

Orphanage Trafficking in Nepal: Legal Gaps, Protection Failures, and Reform Imperatives

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Abstract

This article examines the increasing phenomenon of orphanage trafficking in Nepal – a practice involving the coercive separation of children from their families and placement into unauthorized care facilities under false pretences, often for financial exploitation. Although the term “orphanage trafficking” is gaining traction both locally and internationally, it remains absent from Nepal’s formal legal framework. Employing a doctrinal approach, this paper evaluates relevant constitutional provisions, national child protection and anti-trafficking legislation, and international obligations to assess Nepal’s compliance with its legal responsibilities. The analysis reveals significant gaps in constitutional and statutory protections, particularly concerning victim identification, unlawful removal from guardianship, and oversight of institutional care. These violations are frequently subsumed under the broad category of “violence against children”, undermining their recognition and prosecution as distinct forms of trafficking and exploitation. The article critiques the limited capacity of oversight institutions—including the National Child Rights Council and local child protection authorities—to identify victims, monitor facilities, and enforce standards. Highlighting these legal and systemic deficiencies, the paper calls for the formal recognition of orphanage trafficking within Nepal’s domestic law and stronger alignment with international standards. It concludes with targeted recommendations to address legislative shortcomings and enhance accountability for safeguarding vulnerable children.

Keywords: child rights, human trafficking, institutional care, legal reform, Nepal, orphanage trafficking

Introduction

The phenomenon of “orphanage trafficking”—defined as the unlawful separation of children from their families, placement into residential care facilities under false identities, and subsequent exploitation for profit—has attracted growing global concern. In Nepal, however, the term remains unrecognized within the domestic legal framework. While the concept is not

widely understood among the general public or policymakers, it is increasingly employed in media and civil society discourse to describe practices such as falsifying children’s identities to present them as orphans—a tactic commonly referred to as “paper orphaning” (Doore & Nhep, n.d.)—and subjecting children to sexual abuse, forced labour, begging, illegal adoption, or servitude (Setter, n.d.). In extreme instances, reports have emerged

of children being trafficked for organ harvesting or them disappearing altogether.

This article critically examines the concept and legal implications of orphanage trafficking, underscoring the need to formally define and address the issue within Nepal's legal framework. It assesses two key legislative instruments: the Human Trafficking and Transportation Control Act (2007) (HTTCA) and the Act Relating to Children (2018), both intended to combat child exploitation. In addition, the paper evaluates the extent to which Nepal's legal provisions align with international legal obligations. Through analysis of constitutional, criminal, procedural, and child protection legislation, this article explores how Nepal's legal system addresses—or fails to address—the unlawful transfer and trafficking of children, mechanisms for victim identification, oversight of residential care facilities, and systemic responses to gaps and inconsistencies in legal and policy frameworks.

By identifying critical legal and institutional gaps, the study aims to contribute towards ongoing reform processes and enhanced enforcement practices, with an emphasis on advancing child protection and safeguarding the rights and best interests of children.

Orphanage Trafficking: A Complex and Hidden Form of Human Trafficking

Orphanage trafficking involves the recruitment, transfer, and harbouring of children into residential care institutions under false pretences—primarily for purposes such as profit-making, forced labour, sexual exploitation, or illegal adoption. Unlike more overt forms of human trafficking, this practice operates under the guise of charitable or humanitarian activity, rendering it more difficult to detect and challenge. It manipulates the prevailing social perception of orphanages as benevolent and altruistic spaces.

Theoretically, the separation of children from their families, parents, or guardians—particularly under coercive or deceptive circumstances—constitutes a violation of the child's rights as enshrined in the *Convention on the Rights of the Child* (1989). Orphanage trafficking

therefore amounts to a direct infringement on the human rights of children. Key rights—including protection from exploitation, the right to family life, and personal integrity—are compromised when children are treated like commodities and placed under institutional control.

This form of trafficking is rooted in structural violence. Systemic inequalities—such as poverty, limited access to resources and services, inadequate social protection mechanisms, and weak law enforcement—create conditions that heighten children's vulnerability to separation and exploitation. In line with Johan Galtung's argument, structural violence describes social structures that produce harm without direct personal aggression, a mechanism that aptly captures the invisible but entrenched dynamics underpinning orphanage trafficking.

