

# Nepal

## Government Policies and Programs to Eliminate the Worst Forms of Child Labor

The Government of Nepal has been a member of ILO-IPEC since 1994. Since then, a national child labor survey was conducted in 1996 with technical assistance from the ILO's Bureau of Statistics. Almost 12,000 working children and their families have benefited from more than 100 ILO-IPEC child labor programs in four specific areas: policy formulation by government and nongovernmental organizations; direct intervention programs with child workers; awareness raising and community mobilization; and legislation and enforcement.<sup>1766</sup> In 1999, Nepal was part of a three-country Asia sub-regional project to combat trafficking.<sup>1767</sup> A follow-up national child labor survey is also being planned by the Government for 2002 with technical assistance from ILO-IPEC's SIMPOC.<sup>1768</sup>

In 2001, with funding from USDOL, Nepal became one of three countries to launch a comprehensive ILO-IPEC Time-Bound Program, to eliminate the worst forms of child labor, emphasizing on porters, rag pickers, domestic workers, labor in the carpet industry and in mines, bonded labor, and trafficking for sexual or labor exploitation. The project will be ongoing from 2000-2004.<sup>1769</sup> The Government of Nepal has also drawn up a proposal for immediate action to rescue and rehabilitate recently freed bonded laborers, including vocational training and counseling services.<sup>1770</sup> The government has a National Plan of Action to Combat Trafficking and is in the process of developing legislation that addresses trafficking as well as sexual abuse of children.<sup>1771</sup> In its Ninth Year Plan, the government aims to make primary education easily accessible and compulsory and is currently implementing a pilot program to test compulsory primary education.<sup>1772</sup>

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<sup>1766</sup> ILO-IPEC, *Country Profile: Nepal* (Geneva, 2001), 1-2.

<sup>1767</sup> ILO-IPEC, *Elimination of Trafficking in South Asia*, project document (Geneva, 1999) [document on file].

<sup>1768</sup> ILO-IPEC, *Child Labor Statistics*, SIMPOC countries, at <http://www.ilo.org/public/english/standards/ipecc/simpoc/countries.htm> on 1/29/02.

<sup>1769</sup> ILO-IPEC, *Supporting the Time-Bound Programme in Nepal: The IPEC Core TBP Project*, project document [hereinafter *Supporting the Time-Bound Programme in Nepal*], 12-14.

<sup>1770</sup> ILO-IPEC, "Sustainable Elimination of Bonded Labor in Nepal" (Geneva, December 2000) [hereinafter "Sustainable Elimination of Bonded Labor in Nepal"], 1.

<sup>1771</sup> U.S. Embassy–Kathmandu, unclassified telegram no. 1216, June 2000 [hereinafter unclassified telegram 1216].

<sup>1772</sup> ILO-IPEC, "Project on Sustainable Elimination of Bonded Labour in Nepal" (draft), Technical Progress Report No. 4, October-December 2001, [hereinafter "Sustainable Elimination of Bonded Labour in Nepal"], at 2.

## Incidence and Nature of Child Labor

In 1999, the ILO estimated that 42.7 percent of children between the ages of 10 and 14 were working.<sup>1773</sup> The majority of working children participate in family-based subsistence agriculture, while a small percentage work in manufacturing facilities.<sup>1774</sup> According to ILO-IPEC, more than 80 percent of working children do not receive wages.<sup>1775</sup> They are often forced to work under exploitative and hazardous conditions.<sup>1776</sup> Although forced labor is not widespread, an ILO-IPEC study has estimated that 33,000 children work as bonded laborers.<sup>1777</sup> Children as young as 16 years old are found working prostitutes.<sup>1778</sup> It is believed that 20 percent of the prostitutes in Nepal are younger than 16 years old. Local NGOs estimate that, annually, 5,000 to 7,000 Nepali girls between 10 and 18 years old are forced into prostitution.<sup>1779</sup> Women and girls are trafficked to India for the purposes of sexual exploitation.<sup>1780</sup>

Although education is not compulsory, the government provides free primary education for all children between the ages of 6 and 12. Still, public primary schools commonly charge non-tuition fees to offset their expenses,<sup>1781</sup> and families frequently do not have the money to pay for school supplies and clothing.<sup>1782</sup> In 1997, the gross primary enrollment rate was 122.1 percent, and the net primary enrollment rate was 69.6 percent.<sup>1783</sup> Most children (roughly 60 percent) who work also attend school. More working boys (70 to 75 percent) go to school than working girls (50 to 60 percent).<sup>1784</sup>

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<sup>1773</sup> *World Development Indicators 2001* (Washington, D.C.: World Bank, 2001).

<sup>1774</sup> Unclassified telegram 1216. Nepali people are heavily dependent on agriculture, which accounts for almost 42 percent of the country's gross domestic product. See "Sustainable Elimination of Bonded Labor in Nepal", 1

<sup>1775</sup> ILO-IPEC, "Child Labor Situation in Nepal," fact sheet, 9.

