

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

The Government of Nepal has been a member of ILO-IPEC since 1995.³⁰⁹⁴ An initial national child labor survey conducted in 1996 by the government with technical assistance from ILO-IPEC's SIMPOC.³⁰⁹⁵ In 2001, five rapid assessments on various areas of child labor were undertaken and completed.³⁰⁹⁶ In 1995, the Ministry of Labor and Transport Management of Nepal instituted a National Steering Committee for IPEC, and in 2001, coordinated a national Master Plan on Child Labor for 2001–2010.³⁰⁹⁷ With funding from USDOL, Nepal became one of three initial countries to launch a comprehensive ILO-IPEC Timebound Program.³⁰⁹⁸ The government has taken action to rescue and rehabilitate recently freed bonded laborers and has established a Freed Kamaiya Rehabilitation and Monitoring Committee to promote this work at the district level.³⁰⁹⁹

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 provides policy direction and coordinates activities on child trafficking.³¹⁰⁰ Nepal is also part of an ILO-IPEC sub-regional project to combat trafficking in Asia.³¹⁰¹ As a

³⁰⁹⁴ ILO-IPEC estimates that 13,500 working children and 6,160 families have benefited from programs implemented in 29 districts of Nepal. IPEC child labor programs support awareness raising, educational programs, capacity building, income generating activities, and research. See Kamal Banskota, Bikash Sharma, and Binod Shrestha, *Study on the Costs and Benefits of the Elimination of Child Labor in Nepal*, Study for the International Labor Office International Program on the Elimination of Child Labor (IPEC), Kathmandu, 2002, 7–8.

³⁰⁹⁵ ILO-IPEC, *Child Labor Statistics, SIMPOC countries*, [online] September 11, 2002 [cited June 16, 2003]; available from <http://www.ilo.org/public/english/standards/ipecc/simnoc/countries.htm>.

³⁰⁹⁶ 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] October 25, 2002 [cited June 16, 2003]; available from <http://www.ilo.org/public/english/standards/ipecc/simnoc/ra/index.htm>.

³⁰⁹⁷ ILO-IPEC, *Supporting the Timebound Program in Nepal: The IPEC Core TBP Project*, project document, NEP/01/P50/USA, Geneva, September 2001, 14. The National Master Plan on Child Labor calls for eliminating the worst forms of child labor in five years and all forms of child labor in ten years. It identifies 16 worst forms of child labor; the IPEC Core Timebound program will target seven worst forms of child labor in 35 districts of Nepal in two phases (totaling seven years). Targeted children are porters, rag pickers, domestic workers, laborers in the carpet industry and in mines, bonded laborers, and children trafficked for sexual or labor exploitation. See Ministry of Labor and Transport Management, *National Master Plan on Child Labor, 2001-2010*, Kathmandu, 2001, 2–3. See also ILO-IPEC, *Supporting the Timebound Program in Nepal*.

³⁰⁹⁸ ILO-IPEC, *IPEC Action Against Child Labor 2000-2001: Progress and Future Priorities*, Geneva, January 2002; available from <http://www.ilo.org/public/english/standards/ipecc/about/implementation/ipeccreport.pdf>. See also ILO-IPEC, *Supporting the Timebound Program in Nepal*. In March 2002, World Education, Inc. signed a four-year cooperative agreement with 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] 2003 [cited June 16, 2003]; available from http://www.worlded.org/projects_region_asia.html#nepal.

³⁰⁹⁹ 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), Section 8 and preamble. In 2000, USDOL funded a project to support former child bonded laborers and their families. See 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: Kanchanpur, Kailali, Bardia, 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: An Overview of Child Labor Related Programs in Nepal*, Geneva, 2001, 5.

³¹⁰⁰ In February 2003, the government endorsed the National Plan of Action Trafficking (developed in 1999 and revised in 2001). See ILO-IPEC, *The Timebound Program in Nepal - The IPEC Core TBP Project*, technical progress report, NEP/01/P50/USA, Kathmandu, September 2003, 4. The Ministry of Women, Children and Social Welfare (MWCSW) has been appointed the national focal point for anti-trafficking initiatives. See 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. See U.S. Embassy- Kathmandu, *unclassified telegram no. 2168*, November 2002.

³¹⁰¹ This project is funded by USDOL. See ILO-IPEC, *Combating Child Trafficking for Labor and Sexual Exploitation (TICSA Phase II)*, project document, RAS/02/P51/USA, Geneva, February 2002, 8.

