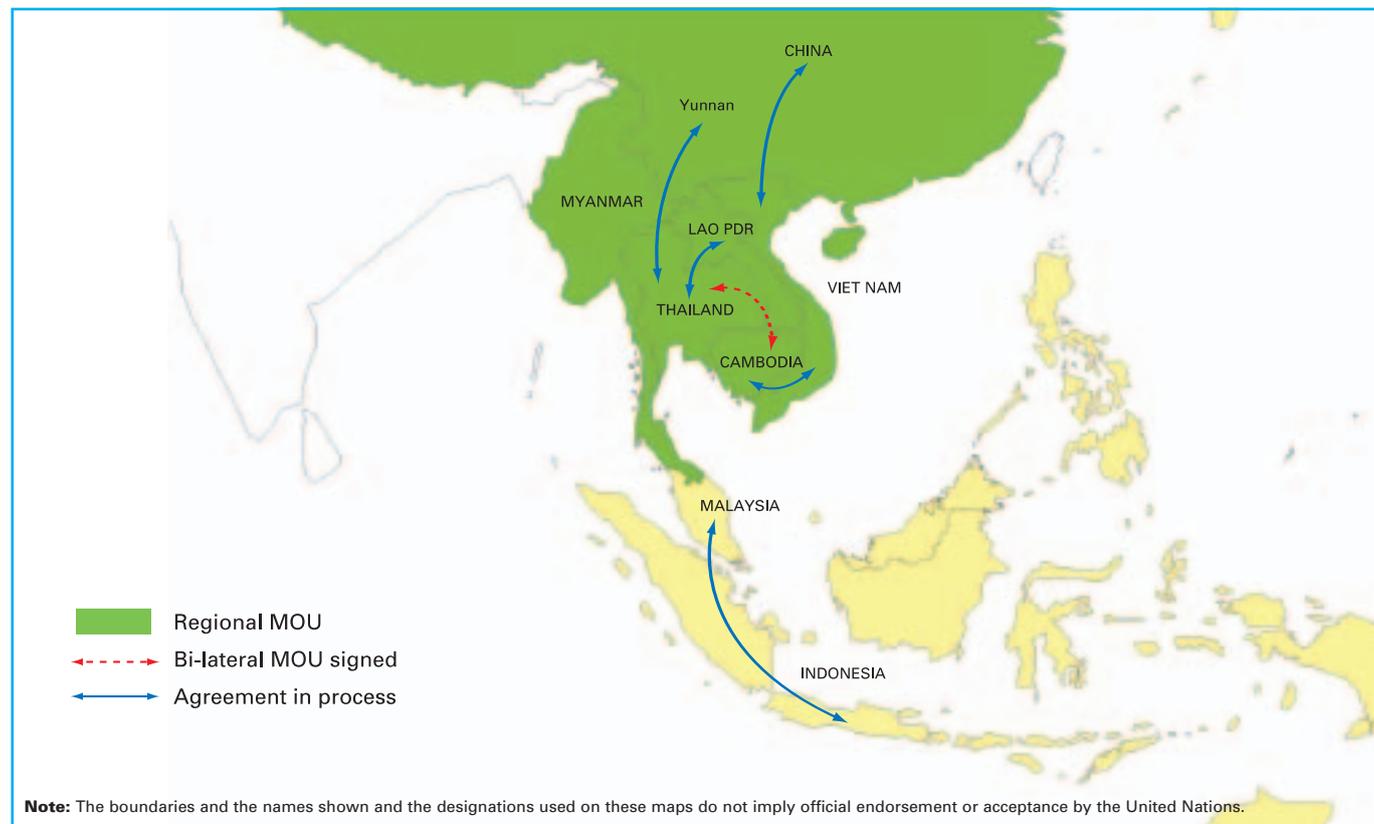
Poverty and a lack of education are certainly major contributing factors to the vulnerability of children and young people, but they are certainly not the only causes. Additional factors include:

- *inadequate education*: Although a lack of education often increases children's vulnerability to trafficking, many girl victims have five years or more of education. While having no education increases the chance of being *directly* co-opted into exploitative situations having *some* education can lead to raised expectations, a dissatisfaction with rural and/or agricultural lifestyles and an increased consciousness of the outside world. Often poor and/or rural communities offer limited opportunities for alternative income earning and are perceived as dull and limiting to young people exposed to the media. Research has shown that girls who have had some education are targeted by traffickers for both their commercial value and their impressionability. In many countries there is a lack of adequate life-skills education in schools. These skills can serve to increase the capacity of young people to assess and avoid risk;
- *the desire for an improved lifestyle* is becoming a major factor contributing to trafficking and exploitation of children. In some countries, studies are finding that many victims are not coming from the poorest households;
- trafficking of children and women is well organized. A number of studies are reporting that the depth of the problems is far more severe than previously anticipated, with corruption amongst local authorities being a major problem. Traffickers and agents for the commercial sex industry are often known persons living in the community or in some other way familiar to the victim. "Head hunters" from outside the community establish local linkages including the recruitment of local agents that entice and lure children into "assisted migration" or other situations that result in exploitation; and
- *shifting community vulnerabilities* occur once a community develops some capacity to protect itself from trafficking. Recruiters then move to another vulnerable community where there are no protection mechanisms.

### Cross-border cooperation to combat trafficking and facilitate the return of trafficked victims

Governments in the region are giving increasing attention to the importance of regional cooperation in order to combat the trafficking of children and women across their shared borders, and to ensure the safe return of victims. The first Regional Memorandum of Understanding (MOU) on cooperation against Trafficking in Persons in the Greater Mekong sub-region, which covers prevention, repatriation, reintegration and child sensitive procedures for victims, as well as the extradition and prosecution of exploiters has been signed by ministers from China, Cambodia, Lao PDR, Myanmar, Thailand and Viet Nam. An MOU between Thailand and Cambodia on Bilateral Co-operation for Eliminating Trafficking in Children and Women and Assisting Victims of Trafficking was also signed in Siem Reap on 31 May 2003.

Figure 4.1 Cross border MOU/agreements to combat trafficking of women and children



Source: UNICEF Country Offices / Government reports

This is a groundbreaking document as it is the first bilateral MOU in the region and took four years to develop and realize. The agreement clearly identifies responsibilities and mechanisms for both parties and includes the following key provisions:

- children are to be treated as victims, not as illegal migrants;
- children are not to be prosecuted for illegal entry by the sending or receiving country;
- children are not to be sent to detention centres but instead are to be treated humanely and given safe shelter, health care, legal assistance and access to an interpreter; and
- upon their return to their country of origin, the victims are to be provided counselling and support and helped to pursue and prosecute offenders.

Other regional efforts to combat trafficking include:

- **China and Viet Nam:** Co-operation between the two provinces at the shared border resulting in an agreement to undertake joint initiatives to combat trafficking with regular joint monitoring meetings;
- **Yunnan Province (China) and Thailand:** The first bilateral meeting led to the adoption of an “Appeal for Action”;

- **Cambodia and Viet Nam:** The two countries are negotiating a possible MOU to improve border controls and assist victims of trafficking;
- **Thailand and Lao PDR:** Discussions between the two countries were held to work towards the establishment of formal agreements and cooperation at different levels to combat trafficking; and
- **Indonesia and Malaysia:** Initiated positive discussions concerning potential cross-border agreements on trafficking

#### Action points

To increase the protection of children against the terrible crime of trafficking, Governments should:

- **Show a strong commitment to combat trafficking** by allocating resources to ensure that police are equipped to fight trafficking. Government officials and others need to be aware of the situation and the implications for children if they are going to respond effectively to the problem.
- **Develop and enforce appropriate legislation and international mechanisms.** Laws should not penalize children who have been trafficked. Cross-border international agreements help prevent trafficking and facilitate the safe return of trafficked children.