The phenomenon of orphanage trafficking—which entails the recruitment, transfer, or harbouring of children into residential care institutions for purposes such as sale, forced labour, sexual exploitation, or illegal adoption—has increasingly come under global scrutiny. As Galtung (1969) observes, "*There may not be any person who directly harms another person in the structure. The violence is built into the structure and shows up in unequal power and consequently as unequal life chances*" (p. 171). This notion of structural violence is particularly relevant to orphanage trafficking, where systemic inequality and weak governance compound to place children at risk.

From a criminological perspective, "orphanage trafficking" relates to the "routine activity theory (Clarke & Felson, 1993)," which posits that crime occurs when motivated offenders encounter suitable targets in the absence of effective guardianship. In this context, traffickers, including corrupt orphanage operators, exploit vulnerable families in remote areas, encouraged by minimal regulatory oversight.

The transnational nature of orphanage trafficking further complicates its detection and prevention. Scholars and practitioners such as Punaks and Lama (2020) have documented the

involvement of state officials, adoption agencies, and even NGOs, with profit maximization driving operations masked by charitable narratives. This pattern echoes models of organized crime, where illicit networks operate under the façade of legitimate business interests.

While the Constitution guarantees special protection and facilities for children who are defenseless, orphaned, disabled, conflict-affected, displaced, or otherwise vulnerable (Art. 39(9)), significant gaps persist between legal commitments and real-world enforcement. The Act Relating to Children (2018) affirms the right to care and protection for children in vulnerable categories and prioritizes alternative care over institutionalization (§ 49). However, due to limited child protection infrastructure—particularly at the local level, where Local Child Rights Committees (LCRCs) are largely absent—institutionalization remains widespread.

As of July 2024, 10,882 children resided in 396 childcare homes across 46 districts (National Child Rights Council [NCRC], 2024). Between mid-July 2023 and mid-July 2024, the NCRC approved the establishment of 132 new childcare homes, with approximately 90% situated in major tourist destinations such as the Kathmandu Valley, Pokhara, and Chitwan (Better Care Network, 2024). Over half of these institutions were concentrated in Kathmandu Valley. Notably, in the first half of 2020, the NCRC rescued 80 children from various childcare homes, the majority of whom had living families, highlighting a troubling pattern of hazardous institutionalization and unnecessary separation (Dhungana, 2021).

The NCRC's 2020 status report indicated that, among 216 registered homes, 12 were in critical condition, 100 deemed satisfactory, and 102 classified as good (NCRC, 2020, p. 50). Conditions in unregistered facilities, however, remain poorly documented. The U.S. Department of State's Trafficking in Persons (TIP) Report (2020) estimates that more than 15,000 children reside across both registered and unregistered institutions in Nepal. Although terms such as *Children's Home*, *Child Care Home*, and *Orphanage* are used interchangeably (Next Generation Nepal, 2014),

their legal and operational distinctions are not adequately defined.

Children institutionalized under the guise of alternative care are often compelled to perform manual labour, beg, or entertain visitors to solicit donations (U.S. State Department, 2020). Despite widespread internal trafficking of women, men, and children in Nepal (Kiss, 2019), there remains a notable absence of empirical research offering comprehensive data on children trafficked into orphanages.

Building upon this theoretical framework, the present article critically assesses Nepal's compliance with its international legal obligations concerning child protection and anti-trafficking, as detailed in the sections that follow.

Legal Framework Addressing Trafficking in Nepal

Nepal has enacted a range of legislative instruments to address human trafficking and exploitation, both explicitly and implicitly. The Constitution of Nepal (2015) establishes a broad commitment to combat trafficking and sexual violence. Complementary laws include: the National Criminal Code (2017), the National Criminal Procedural Code (2017), the Act Relating to Children (2018), the Human Trafficking and Transportation (Control) Act (2007), the Child Labour (Prohibition and Regulation) Act (1999), the Labour Act (2017), the Foreign Employment Act (2007), the Crime Victim Protection Act (2018), and the Directives for Protection against Economic and Sexual Exploitation of Women and Girls in the Entertainment Sector (2008). Collectively, these laws establish a multi-tiered system encompassing prevention, prosecution, protection, and rehabilitation efforts.