<sup>1776</sup> Geir Myrstad, David Clarkson, and H. S. S. Fonseka, "Strategic Plan for 2000-2007: Nepal" (Kathmandu: ILO-IPEC, 2000), 3.

<sup>1777</sup> ILO-IPEC, "IPEC Country Profile: Nepal" at <http://www.ilo.org/public/english/standards/ipecc/timebound/nepal.pdf> on 2/14/02.

<sup>1778</sup> South Asian Sub-Regional Programme to Combat the Trafficking of Children for Exploitative Employment in Bangladesh, Nepal and Sri Lanka, project document (Geneva: ILO-IPEC, February 2000) [hereinafter South Asian Sub-Regional Programme], Section 1.2.3.

<sup>1779</sup> *Country Reports on Human Rights Practices for 2000—Nepal* (Washington, D.C.: U.S. Department of State, 2001) [hereinafter *Country Reports 2000*], Section 6f, at <http://www.state.gov/g/drl/rls/hrrpt/2000/sa/index.cfm?docid=711>.

<sup>1780</sup> South Asian Sub-Regional Programme at Section 1.2.3.

<sup>1781</sup> "Sustainable Elimination of Bonded Labor in Nepal", 1.

<sup>1782</sup> *Country Reports 2000* at Section 5.

<sup>1783</sup> UNESCO, *Education for All: Year 2000 Assessment* (Paris, 2001) [CD-ROM].

<sup>1784</sup> ILO, Migration and Employment Survey of Nepal, Central Department of Population Studies, Tribhuvan University, 1995-96, Table 5.

## Child Labor Laws and Enforcement

The Labor Act of 1999 and the Children's Act of 1992 set the minimum age for employment at 14 years.<sup>1785</sup> On July 17, 2000, the Government of Nepal made a landmark decision to outlaw the *Kamaiya* system, one form of bonded labor, and the government drafted a Bonded Labour Prohibition Act, which is intended to provide comprehensive legislation prohibiting bonded labor.<sup>1786</sup> The Constitution of Nepal (Article 20) prohibits the employment of minors in factories, mines or other hazardous work.<sup>1787</sup> The restrictions on child labor do not apply to non-organized business sectors with ten or less employees.<sup>1788</sup> The Constitution (Article 20) and the Civil Code of 1990 prohibit trafficking.<sup>1789</sup> The Children's Act of 1992 also prohibits the sexual exploitation of children.<sup>1790</sup>

Enforcement and effective implementation of child labor laws are weak, due to inadequacies with child labor procedures and penalties, and ambiguities pertaining to jurisdiction for enforcement. The Labor Act entrusts labor offices with enforcement of child labor laws, while the Children's Act gives the responsibility to the District Children Welfare Board.<sup>1791</sup> The Government of Nepal ratified ILO Convention 138 on May 30, 1997, and ratified ILO Convention 182 on January 3, 2002.<sup>1792</sup>

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<sup>1785</sup> The Labor Act defines a minor as anyone between the ages of 14 and 18, and the Children's Act identifies a child as below the age of 16 years, as cited in Government of Nepal, National Planning Commission, *Situation Analysis of Child Labor in Nepal*, July 1997 [hereinafter *Situation Analysis of Child Labor in Nepal*], 70-71. See also Yubaraj Sangroula, "Child Labor: Legislation and Enforcement Situation" (Kathmandu: Faculty of Law, Tribhuvan University, 1997), 8-10.

<sup>1786</sup> While the new bonded labor legislation exists in draft form only, it is hoped that it will be the first comprehensive piece of legislation on bonded labor in Nepal. See *Supporting the Time-Bound Programme in Nepal*, 12-14.

<sup>1787</sup> The Constitution of Nepal does not define the term "hazardous work" or the word "minor." See "Situation Analysis of Child Labor in Nepal" at 71.

<sup>1788</sup> "Situation Analysis of Child Labor in Nepal" at 71, 73.

<sup>1789</sup> *Human Rights Reports: Nepal*, Protection Project Database, at [www.protectionproject.org](http://www.protectionproject.org) on 12/30/01.

<sup>1790</sup> *Ibid.*

<sup>1791</sup> Yubaraj Sangroula, "Child Labor: Legislation and Enforcement Situation" (Kathmandu: Faculty of Law, Tribhuvan University, 1997), 15.

<sup>1792</sup> In September 2001, the Nepalese Parliament ratified ILO Convention No. 182, but the Government of Nepal has not deposited the required instruments with the ILO for full recognition of the ratification. See ILOLEX database: Nepal at [www.ilolex.ilo.org](http://www.ilolex.ilo.org) on 12/30/01. See also "Sustainable Elimination of Bonded Labour in Nepal".