- **Ensure full reintegration and rehabilitation** for survivors of trafficking to help victims to escape their situation and to return to normal life. Services might include hotlines that children can call to ask for help or safe shelters. Survivors of trafficking may need special assistance and medical services, including confidential HIV/AIDS testing, as well as opportunities for education and vocational training.
- **Children are often lured with promises of money and a better life.** Children need to be offered practical skills that allow them to find viable alternatives to being trafficked. This could include vocational training or income-generating activities at the community level.

*In building a protective environment for children,*

- **Attitudes and practices need to change:** Beliefs about the role of girls, particularly a disregard for their education, can lead to families, inadvertently, putting girls at risk. Sometimes it is considered better for a girl to seek domestic work, perhaps in another country, rather than go to school.
- **Children need to be aware of the dangers of trafficking** so that they can protect themselves.
- **Awareness** among those interacting and working with children vulnerable to trafficking needs to be developed to recognize the signs and respond accordingly.
- **Media attention should be improved.** Many families and children are dependent on the media to inform and educate them about the dangers of trafficking. Media reporting of trafficking issues can also encourage, influence or pressure others, including government and civil society, to respond to the problem.
- **Child protection networks** should be used to monitor missing children in the community.

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## SITUATION REVIEW ON COMMERCIAL SEXUAL EXPLOITATION OF CHILDREN

The commercial sexual exploitation of children (CSEC) is a fundamental violation of human rights that results in significant psychological, emotional and physical trauma. In addition, the sexual exploitation of children severely curtails the realization of children's rights to development and participation, in turn leading to the perpetuation of child vulnerability and other conditions conducive to child abuse and exploitation. Children involved in CSEC are often separated from their family and are deprived of their rights to education. CSEC also has direct implications in regard to HIV/AIDS and other sexually transmitted infections which pose significant threats to the health and well-being of children and young people.

### Reasons that children are drawn into prostitution

**Demand** is the main factor driving the commercial sexual exploitation of children in the East Asia and Pacific Region. While it is commonly thought that western tourists play a major part in fuelling this demand, recent studies suggest that up to 95 per cent of clients of child sex workers in the East Asia and Pacific Region are local men, or men from neighbouring countries. At the recently held Post-Yokohama Mid-Term Review of the EAP Regional Commitment and Action Plan against CSEC, governments committed themselves to address the behaviours, beliefs and

attitude that drive demand for the commercial sexual exploitation of children. This includes investigating cultural mores such as virginity-seeking and child marriage. Governments also recognized that until demand is reduced, the commercial sexual exploitation of children will continue.

**Poverty and disparity** are factors. In a recent study on child prostitution from Lao PDR, 49 out of 131 respondents indicated that they became involved in prostitution to support the family. Across the region children have cited reasons such as peer pressure for entering prostitution. But these choices to enter prostitution are in many cases brought about by a lack of employment opportunities, particularly, although not exclusively, in rural areas. Furthermore, increasing exposure to mass media has resulted in children, including children from remote and rural areas, being exposed to images of affluence that both enhance their perception of their own poverty, and raise expectations for material gain.

**Education** services need to be free, compulsory, and of high quality. Education can protect against sexual exploitation by allowing children to find ways to support themselves and their families, although many victims of CSEC have at least five years of schooling. Therefore, the quality of schooling is

important and children need to be provided with **knowledge** of the dangers of sexual exploitation. Life skills education can be an effective approach to establish this kind of knowledge. Opportunities should also be provided for survivors of CSEC to express themselves at appropriate times in appropriate environments, as part of their healing process.

**Family dysfunction** and problems including divorce, domestic violence, sexual abuse, drug abuse and the loss of one or both parents are also known to play a role in increasing children's vulnerability to CSEC. In a recent study in Lao PDR<sup>1</sup>, significantly fewer of the prostituted children interviewed grew up with both parents than the national average, and approximately half the children interviewed referred to problems with the loss of parents due to divorce, death or separation. In Indonesia many child respondents to participatory research on CSEC identified a child prostitute as "a person who has been plunged into misery through the irresponsibility of parents." In the Pacific Islands a recent study has shown child sexual abuse is more widespread than initially thought and in the Solomon Islands cultural mores still force girls into early marriage. The vast majority of female sex workers in Timor-Leste surveyed in a recent study on trafficking stated that they entered into sex work after living through a trauma, such as divorce from their husband, rape, or losing their virginity to a boyfriend who then abandoned them. In some studies it has been noted that premature sexual activity is a factor influencing children's initiation into sex work.

**Families need to be supported in caring for their children.** This reduces the risk of children leaving home early, which can make them potentially vulnerable to sexual exploitation. At the same time, interventions need to be made when sexual abuse and domestic violence occur in the home.

**Cultural attitudes** across the region are contributing to children's level of vulnerability to traffickers, to levels of sexual exploitation and to levels of demand. Attitudes that accord subordinate status to women and children and the general lack of understanding of the importance of child rights have led to increased levels of vulnerability. In some parts of the region, (usually in more traditional areas), children, and girls in particular, may be viewed as a commodity by the family. This makes it seem acceptable to some families that they "sell" their children into the sex industry, and acceptable for men to purchase children for sex. Moreover, sexual activity is often seen

as a private matter, making communities reluctant to act and intervene in cases of sexual exploitation. These attitudes all make children, especially girls, more vulnerable to sexual exploitation. Myths about HIV/AIDS such as the notion that those infected can be cured through sex with a virgin, sex tourism targeting children, and technological advances such as the Internet, which has played a significant role in promoting child pornography, all contribute to increasing levels of child vulnerability.

**Peer pressure** can be a factor. Evidence from studies in Lao PDR and Indonesia suggest that peer pressure is increasingly playing a part in either influencing children to enter sex work or to make decisions that increase their vulnerability to trafficking and CSEC. In the previously cited study from Lao PDR, 27 girls out of the 131 interviewed mention the influence of friends and their desire for freedom as reasons for entering sex work. Likewise, in Indonesia, many children who took part in a participatory survey on CSEC cited the influence of friends as a determining factor. As children become involved in sex work, they tend to encourage their friends to do likewise and, in the context of the rise in consumerist values and the targeting of the young by advertisers, this may become an increasing cause of child vulnerability to CSEC.

**Everyone needs to be involved in fighting sexual exploitation.** Parents, communities, religious and community leaders, teachers, law enforcement officers and health and social service providers can all be partners in preventing the sexual exploitation of children if they are equipped with the necessary knowledge and skills.

**Organized trafficking** also obviously plays a part in exacerbating the commercial sexual exploitation of children in the region as it ensures that demand is sustained and in some cases increased, by guaranteeing the availability of children for commercial sex. Trafficking is in general, highly lucrative and well-organized making it difficult to combat. While it is something of a myth that many families *willingly* "sell" their children, poverty forces some families to send their children to work away from home, which increases their level of vulnerability to traffickers. Furthermore, a lack of education and knowledge of the realities of migration sometimes results in parents being vulnerable to believing the traffickers' false promises of a better future for the children.