Trafficking-Related Offences under Human Trafficking and Transportation (Control) Act

The HTTCA defines and criminalizes two distinct yet overlapping acts: 'human trafficking' and 'human transportation'. The former includes sale or purchase of individuals; coercion into prostitution regardless of financial exchange; non-consensual extraction of organ; and solicitation of sexual services (§ 4(1)). The Act also adopts a

gendered framing, assuming male involvement as clients of female sex workers and penalizes such behaviour accordingly.

Human transportation, under the same section, encompasses domestic and cross-border movement using deception, coercion, or abuse of authority for exploitative purposes. Both the buyer and seller involved in such practices are criminally liable (§ 3(1) & 3(2)). The Act consolidates various practices—including slavery, forced labour, bonded labour, and illegal organ trade—under the umbrella of “exploitation” (§ 2(e)).

Procedural safeguards are included to protect survivors, particularly women and children. These provisions include shifting the burden of proof to the accused (§ 9), requiring custodial detention during trial (§ 9), guaranteeing survivors independent legal representation (§ 10), permitting court-approved interpreters (§ 11), and exempting victims from repeated court appearances post-certification of testimony.

Victim Protection and Support Measures

The HTTCA outlines state responsibilities regarding support to survivors or victims and provides for the rescue of trafficked persons, including rescue operations (domestic and international) (§ 12), establishment of rehabilitation centres and reintegration mechanisms (§ 13), creation and administration of a Rehabilitation Fund (§ 14), compensation provisions allocating no less than 50% of fines to victims (§ 17), in-camera proceedings in sensitive cases (§ 27), and protection of confidentiality for both victims and informants (§ 20). These provisions aim to uphold the dignity and long-term wellbeing of trafficked individuals.

Legislative Gaps and Reform Priorities

Despite its strengths, the HTTCA and its accompanying Regulation (2008) require urgent amendment to comply with Nepal’s 2015 Constitution and its international obligations under the UN Palermo Protocol. Priority areas for reform include expansion of extraterritorial jurisdiction (§ 1(3)), revision of trafficking definitions to match global standards (§ 2(e)), improved access to translation services (§ 11),

enhanced provisions for victim rescue (§ 12) and rehabilitation (§ 13), and clearer operational mechanisms for the Rehabilitation Fund (§ 14). The shift to decentralized federal governance further underscores the need for a clarified delineation of roles across national, provincial, and local levels.

Provisions within the National Criminal Code

The National Criminal Code (2017) complements the anti-trafficking measures with several relevant provisions that intersect with orphanage trafficking and child exploitation. Key provisions include promoting or influencing prostitution (§ 119), incitement or conspiracy related to prostitution, pornography, or nudity (§ 215), prohibition of forced labour, slavery, servitude, hostage-taking, and bonded labour (§ 162–164), rape, including sexual acts with minors under 18 (regardless of consent) (§ 219), and sexual harassment, exploitation, and non-consensual unnatural acts (§ 224–226). These statutes provide prosecutorial tools to address abuses occurring in or associated with children’s residential care institutions.

Institutional Responsibilities and Oversight

The *HTTCA Regulation (2008)* sets out mechanisms for implementing the Act, notably through the establishment of a National Committee to Combat Human Trafficking (NCCHT) (§ 4), tasked with formulating anti-trafficking policies and advising the Ministry of Women, Children, and Senior Citizens (MoWCSC). Additionally, it calls for the formation of District Committees (§ 7), responsible for local-level efforts to combat trafficking and transportation, including oversight of rehabilitation centres and the operation of facilities dedicated to physical and mental treatment, social reintegration, and family reunification of victims.

The regulation also underscores the importance of vocational training and psychological support as components of rehabilitation (§ 16), while limiting institutional care to a maximum of six months. Furthermore, it designates responsibilities for the local management and administration of the Rehabilitation Fund (§ 17).

Despite these formal provisions, implementation remains inconsistent. Monitoring

and enforcement mechanisms are weak, particularly concerning unregistered childcare homes, where children are at heightened risk of neglect, abuse, and exploitation in the absence of adequate government oversight.

