

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 1995. A national child labor survey was conducted in 1996 with technical assistance from ILO-IPEC.²⁵³⁵ A follow-up national child labor survey for 2003 is also being planned by the government with technical assistance from ILO-IPEC's SIMPOC.²⁵³⁶ Since 1999, Nepal has been part of a three-country Asia sub-regional project to combat trafficking.²⁵³⁷ In 2001, five rapid assessments on various areas of child labor were undertaken and completed.²⁵³⁸ Also in 2001, with funding from USDOL, Nepal became one of three countries to launch a comprehensive ILO-IPEC Timebound Program.²⁵³⁹ The government has also taken action to rescue and rehabilitate recently freed bonded laborers and has established a

²⁵³⁵ ILO-IPEC estimates that 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 NGOs; direct intervention programs with child workers; awareness raising and community mobilization; and legislation and enforcement. See ILO-IPEC, *IPEC Country Profile: Nepal*, Geneva, 2001, 1-2 [cited September 6, 2002]; available from <http://www.ilo.org/public/english/standards/ipec/timebound/nepal.pdf>.

²⁵³⁶ ILO-IPEC, *Child Labor Statistics, SIMPOC countries*, [online] July 24, 2002 [cited September 10, 2002]; available from <http://www.ilo.org/public/english/standards/ipec/simpoc/countries.htm>.

²⁵³⁷ ILO-IPEC, *South Asian Sub-Regional Programme to combat the trafficking of children for exploitative employment in Bangladesh, Nepal and Sri Lanka*, project document, RAS/00/05/010, Geneva, February 2000. A phase two of this project began in October 2002.

²⁵³⁸ These assessments were funded by USDOL with technical assistance from ILO-IPEC's SIMPOC as part of a project that conducted 38 rapid assessments of the worst forms of child labor in 19 countries and one border area. Themes include trafficking of girls, child rag pickers, domestic child laborers in Kathmandu, bonded child labor, and child porters. To view the rapid assessments, see ILO-IPEC, *Child Labor Statistics: Rapid Assessments*, [online] August 2002 [cited September 26, 2002]; available from <http://www.ilo.org/public/english/standards/ipec/simpoc/ra/index.htm>.

²⁵³⁹ ILO-IPEC, *IPEC Action Against Child Labour 2000-2001 Progress and Future Priorities*, Geneva, January 2002, 23 [cited October 20, 2002]; available from <http://www.ilo.org/public/english/standards/ipec/about/implementation/ipecreport.pdf>. See also ILO-IPEC, *Supporting the Time-Bound Programme in Nepal: The IPEC Core TBP Project*, Geneva, September 2001. The Government of Nepal has a National Master Plan on Child Labor for eliminating the worst forms of child labor in five years and all forms of child labor in ten years. See ILO-IPEC, *Working for Nepalese Children: An Overview of Child Labour Related Programmes in Nepal*, Geneva, 2001, 3. The Master Plan identifies 16 worst forms of child labor; the IPEC Core Timebound program will target seven worst forms of child labor involving child porters, rag pickers, domestic workers, laborers in the carpet industry and in mines, bonded labor, and trafficking for sexual or labor exploitation in 35 districts of Nepal in two phases (totaling seven years). See Ministry of Labour and Transport Management, *National Master Plan on Child Labour, 2001-2010*, Kathmandu, 2001, 9. In March 2002, World Education, Inc. was awarded a four-year cooperative agreement from USDOL to implement a child labor educational initiative program to complement and supplement the ILO-IPEC Core Timebound Project. See World Education, *Projects by Region*, [online] 2002 [cited September 9, 2002]; available from http://www.worlded.org/projects_region.html#nepal.

Freed Kamaiya Rehabilitation and Monitoring Committee to promote this work at the district level.²⁵⁴⁰

In 1995, the Ministry of Labor and Transport Management of Nepal instituted a National Steering Committee for IPEC, and in 2001, coordinated and finalized a national Master Plan on Child Labor for 2001-2010.²⁵⁴¹ The government has a National Plan of Action to Combat Trafficking, and has established a 16-member National Coordination Committee, with a National Task Force that coordinates activities and provides guidelines and decisions on child trafficking.²⁵⁴² In 2001, 29 child labor related programs were carried out in Nepal by 18 international development agencies for action designed to benefit Nepalese children.²⁵⁴³ The private sector, specifically the carpet manufacturers association, is making efforts to eradicate child labor; over half of all carpet factories participate in a system that certifies that carpets are made without child labor.²⁵⁴⁴