<sup>1</sup> Some respondents were over 18 at the time of interview, but interviews referred to events when they were children

**Table 4.1 Status of the Stockholm Agenda for Action and the Adoption of the National Plan of Action against Commercial Sexual Exploitation of Children**

Pacific countries and territories	Stockholm/Yokohama commitment	Adopted NPA specifically on CSEC	East Asian countries	Stockholm/Yokohama commitment	Adopted NPA specifically on CSEC
Australia	28 Aug 1996	✓	Brunei Darussalam	20 Dec 2001	
Cook Islands (NZ)	19 Sept 2003		Cambodia	28 Aug 1996	✓
Fiji	20 Dec 2001		China	28 Aug 1996	
Kiribati			DPR Korea	28 Aug 1996	
Marshall Islands	20 Dec 2001		Indonesia	28 Aug 1996	✓
Federated States of Micronesia	10 Dec 2001		Japan	28 Aug 1996	
Nauru			Lao PDR	28 Aug 1996	
New Zealand	28 Aug 1996	✓	Malaysia	20 Dec 2001	
Niue			Mongolia	28 Aug 1996	draft
Palau			Myanmar	28 Aug 1996	
Papua New Guinea	26 May 2004		Philippines	28 Aug 1996	✓
Samoa	20 Dec 2001		Republic of Korea	28 Aug 1996	
Solomon Islands			Singapore		
Tokelau			Timor-Leste		
Tonga	30 Nov 1999		Thailand	28 Aug 1996	✓
Tuvalu			Viet Nam	28 Aug 1996	
Vanuatu	20 Dec 2001		<b>Total</b>	<b>14</b>	<b>5</b>
<b>Total</b>	<b>10</b>	<b>2</b>			

Source: ECPAT International

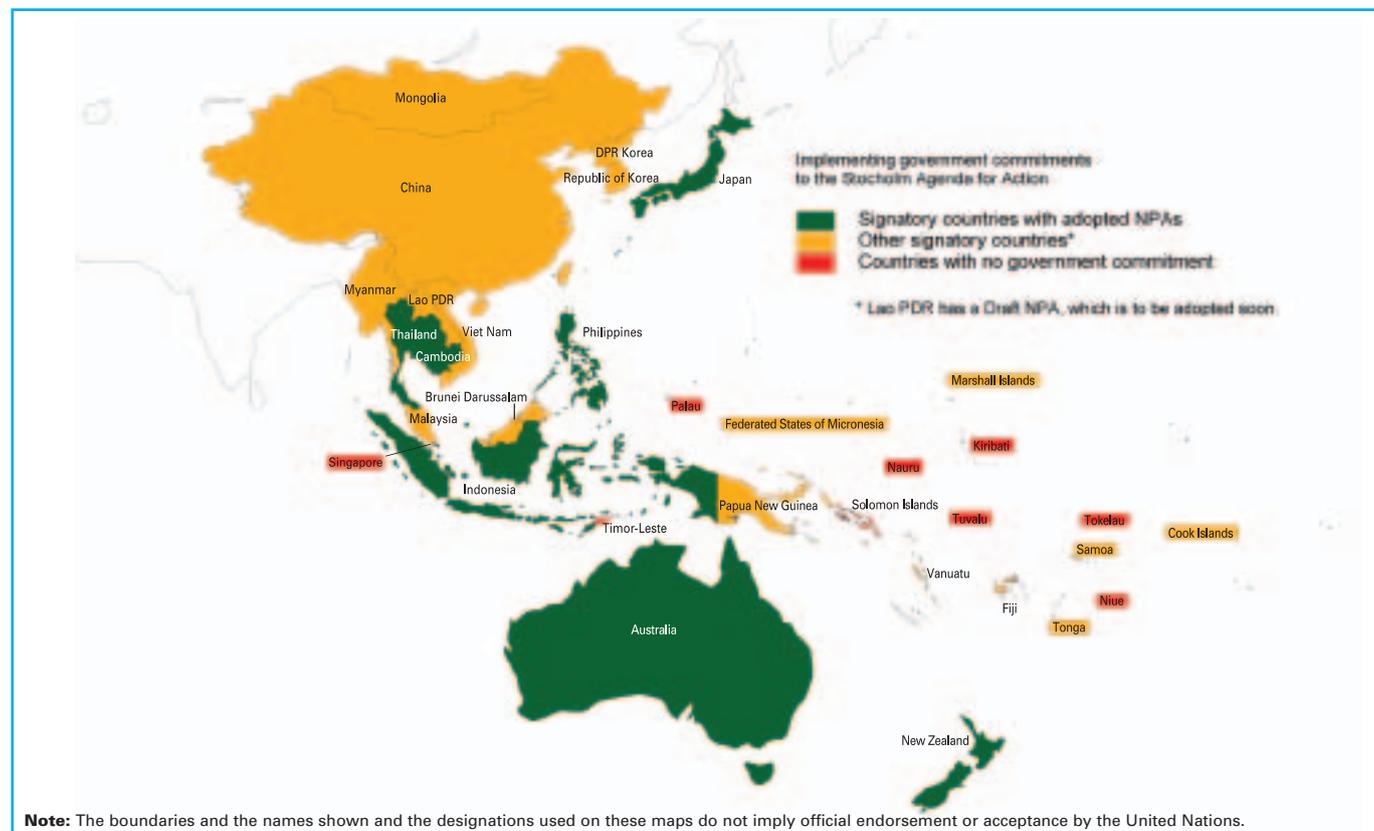
### Regional actions to combat the commercial sexual exploitation of children

#### Ratification of the Stockholm Agenda for Action

The Mid Term Review of the East Asia and Pacific Regional Commitment and Action Plan against CSEC provided an opportunity to identify gaps and review progress and actions taken by governments in the region since the Second World Congress on Commercial Sexual Exploitation of Children, held in 2001 in Yokohama, Japan.

A total of 24 governments in the region have adopted the Stockholm Agenda for Action. Of these, seven adopted the Agenda for Action at Yokohama in 2001, while the Cook Islands and Papua New Guinea adopted it in 2003. Among the Pacific Island countries and territories, at least seven have not yet adopted the Agenda, and in East Asia, the Governments of Singapore and Timor-Leste have not yet signed.

Figure 4.2 National Plans of Action against commercial sexual exploitation of children



### Adoption of National Plans of Action against the commercial sexual exploitation and related provisions

Seven governments have established a National Plan of Action (NPA) against CSEC: Australia, Cambodia, Indonesia, Japan, New Zealand, Philippines and Thailand. Indonesia is the only country to have developed an NPA against CSEC since Yokohama. Other Governments that submitted progress reports indicated they are in the process of developing NPAs against CSEC. These include Mongolia and Papua New Guinea, Lao PDR and some Pacific Island countries. In some cases, governments have established national plans and policies on children that include provisions related to CSEC, such as national plans on child protection, child development, the worst forms of child labour, and children in especially difficult circumstances.

#### Action points

An effective response to the sexual exploitation of children requires coordinated and consistent efforts at every level. Institutions have primary responsibilities.

- **Governments need to recognize the problem and respond.** Governments need to show commitment to creating strong legal frameworks that comply

with international legal standards, policies and programmes, and to enforcing and implementing them to protect children.

- **Laws that adequately punish people who sexually exploit children need to be in place and enforced.** Organized crime, corruption and bribery need to be properly addressed. A legal framework that protects the survivors of sexual exploitation also needs to be in place.
- **Monitoring and reporting are essential.** Services that allow children who are being sexually exploited to seek help, such as hotlines, are important. In some cases, an independent monitoring body, or an ombudsman who can monitor and advocate against CSEC is required. Data on child sexual exploitation also needs to be disaggregated by sex, age and ethnicity.
- **Survivors of sexual exploitation need to be cared for.** Laws and legal processes need to be designed so that survivors are supported, rather than punished. Services need to be in place that both rescue children from sexual exploitation and also provide them with care and support to return to a normal life, and if possible, to their families. Child survivors of sexual exploitation may need particular medical services, such as confidential HIV/AIDS testing and reproductive health services.

