

ELIMINATING CHILD LABOUR IN NEPAL

Facts, figures, commitments and action

Child labour in Nepal

Child labour and its worst forms in particular have emerged as a problem of immense global proportions and Nepal is no exception. Despite some reduction globally there are still 225 million children in prohibited child labour, of which a staggering number of 115 million are exposed to hazardous work¹. The picture in Nepal is somewhat similar.

Facts and figures on child work and child labour in Nepal

- ◆ Of the total 7.7 million children between 5 and 17 years of age in Nepal, an estimated 3.14 million (40.4%) children are working (in employment), the great majority in rural areas².
- ◆ Two thirds of working children are below the age of 14³.
- ◆ Of the total number of working children, half (1.6 million children) fall into the category of child labour, which is likely to interfere with the child's education or to be harmful for the child's health or physical, mental, spiritual, moral or social development⁴.
- ◆ 621,000 children are estimated to be engaged in hazardous work⁵.
- ◆ More girls (48%) than boys (36%) work, and 60% of children in hazardous work are girls⁶.
- ◆ In Kathmandu Valley, an estimated 11-13,000 girls and women are working in the "night entertainment industry" (cabin restaurants, dance bars, dohari restaurants and massage parlours), of which many are forced to engage in sexual activities and are vulnerable to trafficking. Nearly one half of all entertainment workers entered the industry before the age of 18⁷.
- ◆ 4.5% of primary school aged children are out of school⁸.

Findings from the National Labour Force Survey (2008) reveal a sharp drop in the proportion of children aged 5-14 years engaged in economic activities, from 2 million in 1998 to nearly 1.5 million in 2008, a trend that applies for both urban and rural areas. Still, this number constitutes nearly 34 per cent of all children aged 5-14. The decline of child labour in the 5-14 years age group and a decrease of child labour in some sectors, such as in carpet making, some stone quarries, beedi making, portering, bonded labour and children associated with armed forces or armed groups, is unfortunately largely overshadowed by an increase of child labour in the age group 15-17.

Furthermore, new sectors are emerging and there has been an increase of children working in activities related to the adult entertainment and sex industry (particularly girls), street vending and highway hawking, (including trans-border petty smuggling), brick, home-based work, jari (embroidered fabrics) manufacturing and motorbike and bicycle repair in various areas in the country.

Causes and consequences of child labour

Poverty, inadequate education, legal and employment structures, little knowledge and awareness of society at large and parents in particular, social and cultural practices including gender related discrimination, lack of adequate child protection measures including legal policies, framework and their enforcement are all major factors related to child labour and its related consequences.

As long as poverty, illiteracy and deficiencies in education, informal economic activities that lack legal protection and inadequate capacity of relevant institutions remain, the incidence of child labour will continue in Nepal.

¹ Accelerating action Against Child Labour, Global Report under the follow-up to the ILO Declaration on the Fundamental Principles and Rights at Work, International Labour Conference 99th Session Geneva, 2010

² Central Bureau of Statistics, Government of Nepal and International Labour Office: Draft Nepal Child Labour Report 2010 (based on the data of Nepal Labour Force Survey 2008/09)

³ Ibid

⁴ Ibid

⁵ Ibid

⁶ Ibid

⁷ Terre des Hommes (2010): Trafficking and Exploitation in the Entertainment and Sex Industries in Nepal: A Handbook for Decision-Makers

⁸ Department of Education/Education Management Information System (2009): Flash 1 shows a NER of 95.5% in school and 4.5 out of school

INTERNATIONAL CONVENTIONS

The Convention on the Rights of the Child (1989) outlines the fundamental rights of children, including the right to be protected from economic exploitation and harmful work, from all forms of sexual exploitation and abuse, and from physical or mental violence, as well as ensuring that children will not be separated from their family against their will. These rights are further refined by two **Optional Protocols**, one on the sale of children, child prostitution and child pornography, and the other on the involvement of children in armed conflict.

The ILO Minimum Age for Employment Convention No. 138 prohibits economic activity performed by children below the age of 13 (12 in developing countries) and sets the minimum age for admission to employment at 15 (14 in developing countries) which is equivalent to the age of compulsory schooling.