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 2002.³¹⁰² The Governments of Nepal and India agreed to form a Joint Cross Border Committee Against Trafficking to collaborate on investigations and share information.³¹⁰³

In 2001, 29 child labor related programs were carried out in Nepal by 18 international development agencies for action designed to benefit Nepalese children.³¹⁰⁴ The private sector, specifically the carpet manufacturers association, is making efforts to eradicate child labor; nearly 65 percent of carpet production capacity is monitored through a system that certifies carpets are made without child labor.³¹⁰⁵

The Seventh Education Amendment was passed in 2002, which began the government's commitment to decentralization of the education system.³¹⁰⁶ The Community School Support Project received funding in 2003 from the World Bank in support of the government policy of providing communities incentives to take over the management of government-funded schools.³¹⁰⁷ The Basic and Primary Education Project has been underway since 1993 and works to improve quality, access and retention of students, and institutional capacity.³¹⁰⁸ The Primary Education Development Project has been underway since 1992 and prepares new primary school teachers and constructs schools.³¹⁰⁹ Under the Tenth Development Plan (2002-2007), the government planned to increase

³¹⁰² 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. See South Asian Association for Regional Cooperation Secretariat, *Eleventh SAARC Summit held in Kathmandu*, [press release] January 9, 2002 [cited October 16, 2003]; available from <http://www.saarc-sec.org/11summit.htm>. Each member state government has yet to ratify the convention.

³¹⁰³ U.S. Department of State, *Trafficking in Persons Report-2003: Nepal*, Washington, D.C., June 2003; available from <http://www.state.gov/g/tip/rls/tiprpt/2003/21276.htm#nepal>.

³¹⁰⁴ In addition, there are 240 local NGOs registered throughout the country with the objective of child development, with several hundred 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.

³¹⁰⁵ Nepal Rugmark Foundation, *Rugmark Bulletin 2003*, Nepal Rugmark Foundation, Kathmandu, January 1, 2003, 1. See also U.S. Department of State, *Country Reports on Human Rights Practices-2002: Nepal*, Washington, D.C., March 31, 2003, Section 6d; available from <http://www.state.gov/g/drl/rls/hrrpt/2002/18313.htm>.

³¹⁰⁶ "The New Approach," *The Kathmandu Post* (Kathmandu), October 25, 2002; available from http://www.kantipuronline.com/archive/kpost/2002-10-25/kp_editorial.htm.

³¹⁰⁷ Incentives include grants to about 1,500 schools, scholarships to out-of-school children from poor households to attend primary school, and support capacity building to assist communities in school management. The approved credit amount is for USD 5 million. See World Bank, *Nepal: World Bank Approves Credit for Community School Support Project*, [online news release] 2003 [cited October 27 2003]; available from <http://web.worldbank.org/WBSITE/EXTERNAL/NEWS/0,,contentMDK:20117923~menuPK:34463~pagePK:3434426~theSitePK:4607,00.html>.

³¹⁰⁸ International Bureau of Education - UNESCO, *World Data on Education: Nepal Country Report*, Geneva, revised February 2003; available from http://nt5.scbbs.com/cgi-bin/om_isapi.dll?clientID=531873&COUNTRY=nepal&FREETEXT=&KEYWORD=®ION=&THEME=&WCount=4&advquery=%5bHeadings%20Country%2c%20nepal%5d&depth=2&headingswithhits=on&hitsperheading=on&infobase=iwde.info&record={A60}&softpage=PL_frame. See World Bank, *Basic and Primary Education Project (02)*, World Bank, [online] August 28, 2003 [cited July 28, 2003]; available from <http://web.worldbank.org/external/projects/main?pagePK=104231&theSitePK=40941&menuPK=228424&Projectid=P040612>. The Basic and Primary Education Project 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*, [previously online] February 1, 2001; available from http://www.ramboll.dk/ramboll/news/uk/News/education_nepal.htm [hard copy on file].

³¹⁰⁹ The Primary Education Development Project is funded by ADB. See International Bureau of Education - UNESCO, *World Data on Education: Nepal Country Report*.

education expenditures by 63 percent; however, due to the instable political situation in Nepal, the government's priority has been improving the security situation in the face of a Maoist insurgency.³¹¹⁰

Incidence and Nature of Child Labor

In 2001, the ILO estimated that 41.4 percent of children ages 10 to 14 years in Nepal were working.³¹¹¹ The majority of economically active children participate in the agriculture sector, while a small percentage work in the service sector, in transportation, and in communication.³¹¹² According to ILO-IPEC, most working children do not receive wages.³¹¹³ They often work under exploitative and hazardous conditions.³¹¹⁴ An estimated 5,000 children are living on the streets throughout the country.³¹¹⁵ Statistics on trafficking victims vary widely, with one local NGO estimating that over 200,000 Nepalese girls are residing in Indian brothels.³¹¹⁶ 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.³¹¹⁷ In 2001, a local NGO recorded 265 cases of girl trafficking, of which 34 percent were below 16 years of age.³¹¹⁸ While trafficking of children often leads to their sexual exploitation, there is also demand for trafficked boys and girls to work in the informal labor sector.³¹¹⁹ There are reports that Maoist insurgents use children as soldiers, cooks, and messengers.³¹²⁰