## SITUATION REVIEW ON VIOLENCE AGAINST CHILDREN

In 2003, UNICEF, through its country offices, carried out a regional assessment on violence against children. The issues of domestic violence and violence in schools (both including corporal punishment) were identified by most country offices as major areas of concern. Two other regional priorities are children in conflict with the law and violence on the street. Singapore, Australia, New Zealand, Brunei Darussalam, Japan and the Republic of Korea were not included in the assessment, as there are no UNICEF Country Programmes or offices there, but the main findings and trends may reflect situations occurring in these countries.

### Domestic violence

In many countries, children traditionally have a subordinate status in the family hierarchy and are not expected to question or react to parents. When this hierarchy operates in combination with one or more of a range of other factors (including alcohol abuse, poverty, unemployment and financial strain) domestic violence in the home can become a significant problem. Relevant findings from the assessment include:

- twenty-three per cent of the children in the region say their parents beat them when they do something wrong;
- in Timor-Leste (53 per cent), Cambodia (44 per cent) and Myanmar (40 per cent) physical punishment seems to be even more common. The only country covered by the regional assessment with a percentage under ten is Mongolia at 7 per cent; and
- abuse and maltreatment of children, including incest and sexual abuse in families and in the home, is an underlying cause for children running away from home.

**Figure 4.3** shows that high levels of violence in the home are evident in many countries. These data come from a 2001 survey (Speaking Out) of 10,000 children in the region.

### Violence in schools

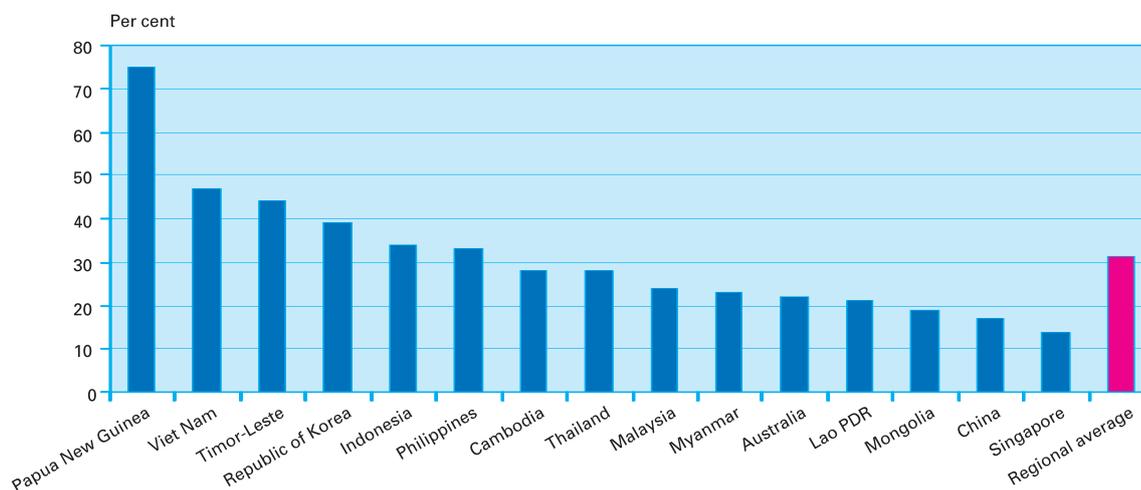
UNICEF country offices have less data on violence in schools than on violence in homes and among families, however, typical adult-child power dynamics also affect educational settings. The often high status of teachers, who in many cases belonging to more influential social groups, particularly in poor rural areas, sometimes results in families being hesitant to bring charges against teachers in child abuse cases.

- Violence in schools is one of three major areas of concern for UNICEF country offices in Indonesia, Mongolia, Malaysia, Thailand, Timor-Leste and Fiji. In Mongolia, bullying is the most alarming form of violence.
- Corporal punishment in schools is explicitly prohibited by law only in China, Thailand, the Philippines and Viet Nam. Violence in schools is mitigated through policies, guidelines and formal decisions in Lao PDR, Fiji and Timor-Leste. However, it is reported that physical punishment is often still practised even in countries where it is illegal.

### Violence in institutions

Marginalized children or children from less privileged environments often come in contact with child institutions. Violence frequently occurs in detention centres, orphanages and other institutions.

**Figure 4.3** In your home, do people hit each other?



- In six countries (Indonesia, Lao PDR, Malaysia, Myanmar, Papua New Guinea and Thailand) violence against children in detention centres and/or prisons and by police are ranked as main areas of concern by UNICEF country offices.
- Thirty per cent of detained children in a study of children in detention centres in Lao PDR reported that they had been punished at least once while in detention.
- Maltreatment of detained children and youth in the form of inhumane and unsanitary living conditions has been reported in many countries, including Mongolia, Cambodia and the Philippines.
- In spite of legal prohibitions, children and youth are not always separated from adults, making them vulnerable to violence and abuse by fellow inmates. This is the situation in many countries, including Mongolia, Lao PDR, Fiji, China, Cambodia and Timor-Leste.

### Violence on the street

Violence by law enforcement officials can affect any child in conflict with the law, but some groups are particularly vulnerable, including street children, children with unclear immigration status, or children who are victims of exploitation. Street children are vulnerable to gang violence, police brutality,

harassment from extortionists, arrest for petty crimes, and work-related exploitation.