²⁵⁴⁰ The Committee is chaired by the District Development Committee and members include representatives from offices of the police, education, administration, forest, land reforms, labor, welfare, agricultural development, banking, and trade unions, as well as peasant organizations, NGOs and a freed Kamaiya laborer. See Government of Nepal, *The Kamaiya Labor (Prohibition) Act*, (2002). In 2000, USDOL funded a project through ILO-IPEC to support former child bonded laborers and their families. ILO-IPEC, *Sustainable Elimination of Bonded Labor in Nepal*, project document, NEP/00/P51/USA, Geneva, December 2000. The Kamaiya system, now outlawed, is one form of bonded labor concentrated in five Terai districts: Kanchanpurr, Kailali, Bardiya, Banke, and Dang. However, other bonded labor practices exist in other areas of Nepal. See ILO-IPEC, *Bonded Labor in Nepal*, project document, 3. See also ILO-IPEC, *Working for Nepalese Children*, 5.

²⁵⁴¹ ILO-IPEC, *Supporting the Time-Bound Programme in Nepal*, 14. See also Ministry of Labour and Transport Management, *National Master Plan on Child Labour*.

²⁵⁴² The Ministry of Women, Children and Social Welfare (MWCSW) has been appointed the national focal point for anti-trafficking initiatives. Ministry of Women Children and Social Welfare, *National Plan of Action Against Trafficking in Children and Women for Sexual and Labour Exploitation*, Kathmandu, 2001, 8. Nepal's District, Municipality, and Village Task Forces in four districts are engaged in capacity-building activities in cooperation with ILO-IPEC and will play a part in cross-sectoral coordination of implementing and enforcing the National Plan of Action to Combat Trafficking. U.S. Embassy- Kathmandu, *unclassified telegram no. 2168*, November 2002.

²⁵⁴³ In addition, there are 240 local NGOs registered throughout the country with the objective of child development, with several hundred groups community-based organizations, research and media groups working to eliminate child labor. The 29 child labor related programs contain some 400 to 500 projects. See ILO-IPEC, *Working for Nepalese Children*, 3, 5 and 7.

²⁵⁴⁴ U.S. Department of State, *Country Reports on Human Rights Practices- 2001: Nepal*, Washington, D.C., March 4, 2002, 2482-85, Section 6d [cited September 4, 2002]; available from <http://www.state.gov/g/drl/rls/hrrpt/2001/sa/8234.htm>. See also Rugmark, *Rugmark*, [online] [cited September 9, 2002]; available from <http://www.rugmark.org/about.htm>.

The Basic and Primary Education Project has been underway since 1993 and aims to improve quality, access and retention of students, and institutional capacity.²⁵⁴⁵ The Primary Education Development Project has been underway since 1992 and aims to prepare new primary school teachers and construct schools.²⁵⁴⁶ Under the Ninth Plan (1997-2002), the government envisions compulsory primary education as a strategy to achieve universal access to education.²⁵⁴⁷

Incidence and Nature of Child Labor

In 2000, the ILO estimated that 42.1 percent of children ages 10 to 14 years in Nepal were working.²⁵⁴⁸ The majority of working children participate in family-based subsistence agriculture, while a small percentage work in manufacturing facilities.²⁵⁴⁹ According to ILO-IPEC, more than 80 percent of working children do not receive wages.²⁵⁵⁰ They often work under exploitative and hazardous conditions.²⁵⁵¹ An estimated 5,000 children are living on the streets throughout the country.²⁵⁵² Statistics on trafficking victims vary widely, with one local NGO estimating that over 200,000 Nepalese girls are residing in Indian brothels.²⁵⁵³ The government reports a finding that more than 20 percent of sex workers in Nepal are under 16 years, with some as young as 11 years old.²⁵⁵⁴ In 2001, a local NGO recorded 265 cases of girl trafficking, of which 34 percent were below 16 years of age.²⁵⁵⁵ While trafficking of children often leads to their sexual exploitation,

²⁵⁴⁵ International Bureau of Education - UNESCO, *World Data on Education: Nepal Country Report*, Geneva, 2001, [cited December 16, 2002]; available from http://nt5.scbbs.com/cgi-bin/om_isapi.dll?clientID=462618&infobase=inodoc.nfo&softpage=PL_frame. See World Bank, *Basic and Primary Education Project (02)*, World Bank, [online] 2002 [cited September 09, 2002]; available from <http://www4.worldbank.org/sprojects/Project.asp?pid=P040612>. The Basic and Primary Education Project II is a multi-donor program financed by the World Bank, the European Union, Finnida, Norad, and Danida. See Ramboll, *Technical Assistance to the Ministry of Education in Nepal*, [online] February 1, 2001 [cited September 9, 2002]; available from http://www.ramboll.dk/ramboll/news/uk/News/education_nepal.htm.