Although education is not compulsory, the government provides free primary education for all children between the ages of 6 and 12.³¹²¹ Still, public primary schools commonly charge non-tuition fees to offset their

³¹¹⁰ UNESCO, *EFA Global Monitoring Report 2002*, pursuant to Education for All: Is the World on Track?, 2002, 125; available from http://www.unesco.org/education/efa/global_co/policy_group/hlg_2002_monitoring_complete.pdf. In 1996, the leaders of the Maoist United People's Front launched a "People's War" and violence continues in the majority of the country. The Royal Nepal Army assumed responsibility for internal security from the National Police Force at the beginning of the state of emergency in November 2001 and a paramilitary Armed Police Force was established in August 2001. The Maoist insurrection has been waged through violence and forcibly conscripting children. See U.S. Department of State, *Country Reports-2002: Nepal*, Introduction.

³¹¹¹ World Bank, *World Development Indicators 2003* [CD-ROM], Washington, D.C., 2003.

³¹¹² According to the National Child Labor Study, 50 types of paid economic activities outside the home have been recorded where children are involved. See Banskota, Sharma, and Shrestha, *Costs and Benefits*, 5-6. Nepali people are heavily dependent on agriculture, with over 80 percent supporting themselves with subsistence agriculture. See U.S. Department of State, *Country Reports-2002: Nepal*, Introduction.

³¹¹³ ILO-IPEC, *Strategic Plan for 2000-2007: Nepal*, Geneva, February 4, 2000, Section 2.1.1.

³¹¹⁴ The hazards children face when engaged in the 16 worst forms of child labor are described in the National Master Plan on Child Labor. For example, children working in small restaurants, bars and in domestic service lack rest, work long hours, are under the control of their employers and are at risk of sexual exploitation. When making bricks or in carpet factories, children inhale dust and risk bodily deformation from work posture or carrying heavy loads. See Ministry of Labor and Transport Management, *National Master Plan on Child Labor*, Annex 1.7.

³¹¹⁵ Child Workers in Nepal, *The State of the Rights of the Child in Nepal, 2002, National Report*, 1st ed. (Kathmandu: 2002), 40.

³¹¹⁶ Ministry of Women, Children, and Social Welfare, *National Plan of Action Against Trafficking in Children and Women for Sexual and Labour Exploitation*, Kathmandu, 2001, 5.

³¹¹⁷ An unpublished 1998 report by UNICEF as cited in Ministry of Women Children and Social Welfare, *National Plan of Action Against Trafficking in Children and Women*, 5.

³¹¹⁸ Child Workers in Nepal, *State of the Rights of the Child in Nepal*, 33.

³¹¹⁹ Ministry of Women, Children, and Social Welfare, *National Plan of Action Against Trafficking in Children and Women*, 6, 9.

³¹²⁰ U.S. Department of State, *Country Reports-2002: Nepal*, Section 5. See also Amnesty International, *Amnesty International Report-Nepal, 2003*; available from <http://web.amnesty.org/report2003/Npl-summary-eng>.

³¹²¹ The Nepal Constitution states that it is a fundamental right for each community to operate primary schools and education children in their mother language. It is government policy to raise the standard of living of the population through development of education and other social investments, making special provisions for females, economically and socially disadvantaged groups, and by making arrangements for free education. See *Constitution of the Kingdom of Nepal*, (November 9, 1990), Part 3, Article 18(3) and Part 4, Articles 26(1, 7-10); available from http://www.oefre.unibe.ch/law/icl/npl00000_.html.

expenses,³¹²² and families frequently do not have the money to pay for school supplies and clothing.³¹²³ In 2000, the gross primary enrollment rate was 118.2 percent, and the net primary enrollment rate was 72.4 percent.³¹²⁴ 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.³¹²⁵

Child Labor Laws and Enforcement

The Labor Act of 1992 and the Children's Act of 1992 set the minimum age for employment at 14 years.³¹²⁶ The Child Labor Prohibition and Regulation Act of 2000 consolidates child labor provisions in the Labor 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 Labor Elimination Fund.³¹²⁷ The Act only covers formal sectors of employment, leaving the majority of child laborers who work in the informal sectors without legal protection. Moreover, the Act has not been effectively implemented because necessary regulations to accompany the law have not been passed.³¹²⁸ On July 17, 2000, the Government of Nepal made a landmark decision to outlaw the Kamaiya system, one form of bonded labor.³¹²⁹ The Constitution of Nepal (Article 20) prohibits the employment of minors in factories, mines or other hazardous work.³¹³⁰ Section 55 of the Labor Act allows for fines to be levied against employers in violation of labor or child labor laws.³¹³¹ The primary anti-trafficking law is the Human Trafficking Control Act of 1986.³¹³²

³¹²² ILO-IPEC, *Bonded Labor in Nepal*, project document, 1.