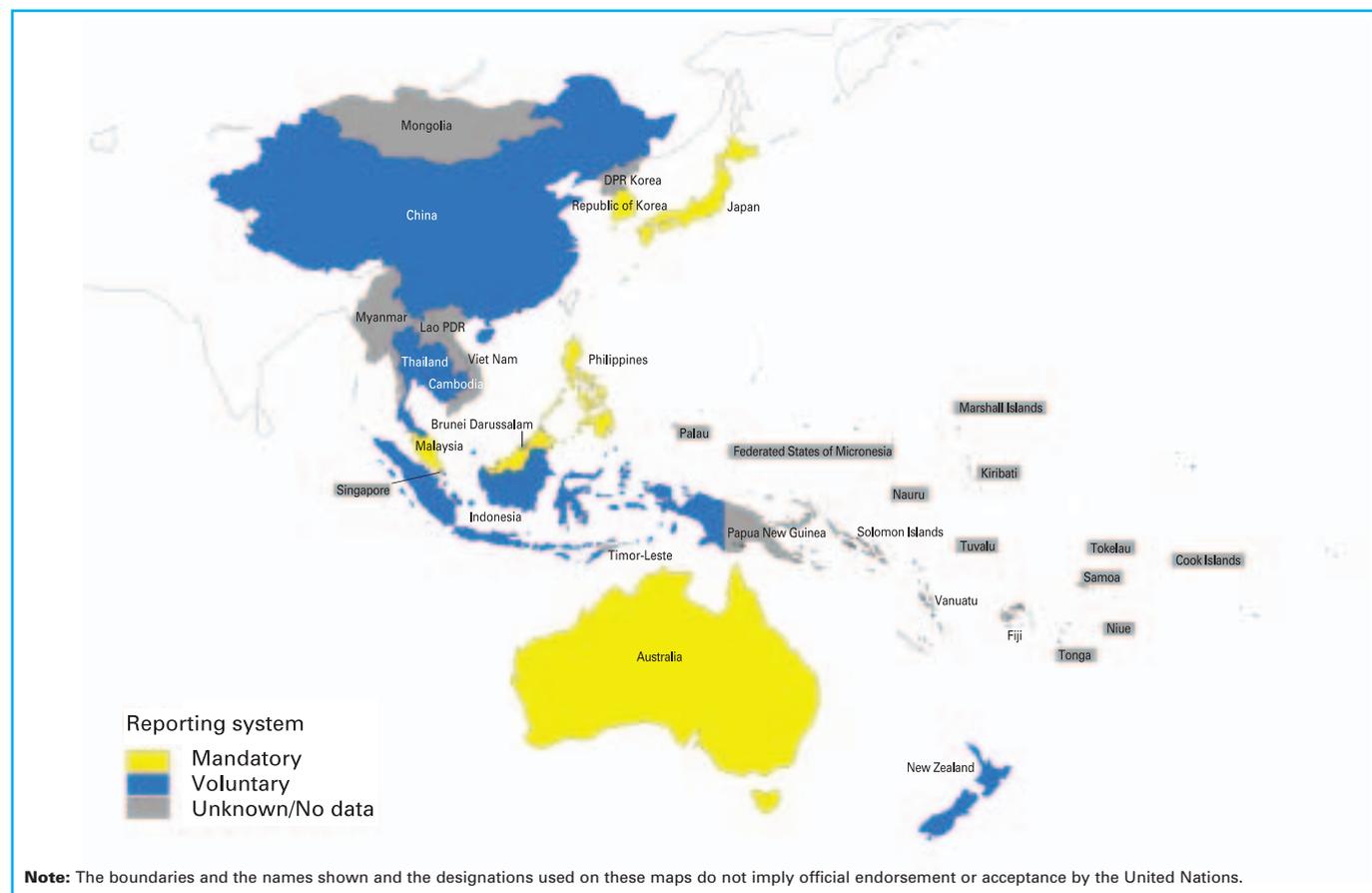
- In Lao PDR, 44 per cent of street children interviewed reported incidents of physical abuse.
- UNICEF country offices in Cambodia, Fiji, Lao PDR, Mongolia, Papua New Guinea, the Philippines and Timor-Leste ranked violence against children on the streets among their main areas of concern.

### Legislation

Most countries have some legislation for the protection of children against violence and abuse, but enforcement of child protection legislation tends to be hampered by inadequate implementation of guidelines and child sensitive procedures; ineffective procedures to protect child witnesses; unclear definitions of the types of violence and maltreatment within the relevant laws; and inadequate harmonization of legal frameworks.

Properly implemented reporting systems help authorities to better understand the nature of violence suffered by children and to identify the most appropriate measures to tackle problems. Among programme countries, mandatory reporting of child abuse in 2003 existed only in the Philippines and Malaysia.

**Figure 4.4** Countries with official government policy on reporting systems



**Source:** International Society for Prevention of Child Abuse and Neglect. World Perspectives on Child Abuse, The Fifth International Resource Book, 2002

### The UN Secretary-General's Study on Violence against Children in East Asia Pacific

**This Study has been mandated by the General Assembly** to draw together existing research and relevant information about violence against children. It will:

- **Focus on** *“the intentional use of physical force or other forms of power, threatened or actual, against oneself, another person, or against a group or community, that either results in or has a high likelihood of resulting in injury, death, psychological harm, maldevelopment or deprivation”.*
- **Promote ideas for action** to prevent and reduce such violence and to suggest ways in which these might be strengthened at local, national, and international levels.

Resources utilized will include:

- **A questionnaire for Governments**, to be completed in collaboration with a range of stakeholders – sent to all Governments early in 2004.
- **Regional Consultations** held in all regions of the world. Sub-regional, national and sub-national processes are expected to feed into the Regional Consultation for East Asia and Pacific that will take place between the 10 and 12 of May, 2005, in Bangkok.

#### Inadequate awareness of violence against children

Many governments – and even communities – are not aware of the levels and types of violence against children, so have no motivation to change anything. Researchers struggle to collect comprehensive and systematic data, often because data on child abuse, exploitation and maltreatment, when collected and recorded at all, is scattered among various government departments, local welfare authorities, hospitals, police officials and voluntary organizations. Weaknesses in data collection and collation particularly affect the most disadvantaged groups of children who are often missed by social welfare organizations.

The level of openness and awareness in relation to violence against children varies between countries but in general, substantial changes are needed to enhance understanding of children's inherent right to be protected from violence, and of the related obligations outlined in the Convention on the Rights of the Child.

#### Action points

What can be done to counteract the scourge of violence against children?

- **Improved monitoring and reporting are essential.** Much violence against children is hidden, making it difficult to secure commitments for change, let alone to plan responses. The monitoring and reporting of violence, including services such as hotlines that allow children to report cases of violence are essential. Information gathered needs to be disaggregated by gender, age and ethnicity.

- **Attitudes need to change:** violence against children is unacceptable and it cannot be considered normal and should always be challenged rather than ignored on the grounds that it is a private matter.
- **Governments need to show a commitment** to addressing violence within the home even though it is often viewed as a private matter in which the state should not interfere. One part of that commitment should be shown in the legal frame-work: violence against children needs to be prohibited by law – children should have at least the same legal protection from violence as adults.
- **Everyone needs to be involved.** Teachers, health and social workers need to be equipped with the skills to recognize when children are being subjected to violence, and to know how to respond – a referral service for case follow up is often necessary. The role of NGOs, communities and community groups, religious leaders and others is also essential. The media have a responsibility to help shape attitudes towards violence, and to ensure that child victims of violence are not stigmatized or put at risk by media coverage of their cases.
- **Children can be effective actors against violence.** They can learn how to identify potentially violent situations, how to avoid them and how to deal with them should they arise. Where safe and positive avenues for self expression and participation are not available there is an increased risk of children becoming involved in crime, drug abuse and associated violence.

## SITUATION REVIEW ON JUVENILE JUSTICE

### Increasing number of cases of children in conflict with the law in East Asia and the Pacific

In the last decade, the number of children in conflict with the law has reached alarming proportions and has increased significantly in almost all countries in the region. Data are not comprehensive, but examples include:

- **Indonesia:** 4,000 children are annually brought to court
- **Mongolia:** an increase in cases from 733 recorded juvenile crimes in 1991 to 1,676 in 2001;
- **Philippines:** 52,576 children have been deprived of their liberty between 1995 and 2000;
- **Thailand:** the proportion of offenders in the 7 to 14 years age group has increased;
- **Viet Nam:** from 1994 to 1999 the number of offenders has increased from 10,937 to 13,755; and
- **Cambodia:** using January 2004 data, children comprise 4 per cent of the prison population and 48 per cent of juvenile prisoners are pre-trial detainees, as opposed to 30 per cent of the total prison population.

Such high numbers and increases are not solely due to deviant social behaviours and/or changes in social attitudes more conducive to criminality. The background of children in conflict with the law, the nature of the crimes committed and low rate of repeat offences clearly show that increasing social disparities and economic inequalities within the East Asia and Pacific region also play a significant role.

The majority of children in conflict with the law commit petty crimes or offences related to drug abuse and roots of this kind of infraction are often economic deprivation and social marginalization. Minor offences against property reflect a neglect of basic emotional and physical needs. Poverty and unstable family backgrounds are determining factors that cannot be left out in understanding the characteristics of children in conflict with the law. Examples of crimes committed by children include:

- **Indonesia:** 73 per cent of children are sent to prison for petty crimes;
- **Mongolia:** between 1998 and 2002, approximately two thirds of children sentenced to prison were charged with non-violent offences. Theft is the most common crime among young people;
- **Philippines:** among children in conflict with the law, only 23 per cent committed a crime against another person;

- **Thailand:** In 2000, 57 per cent of cases of children in conflict with law were related to drugs; 23 per cent were property-related offences; and
- **Viet Nam:** In 2001 only 6 per cent of offences committed by juveniles were violent crimes; theft represented 52 per cent of the cases.