²⁵⁴⁶ The Primary Education Development Project is funded by the Asian Development Bank. See International Bureau of Education - UNESCO, *World Data on Education: Nepal Country Report*.

²⁵⁴⁷ Ibid.

²⁵⁴⁸ World Bank, *World Development Indicators 2002* [CD-ROM], Washington, D.C., 2002.

²⁵⁴⁹ U.S. Embassy- Kathmandu, *unclassified telegram no. 1216*, June 2000. Nepali people are heavily dependent on agriculture, which accounts for almost 42 percent of the country's gross domestic product. See ILO-IPEC, *Bonded Labor in Nepal, project document*, 1.

²⁵⁵⁰ ILO-IPEC, *Strategic Plan for 2000-2007: Nepal*, Geneva, February 4, 2000.

²⁵⁵¹ Ibid.

²⁵⁵² Child Workers in Nepal, *The State of the Rights of the Child in Nepal, 2002, National Report*, 1st ed. (Kathmandu: 2002), 40.

²⁵⁵³ Ministry of Women Children and Social Welfare, *National Plan of Action Against Trafficking in Children and Women*, 5.

²⁵⁵⁴ An unpublished report by UNICEF as cited in Ibid.

²⁵⁵⁵ Child Workers in Nepal, *State of the Rights of the Child in Nepal*, 33.

there is also demand for trafficked boys and girls to work in the informal labor sector.²⁵⁵⁶ There are reports that Maoist insurgents use children as soldiers, shields, runners, and messengers.²⁵⁵⁷

Although education is not compulsory, the government provides free primary education for all children between the ages of 6 and 12.²⁵⁵⁸ Still, public primary schools commonly charge non-tuition fees to offset their expenses,²⁵⁵⁹ and families frequently do not have the money to pay for school supplies and clothing.²⁵⁶⁰ In 1997, the gross primary enrollment rate was 122.1 percent, and the net primary enrollment rate was 69.6 percent.²⁵⁶¹ Attendance rates are not available for Nepal. While enrollment rates indicate a level of commitment to education, they do not always reflect children's participation in school.²⁵⁶²

Child Labor Laws and Enforcement

The Labour Act of 1999 and the Children's Act of 1992 set the minimum age for employment at 14 years.²⁵⁶³ The Child Labour Prohibition and Regulation Act of 2000 consolidates child labor provisions in the Labour and Children's Acts and lists different occupations in which children below 16 years cannot be employed, calls for penalties for those who do not comply, and calls for establishment of a Child Labor Elimination Committee and Child Labour Elimination Fund.²⁵⁶⁴ On July 17, 2000, the Government of Nepal made a landmark decision to outlaw the *Kamaiya* system, one form of bonded labor.²⁵⁶⁵ The Constitution of Nepal (Article 20) prohibits the employment of

²⁵⁵⁶ Ministry of Women Children and Social Welfare, *National Plan of Action Against Trafficking in Children and Women*, 6, 9.

²⁵⁵⁷ In 1996, the leaders of the Maoist United People's Front launched a "People's War" against the government, with continued violence in more than 50 of the country's 75 districts. U.S. Department of State, *Country Report- 2001: Nepal*, 2465-66, 82-85, Introduction and Section 6d.

²⁵⁵⁸ *Ibid.*, 2479-82, Section 5.

²⁵⁵⁹ ILO-IPEC, *Bonded Labor in Nepal*, project document, 1.

²⁵⁶⁰ U.S. Department of State, *Country Report- 2001: Nepal*, 2479-82, Section 5.

²⁵⁶¹ UNESCO, *Education for All: Year 2000 Assessment* [CD-ROM], Paris, 2001.

²⁵⁶² For a more detailed discussion on the relationship between education statistics and work, see the preface to this report.

²⁵⁶³ The Labor Act defines a child as anyone below that age of 14 years and a minor as anyone between the ages of 14 and 18 years. See Government of Nepal, *Labour Act, 1992*, [cited October 29, 2002]; available from <http://natlex.ilo.org/txt/E92NPL01.htm>. The Children's Act identifies a child as below the age of 16 years. See Government of Nepal, *Children's Act, 2048*, (1992), [cited October 29, 2002] available from http://www.labournepal.org/labourlaws/child_act.html.