The ILO Convention No. 138 gives specific exemption and allows the children between 12-14 years old (for countries that specify a minimum age of 14) to work in case of Light Work (which is less than 14 hours per week) that does not intervene with compulsory schooling or harm child's health and development. Similarly, the Convention allows for regular work (less than 43 hours per week) and non-hazardous work for children between 15-18 years. In situations where the children are 16 of age and provided with full provision of protection and adequate vocational training from a competent authority, the ILO Convention permits the non-hazardous employment or work by children.

The ILO Worst Forms of Child Labour Convention No. 182 complements ILO Convention No. 138 and determines that no child can be engaged in any form of slavery or practices similar to slavery, such as trafficking of children, debt bondage, forced or compulsory labour, offering or procuring children for illicit activities for prostitution, pornography including forced or compulsory recruitment of children for use in armed conflict.

Moreover, the ILO Convention No. 182 stipulates that ratifying Member States must determine hazardous child labour which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children. The ILO Convention No. 182 refers to instructive guidelines given in Paragraph 3 and 4 of its accompanying Recommendation no. 190.

National legislation and legal framework related to child labour

The Government of Nepal's (GoN) signing to the UN Child Rights' Convention in 1990 raised expectations that the child's right to be protected from economic exploitation, i.e. child labour would be secured. The GoN further demonstrated its commitment to the elimination of child labour by ratifying the two important ILO Conventions on Minimum Age No.138 (in 2003) and on the Worst Forms of Child Labour No.182 (in 2004).

Following internationally made commitments, the establishment of the Children's Act (1992), the Child Labour Prohibition and Regulation Act (2000) and the

Kamaiya Labour (Prohibition) Act (2002) provide ample legal ground for initiating effective actions against child labour.

Other legal provisions restricting child labour or the minimum age of children to enter into work include the Human Trafficking and Transportation (Control) Act (2007) the Citizen Rights Act, 1995; the Begging Prohibition Act, 1962; the Prison Act, 1962; the Common Law Code, 1963; the Public Offence and Punishment Act, 1970; and the Foreign Employment Act, 2007.

THE NATIONAL LEGISLATION and LEGAL FRAMEWORK

The Children's Act 1992: As per the Act, a child is defined as a person below the age of 16 years. The Act ensures to protect the rights and interest of children and their physical, mental and intellectual development and prohibits a child below 14 years to engage in any kind of labour work.

The Child Labour (Prohibition and Regulation) Act, 2000: The Act regulates hours of work for children aged 14-16 (not more than thirty-six hours per week) and prohibits the employment of children younger than 16 years of age into hazardous work. Furthermore, it prohibits the engagement of children below 14 years in any kind of employment/labour work. However, the Act needs amendment as it enlists sectors (tourism, agriculture among others) as risky (hazardous) work/business instead of classifying the nature and circumstances of work related to these sectors.

The Act specifies that no child can be engaged in work against his/her will by way of persuasion, misrepresentation or by subjecting him/her to any influence or fear or threat or coercion or by any means or else will be liable to a punishment of an imprisonment of one year in maximum or a fine of fifty thousand rupees.

The Kamaiya labour Prohibition Act, 2002: The Act prohibits bonded (child) labour; makes provisions for freeing bonded (child) labourers and cancelling debt flowing from such arrangements. As a result of the Kamaiya Act, many bonded (girl children) in domestic servitude have been withdrawn and reintegrated into their families.

Institutional mechanisms and existing structures

Since 2002 the Government of Nepal has prioritised the fight against child labour through policy initiatives and action programs such as Nepal's Poverty Reduction Strategy (2003), the 10th National Development Plan (2002-2007), the National Master Plan on Child Labour (2004-14), the Three-year Interim Plan (2010-2013), the National Plan of Action on Education For All (2001-15), the School Sector Reform Program (2009-2015), the National Plan of Action on Children (2005-2016), the National Plan of Action on Human Rights; and the National Plans of Action on Trafficking of Women and Children and on Bonded Labour in 2001 and 2010, respectively. Furthermore, budget allocations at district, municipality and VDC level regarding child protection and development among others have contributed to the creation of a more enabling environment which are required for achieving child labour elimination goals.