While not all youth in detention come from disadvantaged groups, street youth are consistently over represented in the juvenile justice system. The perception of street children as a threat rather than children in need of special protection is also reflected in much national legislation which still considers vagrancy as an offence in itself. This ultimately results in increased numbers of children being in conflict with the law.

### Low rates of recidivism

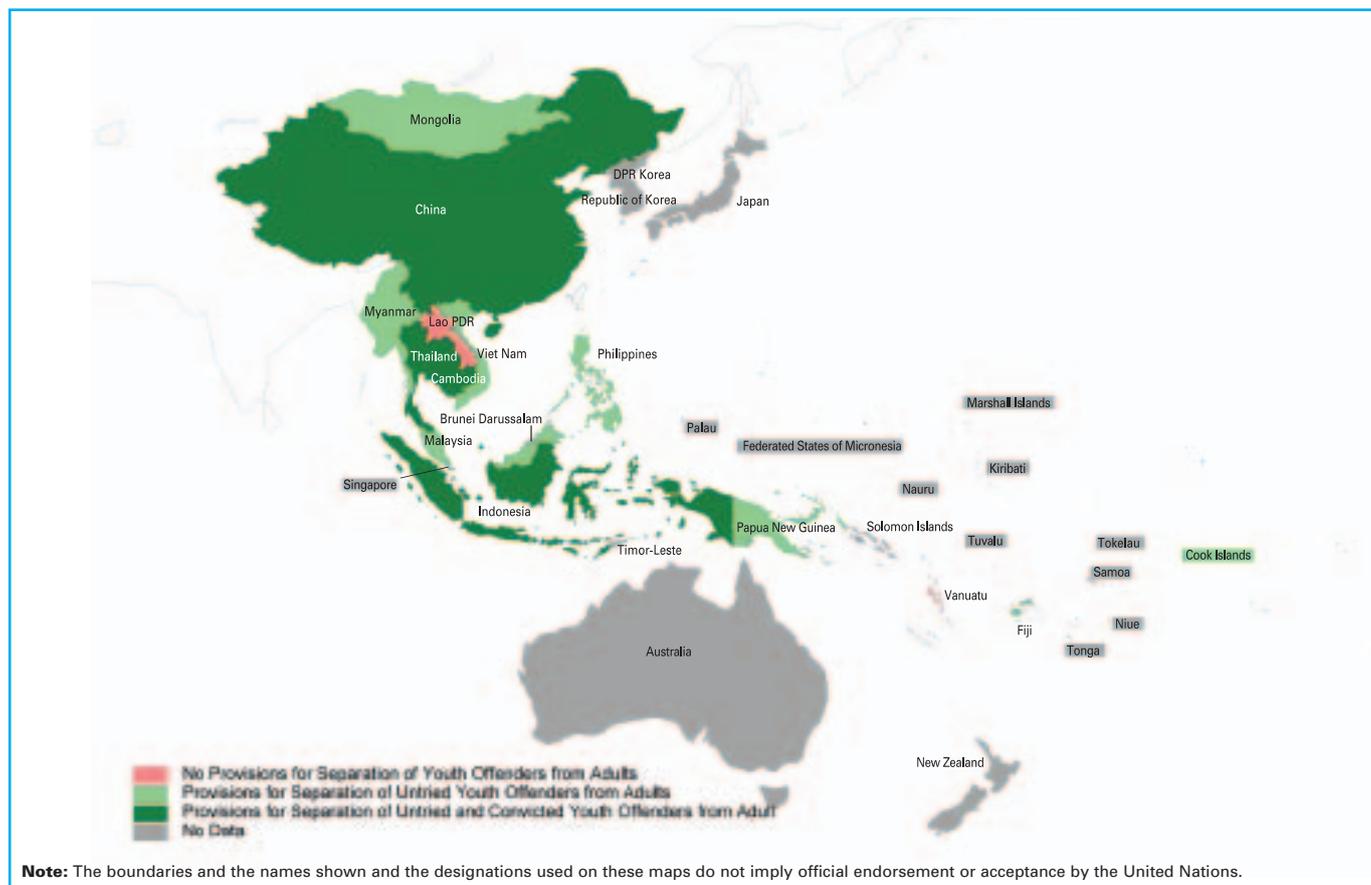
If minor offences against property, rather than violent crimes against persons, can be considered a reflection of root causes such as social disparities and economic inequalities as argued above, low rates of recidivism (repeated offences) demonstrate that children come into conflict with the law due to their circumstances rather than more complex behavioural deviance. Each country needs to improve its juvenile justice system by enhancing the quality and range of custodial measures for children. Globally it is estimated that there is an 80 per cent likelihood of deterring “first offender” juveniles, who represent a total of 90 per cent of the juveniles who come into contact with the law. These figures are also reflected in the East Asia and Pacific region. For example:

**Thailand:** children in juvenile courts for repeat offences ranged between 15 and 19 per cent in 1996 to 2000; and

**Mongolia:** between 75 to 80 per cent of young people who commit crimes do not reoffend, and a small minority of children (5-6 per cent) are responsible for the majority of juvenile crimes. In the Gants Hudag detention centre, between 1999 and 2001, only 15 per cent were repeat offenders.

However, custodial measures that are managed with punitive approaches and under undignified conditions will not enable a child to adequately reintegrate into social life and may lead to recidivism. Moreover, building a protective environment for children in conflict with the law is an institutional investment that pays multiple dividends.

**Figure 4.5** Legislation for separation of youth offenders from adults



**Source:** UNICEF Country Offices

### Children in detention

Reliable data on the number of children in conflict with the law are lacking or incomplete. It is also impossible to estimate regional figures due to the fact that many courts do not maintain case profiles and because detention centres often file imprecise registrations. Lack of knowledge on the situation of children in conflict with the law can also negatively impact on the potential for improvements in institutions. Recreational activities for children in prison are very limited and children spend most of their time idle and in combination with the frustrations of trial delays and the lack of family visits, inactivity can cause severe depression. It is important – and a commitment under the Convention on the Rights of the Child – for children not to be detained in the same place as adults where they are vulnerable to abuse, and less likely to have access to child-centred facilities. Examples of available data for children in detention include:

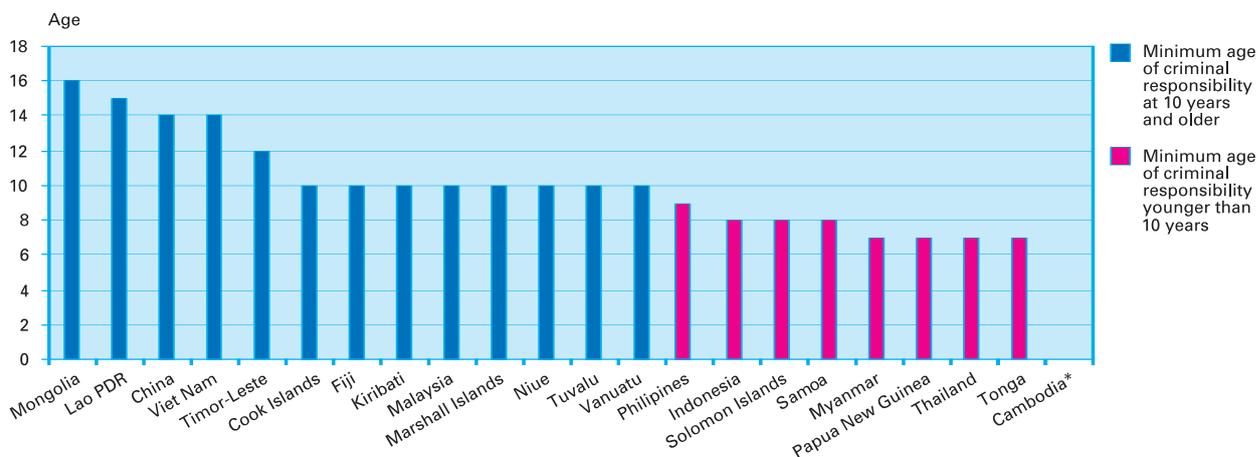
- **Indonesia:** in 1999, 7,321 children (56 per cent below the age of 16) were detained in prison or detention centres; 42 per cent of juvenile offenders sentenced to prison were detained with adults.