Legal Gaps in Addressing Orphanage Trafficking: An Analysis of the Act Relating to Children, 2018

Scope of protection and prohibition practices

The Act Relating to Children, 2018 – which replaced the Children’s Act, 1992 – defines a ‘child’ as any person below the age of 18 years (§ 2(j)). It significantly expands legal safeguards by enumerating forms of violence against children (§ 66(2)). Relevant provisions prohibit practices such as illegal confinement, detention, or house arrest; handcuffing (§ 66(2)(j)); cruel, inhumane, or degrading treatment including torture (§ 66(2)(i)); forced declaration or registration of a child as an orphan (§ 66(2)(k)); and placement in childcare homes without legal compliance (§ 66(2)(r)).

Although these provisions address harmful practices associated with orphanage trafficking, the Act does not expressly criminalize the unlawful removal of a minor from their legal guardian. Consequently, actions such as falsely registering children as orphans or placing them in institutions without due legal process fall outside the formal scope of human or child trafficking under Nepali law.

Interpretive link with human transportation

Despite this legislative gap, such practices may intersect with the *HTTCA*, which distinguishes between “human trafficking” and “human transportation.” Under this framework, the removal of children from guardianship through coercion, deception, or abuse of authority for exploitative institutional placement could be interpreted as “human transportation.” In practice, prosecution is possible under *HTTCA* if coercive means or intent to exploit are demonstrable.

Absence of Means-Based Requirement for Child Trafficking

Notably, the *HTTCA* does not explicitly require elements such as coercion or deception to

establish child trafficking—allowing prosecutors to pursue charges based solely on acts of sale, transfer, or exploitation. This legal distinction means that child trafficking can be prosecuted solely on the basis of sale, transfer, or exploitation, whereas human transportation under the *HTTCA* requires proof of means such as coercion, fraud, or abuse of power—making it more complex to prosecute institutional actors unless such elements are demonstrably present. These definitional variances raise critical challenges in addressing institutional forms of exploitation, particularly where children are unlawfully transferred into residential care settings under seemingly voluntary or administrative arrangements.

Parental Authority and Legal Removal of Children

Nepali law currently lacks a legal framework for formally terminating parental rights as a prerequisite for child removal. The Act Relating to Children (2018) guarantees children’s right to protection and prohibits abandonment or neglect by parents or guardians (§ 6). Under the National Civil Code (2017) both parents hold equal authority regarding child supervision and care (§§ 124–125), yet the law does not specify conditions under which parental rights may be revoked.

State Intervention for Alternative Care

Chapter 5 of the Act Relating to Children (2018) addressing “special protection and rehabilitation,” enables state intervention when children lack adequate care due to parental incapacity or disability (§ 18(1)(c)). Although the Act provides for temporary separation in cases of abuse or neglect (§ 48(1)(g)), it does not empower authorities to permanently terminate parental rights.

Designated child protection entities—such as the National Child Rights Council (NCRC), Provincial and Local Child Rights Committees, and the Child Welfare Authority (CWA)—are mandated to arrange for alternative care when a child’s welfare is at risk (§ 50). Even where parental powers remain intact, these agencies may intervene when parental duties are neglected. In case of emergencies, CWAs are authorized to

rescue children and place them under temporary protection (§ 52(2)).

Procedural guidance for these interventions is expected from local child protection rules enacted by municipal governments. However, as of 2024, only 408 of Nepal's 753 municipalities have issued guidance (NCRC, 2024). Likewise, only 372 municipalities have established Local Child Rights Committees, 390 have appointed CWAs, and only 286 have instituted Child Funds, leaving significant gaps in child protection infrastructure.

Sanctions for Rights Violations

The Act prescribes penalties for violations of child rights. Individuals or organizations breaching provisions outlined in Chapters 2 or 3 may be fined up to NPR 50,000 (§ 70(1)). If a parent, guardian, or family member misuses a child's identity or property, fines may reach up to NPR 100,000 (§ 70(2)).