The Interim Constitution of Nepal (2007) which emphasises child rights vis-à-vis discrimination, education, hazardous work, arms and conflict and exploitation; the Comprehensive Peace Agreement (2007) that refers to the elimination of child and forced labour; and the Education Policy and Education Act of 2009 that provides for free basic education up to Grade VIII, school catchments and scholar programs for "hard-to-reach" and un-reached children place child labour at the forefront of national

development agendas and provide ample opportunity for combating child labour with priority to its worst forms.

Besides, the establishment and development of institutional mechanisms as the Child Labour Elimination Section (CLES) under the Ministry of Labour and Employment (MOLE), a high level National Steering Committee under the MoLE for policy advices and to coordinate child labour programs, Anti-trafficking Interagency Coordinating group (IACG) for supporting anti-trafficking initiatives, Child Rights desk at the National Human Rights Commission; the Ministry of Women, Children and Social Welfare (MWCSW) and the Central Child Welfare Board (CCWB) provide significant means and ways for achieving the national goals towards child labour elimination.

Structures at the regional, district and community level

- ◆ 10 Labour Offices (Jhapa, Morang, Dhanusha, Parsa, Makawanpur, Kathmandu, Kaski, Rupandehi, Banke and Kailali).
- ◆ Women and Children Offices in 75 districts.
- ◆ District Child Welfare Boards in 75 districts.
- ◆ Juvenile Benches have been established in 30 districts and Police Women and Children Service Centres in 75 districts.

- ◆ Formation of Child Protection and Promotion Committees in 1,051 VDCs.
- ◆ Formation of Child Clubs all over the country.
- ◆ Promotion of Child Helpline No. 1098 and Toll Free No. 104.

National Master Plan (2011-2020)

The ratification of the ILO Conventions No. 138 and No. 182 was followed by the endorsement of the previous National Master Plan on Child Labour (2004-14). In order to strengthen the design and the operation of the previous National Master Plan, the latter was reviewed and upgraded in 2010 to the National Master Plan on the Elimination of Child Labour in Nepal (2011-2020). The current National Master Plan which is still awaiting Government's endorsement targets all forms of child labour in Nepal based on the provisions of the aforementioned ILO Conventions. In alignment with the adopted International Road Map (2010), the National Master Plan aims to eliminate child labour by 2020 and its worst forms by 2016.

Whereas the Ministry of Labour and Employment is responsible for the implementation of the National Master Plan, it has delegated major coordination, monitoring and reporting tasks to its Child Labour Elimination Section. The latter is the key national entity that brings all efforts related to child labour in Nepal together.

Gaps and challenges

Despite various Government commitments made in the past and reiterated through the National Master Plan, and efforts to translate commitments into effective and adequate action, gaps remain:

- ◆ Absence of a National Child Labour Policy and a concrete implementation strategy including child friendly budget allocation.
- ◆ Insufficient legislative and regulatory frameworks (e.g. the lack of a clear definition of what constitutes hazardous child labour) and enforcement capacities.
- ◆ Lack of adequate occupational health and safety and child protection measures at both preventive and curative level.
- ◆ Inadequate human resources and institutional capacity/structures to coordinate, monitor, initiate responses and report upon child labour elimination efforts.
- ◆ Insufficient awareness on the causes and consequences of child labour, its inextricable and often causal and perpetuating linkages with various international, regional and MDG goals on education and poverty in particular.

Way-out/prevention strategies

The Government of Nepal has ratified international commitments to fight against child labour. It has also formed the Child Labour Elimination Section under the Ministry of Labour and Employment to steer the implementation of the National Master Plan. The same commitments should lead to the effective enforcement, implementation and monitoring of laws, policies and programs including the establishment of a National Child Labour Policy, determination of hazardous child labour, strengthening occupational safety and health measures at the workplace, strengthening inter-sectoral and inter-ministerial communication/coordination and capacity building of all relevant public and private, national and local agencies on child labour and child protection in general. The elimination of the worst forms of child labour by 2016 and all forms of child labour by 2020 requires immediate and sustainable action. The commitments and actions will have a solid national technical and operational framework when the National Master Plan is nationally owned and embraced by the key stakeholders and endorsed by the Government of Nepal.

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Ministry of Labour & Employment



National Human Rights Commission



WORLD EDUCATION



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