- **Philippines:** from 1995 to 2000, an average of 10,515 children were arrested and detained every year;
- **Lao PDR:** youth detained in custody, both pre- and post-trial, are often held in the same facilities as adults; and
- **Timor-Leste:** many of the children detained between June 2002 and December 2004 were charged with non-serious crimes, 47 per cent had lost one or both parents, and 67 per cent were out-of-school at the time of their arrest.

### Minimum age of criminal responsibility

States have discretion regarding the minimum age for criminal responsibility (the age at which a child can be tried for a crime). However, the UN Standard Minimum Rules for the Administration of Juvenile Justice (Beijing Rules) require that the age of legal responsibility not be set *too low*. The concept of an appropriate “minimum age” has been gradually integrated into much national legislation, but in eight countries the minimum age is still below 10 years.

Figure 4.6 Minimum age of criminal responsibility



\* The current practice of the judicial system in Cambodia is that children younger than 13 should not be held criminally responsible.

Source: UNICEF Country Offices

The Committee on the Rights of the Child has welcomed proposals to set the minimum age at 18, but we should not only focus on this numerical indicator as regardless of the minimum age, there may be practices for children under (or over) that age which impinge upon their rights, despite when the age cut-off is applied.

### Sporadic implementation of special courts and procedures

Four countries in the region (Cambodia, Fiji, Mongolia and Vanuatu) still have no special procedures for children who come in contact with the law. But even where special courts and related procedures exist, implementation is weak and sporadic. Child-sensitive procedures have only begun to be institutionalized in a few countries, so investigation and custodial centres can put children at risk. Examples include:

- many reports from Papua New Guinea indicate that some young people in conflict with the law are subjected to systematic and severe human rights abuses. There is even a slang term for one form of violence called “panel beating” where young people taken into custody are beaten by the police; and
- in Timor-Leste, a third of children identified in case studies have had pre-trial/trial detention periods of more than six months although, by law, children should generally not be detained for more than six months before being brought to trial.

Positive developments in the region include:

- **Thailand:** the 1999 Amended Criminal Procedure Code allows for better treatment of children in a non-threatening judicial environment which includes allowing children to be interrogated in a private setting, separate from adults, in the presence of psychologists or social workers and other persons requested by the child;

- **The Philippines:** the new Juvenile Justice Bill raises the age of criminal responsibility from 9 to 12 years old. It explicitly prohibits the detention of children with adults and calls for offenders of petty or victimless crimes to be redirected from the courts to diversion programmes. Most importantly, it aims to develop a comprehensive juvenile delinquency prevention programme; and
- **Papua New Guinea:** UNICEF has enabled different parts of the Government to work towards improvement in the juvenile justice system. Examples are as follows:
  - Children and juveniles who come into conflict with the law and who are formally charged with an offence now have the matter heard in one of seven Juvenile Courts operating in seven provinces. Hearings are presided over by a trained Juvenile Court Magistrate.
  - For minor offences, the child will not go into the court system, but through a diversion programme which redirects children away from the justice system into a court managed Juvenile Mediation Programme.
  - Police have been trained to implement the juvenile justice reforms and the Royal PNG Constabulary developed its first Juvenile Policy and Diversion Programme – principles and guidelines include revised arrest and charge procedures to give effect to restorative justice and the CRC.
  - Support for children and juveniles has been enhanced through capacity building of volunteer Juvenile Court Officers who advocate for juveniles at the point of arrest.

### Action points

There are three pillars which, if put in place, will form the foundation of a country where children are given the justice they deserve:

- **A “diversionary system”** so that children in conflict with the law for minor offences can avoid court appearance and criminal punishment;
- **“Restorative justice”** that does not involve putting children into detention or jail, but rather empowers the community, victims and offenders to take greater responsibility in regard to juvenile crime; and
- **Alternatives to deprivation of liberty** – whether awaiting trial or as a penal educational/welfare response – rather than children being locked up with little hope.

**Children who come into conflict with the law need to be surrounded by a protective environment** to minimize harm and maximize the possibility that they can avoid further conflict. This includes:

- **Governments committed** to ensuring that alternatives to custodial sentencing are in place and are utilized;
- **changing of all negative attitudes** and presumptions about juvenile justice;
- **law enforcement officials** and detention centre staff who are able to deal with children in an appropriate manner;

- **children who know their rights;**
- **levels of custodial sentencing for children monitored** (disaggregated by sex, age and ethnicity); and
- **services for rehabilitative responses.**

**A special protective environment is required for children under custodial measures:**

- **facilities and services** that meet all the requirements of health and human dignity, and adequate medical care, both preventive and remedial;
- **eradication** of all disciplinary measures constituting cruel, inhumane or degrading treatment, including corporal punishment, that compromise the physical or mental health of the child;
- **fair and humane treatment**, including the right to visits, to privacy, to communication with the outside world and to time for daily exercise;
- **education** (provided outside the detention facility by qualified teachers) suited to the child’s needs and designed to prepare them for a return to society; and
- **children detained separately** from adults, unless they are members of the same family.

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## FACT SHEET ON CHILD INJURY

### Situation

There is a growing consensus in the international public health community that injury is a leading cause of death and disability throughout the world. Despite large gaps in reporting, injury is estimated to account for almost six million deaths of people of all ages each year and is one of the leading contributors to the global burden of disease. As traditional child survival efforts have met with great success, mortality in most countries in the region has dropped significantly. This has allowed the full extent of the death toll from child injury to become more apparent. Injury is now a leading cause of death among all child age groups within most countries in the region. However, the impact of injury increases as the child grows older.