Guardianship and Institutionalization in Nepal's Legal Framework

Nepali law does not explicitly provide for the formal revocation of parental rights. However, under specific circumstances, the act of removing a child from the custody of their legal guardian—particularly without due legal process—may be construed as an offence of human transportation, as defined in the HTTCA. Nevertheless, child protection authorities such as the National Child Rights Council, Provincial and Local Child Rights Committees, and Child Welfare Authorities are legally empowered to intervene and remove a child from their guardian when such action serves the child's best interests. This type of removal is treated as a temporary protective measure and does not require prior judicial revocation of parental authority. In contrast, if a child is removed unlawfully by non-state actors, the act may be prosecutable under HTTCA provisions relating to human transportation.

Guardianship of an abandoned, unaccompanied, or separated child

Nepali law imposes a clear obligation on parents and guardians to refrain from abandonment. Section 184(1) of the National Criminal Code

(2017) criminalizes the abandonment of any dependent individual—such as an infant, child, disabled person, or elderly adult—where such action endangers their life or wellbeing. The Act Relating to Children (2018) classifies abandoned, unaccompanied, or separated minors as children in need of special protection (§ 48). In such cases, CWAs, in coordination with child protection committees and the NCRC, are responsible for securing appropriate care and legal guardianship. Section 42(2) of the same Act mandates that CWAs arrange for alternative care for children requiring special protection, particularly those separated from their guardians.

Criteria and procedure for institutional placement

Institutional care is legally intended as a measure of last resort. Section 49 of the Act Relating to Children (2018) outlines the hierarchy of alternative care options, beginning with placement with maternal or paternal relatives, followed by placement with willing families or individuals, foster care arrangements, and finally, residential childcare homes—only if no prior viable options exist. These principles are reflected in the Comprehensive Standards for Operation and Management of Residential Child Care Homes (2009), which mandate individual recordkeeping, health assessments, access to legal services, and psychosocial support for each admitted child.

Children's homes bear the responsibility of safeguarding children's property, maintaining confidentiality, and coordinating with government agencies. However, as the 2009 Standards predate the 2018 Act, a legal revision is required to ensure alignment with current child protection legislation.

Despite legal intent, institutionalization of children living with parents or extended family remains common, raising concerns about unlawful institutionalization and systemic misuse of residential care.

Reception and Retention of Children in Residential Care

Legal Justification for Admission

The Act Relating to Children (2018) outlines a comprehensive list of conditions under

which children may be deemed in need of special protection (§ 49). These include orphaned children; children abandoned in hospitals or public spaces with unknown parental identity; children deprived of appropriate care due to parental physical or mental incapacity; children in conflict with the law and referred to alternative care via diversion mechanisms; dependents of incarcerated parents; infants born of rape or incest whose guardians have formally declared an inability to provide care; children removed from abusive or neglectful households; children engaged in forced, bonded, or hazardous labour; children with substance dependencies or living with HIV; and children suffering from serious health conditions or disabilities whose families cannot afford treatment. Additional categories encompass victims of offenses against children, children harmed by disasters or armed conflict, children from marginalized Dalit communities, and others designated by ministerial notice in the *Nepal Gazette*.

The act stipulates that children qualifying under clauses (a) through (g) are specifically recognized as requiring alternative care, which may include placement in residential institutions or child care homes (§ 49).

Operational Standards and Admission Procedures

The Standards for Operation and Management of Residential Child Care Homes (2012) delineate criteria for the admission of children who are victims of abuse, torture, discrimination, or accidents; infants who have been abandoned; and children found in public spaces unable to identify their parents. The decision to admit a child rests with the institution's director or chief, who must act in the presence of at least two staff members and record the decision in an official register.

Upon admission, childcare homes are required to maintain and regularly update three key records for each child – a personal file containing legal documentation, health record file, and an educational record file for school-aged children. These records must be made available to relevant oversight entities, including the National Child Rights Council (NCRC), Provincial Child Rights

Committees, and Local Child Rights Committees, upon request.

Need for Harmonization and Legal Update

It is critical to note that the 2012 Standards predate the enactment of the Act Relating to Children (2018). As such, they require comprehensive revision to ensure consistency with the updated legal framework and evolving principles of child protection and institutional care.