³¹²³ U.S. Department of State, *Country Reports-2002: Nepal*, Section 5.

³¹²⁴ There are wide disparities between primary school enrollment rates of girls and boys. In 2000, gross enrollment rates were 108 percent and 127.7 and net enrollment rates were 67.7 percent and 77.3 percent for girls and boys respectively. See World Bank, *World Development Indicators 2003*. For an explanation of gross primary enrollment and/or attendance rates that are greater than 100 percent, please see the definitions of gross primary enrollment rate and gross primary attendance rate in the glossary of this report.

³¹²⁵ For a more detailed discussion on the relationship between education statistics and work, see the preface to this report.

³¹²⁶ 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, *Labor Act, 1992*, Chapter 1, Section 2 (h) and (i); 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), Chapter 1, Section 2(a); available from http://www.labournepal.org/labourlaws/child_act.html.

³¹²⁷ Ministry of Labor and Transport Management, *National Master Plan on Child Labor*, 8. The Child Labour Prohibition and Regulation Act defines children as below the age of 16 years, and permits the employment of children 14 years and older. See Government of Nepal, *Child Labor (Prohibition and Regulation) Act (No. 14)*, (2000), Chapter 2, Section 2(a) and Section 3(1); available from <http://natlex.ilo.org/txt/E00NPL01.htm>. Children can work up to 6 hours a day and 36 hours a week, between 6 a.m. and 6 p.m. See *Labor Act (1992)*, Chapter 2, Section 5(2).

³¹²⁸ U.S. Department of State, *Country Reports-2002: Nepal*, Section 6d.

³¹²⁹ Shiva Sharma, Bijendra Basnyat, and G.C. Ganesh, *Nepal Bonded Labor Among Child Workers of the Kamaiya System: A Rapid Assessment*, ILO-IPEC, Geneva, November 2001; 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*.

³¹³⁰ *Constitution of the Kingdom of Nepal*. The Constitution of Nepal does not define the term "hazardous work" or the word "minor." See also Government of Nepal National Planning Commission, *Situation Analysis of Child Labor in Nepal*, July 1997, 71.

³¹³¹ Currently, persons in violation of this Act may be subject to fines between 1,000 and 5,000 Nepalese Rupees (USD 14 and 70). *Labor Act (1992)*, Article 55. For currency conversion, see FXConverter, [online] [cited July 28, 2003]; available from <http://www.oanda.com/convert/classic>. See also U.S. Embassy- Kathmandu, *unclassified telegram no. 1963*, October 2001.

³¹³² 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.

Despite these legal protections, resources devoted to enforcement are limited and the Ministry of Labor has a mixed record in this area.³¹³³ The Ministry of Labor and Transport Management's Child Labor Section and labor offices are responsible for enforcing child labor issues.³¹³⁴ The Central Child Welfare Board and Child Welfare Officers have the responsibility of enforcing child rights legislation.³¹³⁵ The Nepal Police reported only 92 cases of trafficking in 2001-2002, a decline attributed to inaccessibility of law enforcement due to the Maoist insurgency.³¹³⁶ The Attorney General's Office reported that in 2001-2002, 244 new trafficking cases were filed, of which 91 resulted in convictions and 43 acquittals, while 110 remained undecided.³¹³⁷

The Government of Nepal ratified ILO Convention 138 on May 30, 1997, and ratified ILO Convention 182 on January 3, 2002.³¹³⁸

³¹³³ U.S. Department of State, *Country Reports-2002: Nepal*, Section 6d.

³¹³⁴ See Ministry of Labor and Transport Management, *National Master Plan on Child Labor*, 8.

³¹³⁵ *Children's Act, 2048*, Sections 32 and 33.

³¹³⁶ U.S. Department of State, electronic communication to USDOL official, February 26, 2004.

³¹³⁷ U.S. Department of State, electronic communication.

³¹³⁸ ILO, *Ratifications by Country*, in ILOLEX, [database online] [cited June 16, 2003]; available from <http://www.ilo.org/ilolex/english/newratframeE.htm>.