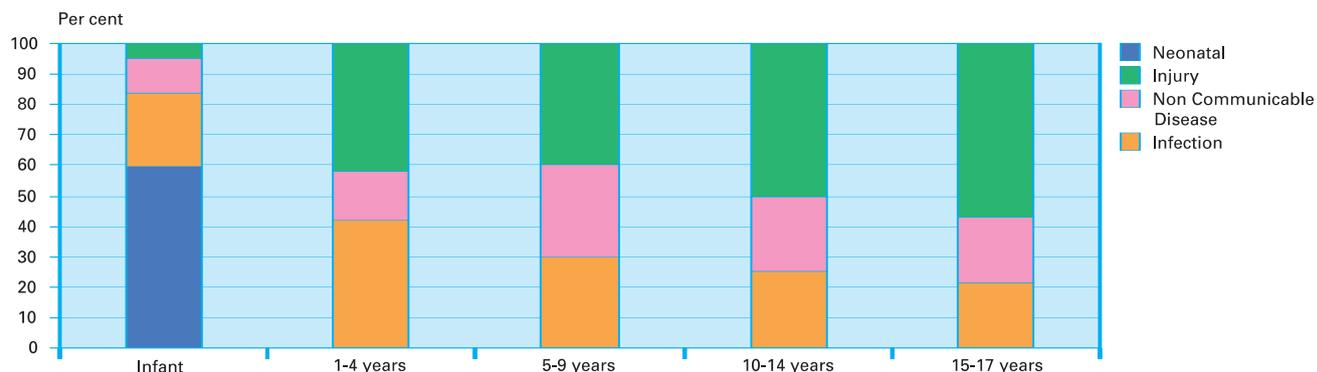
### Discussion

The leading causes of injury that lead to death differ by age group. Overall, drowning is the leading cause of child death in most countries for which data are available. The incidence of drowning, which can occur either during natural disasters or in ordinary life, is highest in late infancy and early childhood and then gradually decreases as children grow older. In countries with significant leftover landmines, unexploded bombs are also a significant risk to children. Transport related injuries, mainly road traffic accidents, become a leading cause of death, in late childhood and early adolescence and

continue to increase into adulthood. For younger children, deaths occur as pedestrians; in middle childhood, deaths occur largely as a consequence of bicycle accidents; and in late childhood and adolescence deaths occur with children as vehicle occupants or occasionally as drivers. At higher ages, from 10 and into adolescence, intentional injury (mainly suicide and assault) becomes a significant cause of death and in many countries is among, the leading causes of adolescent death.

Notably, deaths from injury are only the tip of the iceberg: for every injured child who dies, there are an estimated 20 more who are disabled with devastating emotional and financial impact on the children, their families and society at large. Common causes of non-fatal injuries include animal bites, falls, poisoning, electrocution, burns, scalding, suffocation, and injury caused by sharp objects. Non-fatal injuries have high economic costs and the more severe the injury, the higher the economic costs and social burden. A seriously injured child usually requires both parents to provide care, resulting in missed schooling for the child, and the loss of wages and earning potential for the parents. The costs of paying for treatment and the loss of earnings can place significant financial strain on families as well as on the social and economic advancement of countries in the region.

**Figure 4.7** Proportion of child deaths due to injury

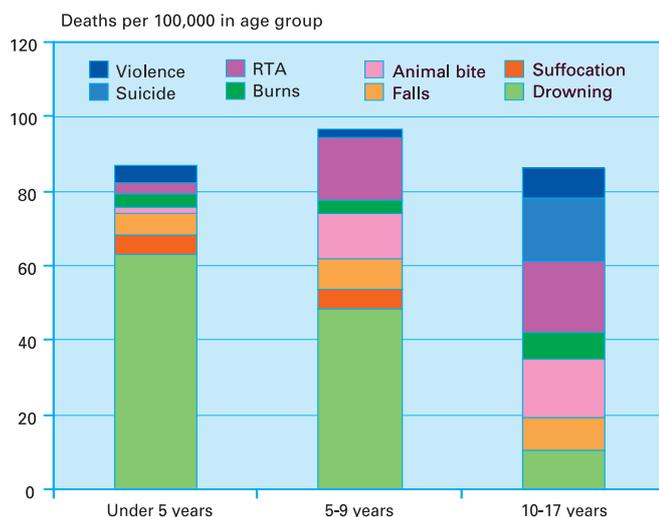


Source: Cumulated data from UNICEF/TASC survey in selected Asian countries (2001-2003)

Injury “orphans” are children orphaned due to the death of a chief provider and/or primary care giver. Injury was the leading cause of parental death and disability in all the adult age groups which had children less than 17 years of age. The younger the child is when a parent is lost to injury, the more severe the effect on the child’s future growth and development. Infants who lose mothers to injury are at greatly increased risk of other adverse health outcomes within the first five years of life.

Viet Nam is the first country in the region to develop a National Policy for Accident and Injury Prevention (2002-2010). The government of China also acted on the results of a Beijing injury survey and plans to implement community-based programmes in both urban and rural pilot areas and set targets for decreasing child injury. The next Beijing Plan of Action for Children (2006 to 2010) intends to integrate injury into school health surveillance systems and promote and enforce relevant safety policy and regulations.

**Figure 4.8** Injury rates by cause and age



Source: Cumulated data from UNICEF/TASC survey in selected Asian countries (2001-2003)

**Disparities**

The burden of injury is not equally distributed among or within countries and there are a range of social, economic and structural factors that contribute to inequity in the incidence of injuries. These include the age, gender, socio-economic status and location (urban/rural) of the injured children. Injuries bring dire consequences for those who are already poor and disadvantaged and moderate and low-income families are pushed towards poverty and family dissolution by surgical and rehabilitation costs.

Injuries often have a greater impact on women and girls than men and boys. Mothers and female siblings of injured children provide more care and pay a higher social cost. For example, mother and female siblings suffer more lost days of schooling and lost days of paid work than husbands and male siblings. In addition, injured male children receive more care and supplemental support, such as rehabilitation and continued education, than do female children.

Injuries tend to be more severe in rural settings which is in part related to the frequent amputations and severe scalds associated with agricultural machinery and harsh rural living environments. In contrast, injured urban children receive more medical care and social services than rural residents.

### Conclusions

Child injury is as preventable as are infectious diseases. Over the past 50 years, child deaths due to injury have been reduced substantially in industrialized countries. This reduction was not a natural outcome of economic development, but rather a concerted, collective effort that began with a recognition of the problem, followed by political commitment and policy changes.

Major prevention strategies include: (1) Educate the target population to be aware of injury risk, provide skills for them to practice safe behaviour; (2) modify environments to remove hazards and provide safety devices to reduce harm; (3) establish and enforce safety laws and legislation; and (4) multi-sector collaborations.

### Action points

Child injury is an urgent and seriously neglected problem in this region. The first step that must be taken is to **increase the visibility of the problem** through advocacy with policymakers, donors, partners and the general public.

Since 2001, five countries in the region (Viet Nam, China, Thailand, Philippines and Indonesia) have **conducted national or sub-national injury surveys** to define the magnitude of the problem and assess the risk factors and economic burden of child injury. Using data from these surveys, governments are taking initiatives to stop preventable injury. **All governments should conduct similar surveys** and use results to guide policy development and appropriate interventions.

**Governments in the region must now seriously consider how to significantly reduce child injury and deaths from accidents and neglect.** Policy makers must invest in public awareness campaigns, injury prevention programme development and implementation strategies to achieve similar results in mortality and disability reduction as those that have been achieved by past efforts to reduce infectious disease. The infrastructure created by traditional child survival programmes is well suited for preventing child injury and therefore, addressing child injury provides an opportunity to integrate resources and activities into other child survival and development programmes, as such increasing the cost-effectiveness of interventions undertaken. Such an approach should also provide an opportunity to implement intersectoral interventions that target children of all age groups.





The trafficking of children and young people in the East Asia and Pacific region is a major social problem that represents a large-scale and unacceptable direct violation of fundamental rights.

The issues of domestic violence and violence in schools (both including corporal punishment) were identified by most country offices as major areas of concern.

Due to declining morbidity and mortality from infectious disease, child injury has become an increasingly important component of child morbidity and mortality.



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**UNICEF East Asia and Pacific Regional Office**

19 Phra Atit Road, Bangkok 10200, Thailand

Tel: (662) 356-9499

Fax: (662) 280-3563

E-mail: [eapro@unicef.org](mailto:eapro@unicef.org)

Web site: [www.unicef.org](http://www.unicef.org)