Relationship between Specific Offences and Orphanage Trafficking

Relationship Between Specific Offences and Orphanage Practices

Nepali legislation addresses several practices associated with orphanage trafficking, although the term itself is not explicitly defined under either the Act Relating to Children (2018) or the HTTCA. For instance, the Act Relating to Children (2018) criminalizes acts such as falsely registering a child as an orphan (§ 66(2)(k)) and placing children in institutional care without adhering to prescribed legal procedures (§ 66(2)(r)). These acts are classified as forms of "violence against children."

While orphanage trafficking may involve actions such as the sale or purchase of children, institutional exploitation, and placement through deception or abuse of authority, these are typically prosecuted under existing general trafficking provisions. The HTTCA defines human transportation to include the act of transferring individuals—using coercion, deception, or abuse of power—for exploitative purposes (§ 4(2)(b)). In practice, this definition can incorporate the removal of children from their family environments and their placement in childcare homes for monetary gain. However, due to the absence of a distinct offence titled "orphanage trafficking," enforcement responses remain fragmented and lack consistency.

For example, if a child is sold to an institution or used to solicit donations or labour, these practices may fall under the practical understanding of orphanage trafficking but are instead prosecuted under child protection laws as "violence against children." Likewise, the

admission of children who do not meet the legal criteria for institutional care constitutes an offence under Section 66(2)(r), though it is not treated as trafficking per se.

Sexual Exploitation and Institutional Abuse

The Act Relating to Children (2018) is the principal legal instrument for prosecuting crimes against children, including sexual abuse (§ 66(3)). Its definitions are comprehensive, covering a wide spectrum of exploitative conduct such as displaying obscene, vulgar, or pornographic materials to children, storing or disseminating child pornography, proposing, coercing, or threatening children into sexual activities, involving children in the creation or performance of sexual content, physical acts involving sexual contact with children, and exploiting children for sexual gratification or prostitution.

Crucially, these offences are prosecutable regardless of the setting—whether institutional, private, or public. If children are trafficked into care homes and subjected to sexual exploitation, these acts satisfy the criteria for child trafficking under Section 2 of the HTTCA, which defines child trafficking broadly, allowing prosecution regardless of where the exploitation occurs—whether in private homes, public spaces, or institutional care settings. If children are placed in care homes and subjected to sexual abuse, it qualifies as trafficking under the law, even if done under the guise of protection.

Ancillary offences under the Criminal Code and their relevance to Orphanage Trafficking

The National Criminal Code (2017) outlines several offences relevant to institutional child protection and potential abuses within residential care settings. Section 184 criminalizes the abandonment or desertion of individuals under guardianship, including infants, children, disabled persons, and elderly individuals, where such abandonment poses risks to life or well-being. Additionally, Section 211 prohibits kidnapping and hostage-taking, including acts involving children or individuals under shelter due to physical or mental incapacity. The provision specifies that forcibly relocating such persons without consent—

or by way of misrepresentation—constitutes a criminal offence.

Reports have documented instances in which childcare homes in Nepal have used children in the act of begging- to solicit donations, including food or financial support. Section 126 of the National Criminal Code (2017) clearly prohibits soliciting alms in public and bans the use of children for begging under the guise of performances such as singing, dancing, or playing. The provision further criminalizes the employment of any individual for begging in exchange for money or wages paid by the offender.

While Section 225 prohibits child sexual abuse, prosecutions are frequently pursued under the Act Relating to Children (2018), which is regarded as the specialized legislative framework for offences against minors.

Importantly, Section 17 of the National Criminal Code (2017) provides that any act carried out "in good faith" for the benefit of a child—with the consent of a guardian—shall not be considered an offence. This clause remains controversial in child protection discourse, as it may be exploited by institutional caregivers to legitimize questionable or harmful practices. Such ambiguity introduces potential legal loopholes that could undermine safeguards for children in residential care.

Conclusion

Nepal's current legal framework does not explicitly recognize orphanage trafficking as a distinct and serious form of child exploitation. Although existing statutes—including general anti-trafficking and child protection laws—aim to safeguard children from abuse, their implementation remains inconsistent, particularly within institutional care settings. The absence of a cohesive legal and regulatory structure renders children residing in orphanages susceptible to violations that are frequently overlooked or inadequately addressed.