²⁵⁶⁴ Ministry of Labour and Transport Management, *National Master Plan on Child Labour*, 8. The Child Labour Prohibition and Regulation Act defines children as any 16 years old and younger, and permits the employment of children 14 years and older. Children can work up to 6 hours a day and 36 hours a week, between 6 am and 6 pm. See Government of Nepal, *Child Labour (Prohibition and Regulation) Act (No. 14)*, (2000), [cited December 16, 2002]; available from <http://natlex.ilo.org/txt/E00NPL01.htm>.

²⁵⁶⁵ Shiva Sharma, Bijendra Basnyat, and G.C. Ganesh, *Nepal Bonded Labour Among Child Workers of the Kamaiya System: A Rapid Assessment*, ILO-IPEC, Geneva, November 2001, [cited December 16, 2002]; available from <http://www.ilo.org/public/english/standards/ipecc/simpoc/ra/index.htm>. The Kamaiya Labor (Prohibition) Act came into effect on February 21, 2002. The bill outlaws keeping or employing any person as a Kamaiya laborer and cancels any unpaid loans or bonds between creditors and Kamaiya laborers. See *The Kamaiya Labor (Prohibition) Act*.

minors in factories, mines or other hazardous work.²⁵⁶⁶ Section 55 of the Labor Act allows for fines (ranging from about USD 13 to 65) to be levied against employers in violation of labor or child labor laws.²⁵⁶⁷ The Human Trafficking Control Act of 1986 is the current anti-trafficking legislation.²⁵⁶⁸

Despite these legal protections, resources devoted to enforcement are limited and the Ministry of Labor has a mixed record in this area.²⁵⁶⁹ The Ministry of Labor and Transport Management's Child Labor Section is responsible for enforcing child labor issues, and labor offices are responsible for enforcement.²⁵⁷⁰ The Central Child Welfare Board and District Child Welfare Officers have the responsibility of enforcing child rights legislation.²⁵⁷¹

As a member state of the South Asian Association for Regional Cooperation, Nepal signed the Convention on Preventing and Combating Trafficking in Women and Children for Prostitution in January 2002.²⁵⁷²

The Government of Nepal ratified ILO Convention 138 on May 30, 1997, and ratified ILO Convention 182 on January 3, 2002.²⁵⁷³

²⁵⁶⁶ The Constitution of Nepal does not define the term "hazardous work" or the word "minor." See Government of Nepal National Planning Commission, *Situation Analysis of Child Labor in Nepal*, July 1997, 71. See also *Constitution of the Kingdom of Nepal*, (November 9, 1990), [cited December 16, 2002]; available from http://www.oefre.unibe.ch/law/icl/np00000_.html.

²⁵⁶⁷ *Labour Act (1992)*, Article 55. See also U.S. Embassy- Kathmandu, *unclassified telegram no. 1963*, October 2001.

²⁵⁶⁸ The Act prohibits the selling of a human being for any purpose, taking a person to foreign territory with intent to sell that person, involving any woman in prostitution, or assisting in carrying out any of these acts. However, the Act is flawed in that it does not criminalize the separation of a minor from his or her legal guardian with the intent of trafficking the minor. No crime occurs until the victim and the perpetrator are out of Nepalese jurisdiction. See U.S. Embassy-Kathmandu, *unclassified telegram no. 537*, March 2002.

²⁵⁶⁹ U.S. Department of State, *Country Report- 2001: Nepal*, 2482-585, Section 6d.

²⁵⁷⁰ See Ministry of Labour and Transport Management, *National Master Plan on Child Labour*, 8.

²⁵⁷¹ See *Ibid*.

²⁵⁷² Under this convention, the governments commit themselves to regional cooperation to address various aspects of prevention and criminalization of the trafficking of women and children for commercial sexual exploitation, and repatriation and rehabilitation of victims of trafficking. Each member state government has yet to ratify the convention. See South Asian Association for Regional Cooperation Secretariat, *Eleventh SAARC Summit held in Kathmandu*, press release, January 9, 2002, [cited December 16, 2002]; available from <http://www.saarc-sec.org/>.

²⁵⁷³ ILO, *Ratifications by Country*, in ILOLEX, [database online] [cited September 5, 2002]; available from <http://iloex.ilo.ch:1567/english/newratframeE.htm>.