This study highlights significant gaps in Nepal's legislative and procedural landscape, especially in relation to interpretive clarity, protective safeguards, and oversight mechanisms.

These deficiencies impede Nepal's ability to fulfil its obligations under its international human rights obligations such as the Convention on the Rights of the Child and the Palermo Protocol. The absence of a legally recognized category for orphanage trafficking not only undermines the coherence of enforcement but also hinders targeted intervention and policy development.

To address these systemic challenges, it is imperative that Nepal formally integrates orphanage trafficking into its legal discourse. This requires the establishment of a standalone offence category consistent with international standards, coupled with robust monitoring, accountability, and enforcement provisions. Strengthening coordination among state actors—including law enforcement, judicial bodies, and child protection institutions—is essential for ensuring that exploitation within residential care settings is effectively prevented and addressed.

Ultimately, reforming Nepal's legal and institutional approach to orphanage trafficking transcends technical compliance with international norms; it reflects a fundamental moral responsibility. Safeguarding the rights, dignity, and welfare of children in alternative care demands unequivocal legal recognition, coherent policy frameworks, and accountability across all levels of governance.

References

- Better Care Network. (2014, October). *Collected viewpoints on international volunteering in residential care centers: Country focus—Nepal*. <https://bettercarenetwork.org/sites/default/files/Collected%20viewpoints%20on%20international%20volunteering%20in%20residential%20care%20centres%20-%20Country%20Focus%20Nepal.pdf>
- Clarke, R. V., & Felson, M. (1993). *Routine Activity and Rational Choice*. Routledge. <https://doi.org/10.4324/9781315128788>
- Dhungana, S. (2021, February 14). Government rescues hundreds of children every year but does little for their care. *The Kathmandu Post*. <https://tkpo.st/2tb7OaH>
- Galtung, J. (1969). Violence, Peace, and Peace Research. *Journal of Peace Research*, 6(3), 167–191. <http://www.jstor.org/stable/422690>
- Human Trafficking and Transportation (Control) Act, 2007.
- National Civil Code, 2017.
- National Criminal Code, 2017.
- The Act Relating to Children, 2018.
- Kiss, L., Davis, A., Fotheringham, D., McAlpine, A., Kyegombe, N., Abilio, L., & Mak, J. (2019). *The trafficking of girls and young women: Evidence for prevention and assistance*. Plan International. <https://plan-uk.org/sites/default/files/2023-05/PLAN-Trafficking-Report-v5.pdf>
- National Child Rights Council (NCRC). (2019). *State of children in Nepal 2019*. <https://bettercarenetwork.org/sites/default/files/2020-11/1588671135status%20report%20ENGLISH.pdf>
- National Child Rights Council (NCRC). (2020). *State of children in Nepal 2020*. http://childrights.gov.np/_uploads/publication/4/a257b166b1194591a00e6e95dc0b7cac.pdf
- National Child Rights Council (NCRC). (2024). *National Report on Children 2024*. http://childrights.gov.np/_uploads/publication/4/a257b166b1194591a00e6e95dc0b7cac.pdf
- Next Generation Nepal. (2014, April). *Orphanage trafficking and orphanage voluntourism: Frequently asked questions*. <https://bettercarenetwork.org/sites/default/files/Orphanage%20Trafficking%20and%20Orphanage%20Voluntourism%20FAQs.pdf>
- Punaks M. & Lama S. (2020). Orphanage Trafficking and Child Protection in Emergencies in Nepal: A Comparative Analysis of the 2015 Earthquake and the 2020 COVID-19 Pandemic. *Sage Journals*, 8(1). <https://journals.sagepub.com/doi/full/10.1177/2349300320975547>

- Setter, C. (2019, March 29). Hope is on the horizon for tackling orphanage trafficking. *Lumos Foundation*. <https://news.trust.org/item/20190329133756-c3x2z/>
- Van Doore, K. E., & Nhep, R. (n.d.). *Orphanage trafficking and the Modern Slavery Act in Australia*. Griffith University. <https://www.e-ir.info/pdf/74759>
- U.S. Department of State. (2020). *Trafficking in persons report 2020*. <https://www.state.gov/wp-content/uploads/2020/06/2020-TIP-Report-Complete-062420-FINAL.pdf>

