



NEPAL

Stakeholder Report for the United Nations Universal Periodic Review

Submitted by **The Advocates for Human Rights,**

a non-governmental organization in special consultative status

for the 37th Session of the Working Group on the Universal Periodic Review

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Founded in 1983, **The Advocates for Human Rights** (“The Advocates”) is a volunteer-based non-governmental organization committed to the impartial promotion and protection of international human rights standards and the rule of law. The Advocates conducts a range of programs to promote human rights in the United States and around the world, including monitoring and fact finding, direct legal representation, education and training, and publications. The Advocates is the primary provider of legal services to low-income asylum seekers in the Upper Midwest region of the United States.

The Advocates has worked in Nepal since 1996, publishing the report [*Domestic Violence in Nepal*](#) in 1998. Since 1999, The Advocates has worked through the [*Sankhu-Palubari Community School*](#) to combat child labor and provide access to education to some of the most marginalized children in the eastern Kathmandu Valley. The school provides free education, textbooks, uniforms, health checkups and a daily meal to 375 students in pre-K through grade 10. Approximately 55% of the students are members of Janajati (indigenous) groups who do not speak Nepali at home; an additional 7.2% are Dalit. In the current school year, 52.8% of the students are girls. The Advocates partners with the local Sankhu-Palubari community and the Nepali organization Educate The Children to administer the school.

I. 2015 Universal Periodic Review of Nepal

1. *Human Trafficking*

Status of Implementation: Partially Accepted, Partially Implemented

2. Nepal accepted four recommendations to end human trafficking in women and children.¹
3. Nepal rejected a recommendation to ratify the Palermo Protocol to Prevent Trafficking,² noting that it would consider ratification “after developing the requisite legal, policy and institutional mechanisms.”³
4. *Access to Education*

Status of Implementation: Accepted, Partially Implemented

5. Nepal accepted several recommendations concerning the provision of equal and quality education for all,⁴ including the enforcement of legislation to facilitate access to education for the poor and disadvantaged.⁵ Nepal supported two recommendations to increase the budget for education.⁶
6. *Child Labor*

Status of Implementation: Accepted, Partially Implemented

7. Nepal received and accepted several recommendations to end child labor and to protect the rights of children.⁷ Although the Government has drafted a bill including a provision to end child labor,⁸ there is significant room for improvement.

II. IMPLEMENTATION OF INTERNATIONAL HUMAN RIGHTS OBLIGATIONS

A. Human Trafficking

1. Nepal’s Constitution makes trafficking punishable by law.⁹ The Human Trafficking and Transportation (Control) Act, adopted in 2007, includes basic protections and remedies for victims of trafficking.¹⁰
2. **Trafficking and sexual exploitation of Nepali children remains a significant problem.** Nepal is a source, transit, and destination country for trafficking. The number of trafficking cases increased from 185 in 2014-15 to 305 in 2017-18. The number of traffickers apprehended increased from 7 in 2012 to 154 in 2017.¹¹ In Kathmandu Valley alone, an estimated 11-13,000 girls are working in the “night entertainment industry”, often forced to engage in sexual activity. Nearly half enter this industry before the age of 18.¹² Boys who are trafficked are often forced into dangerous child labor.¹³
3. Every year, an estimated 12,000 children are trafficked to India to work in brothels or exploited for their labor.¹⁴ Trafficking of children to India has reportedly increased since the earthquakes in 2015. Media outlets reported that immediately after the first earthquake in April 2015, traffickers arrived in the earthquake ravaged areas of Nepal to attempt to recruit children with offers of education and opportunity for their families.¹⁵ UNICEF

intercepted 1,000 women and children who were trafficked across the border between Nepal and India following the earthquake.¹⁶

4. **Although the Nepali government revised the Human Trafficking Control Act (HTTC) in 2016, the legislation is insufficient.** The government's laws do not criminalize all forms of labor trafficking and sex trafficking and the HTTC does not explicitly address pornography, internal trafficking, or trafficking in the process of migration. These forms of trafficking are covered under the Foreign Employment Act which does not provide the victim remedies available under the HTTC, leaving many victims of trafficking without adequate remedy.¹⁷
5. Police officers lack awareness regarding the anti-trafficking law, leading to poor investigation techniques and impeded prosecutions. In Fiscal Year 2016-17, for instance, the Department of Foreign Employment received 2,383 cases of trafficking, yet police registered between 200 and 300 cases.¹⁸
6. Further, official corruption remains a serious problem, both direct complicity and negligence. The Government did not report investigations into several documented allegations.¹⁹ Reports indicate that political parties pressure authorities to drop cases and that traffickers are tied to government officials.²⁰ Businesses discovered to facilitate trafficking are rarely prosecuted.²¹
7. Although Nepal has national standards for care and protection of trafficking victims, referrals for services to government-run, one-stop emergency centers located within hospitals, as well as to NGOs, remain ad hoc and inadequate.²² NGOs report that, while the Government cooperated with them to identify and remove trafficking victims, it did not provide them with the financial or material support necessary for victim care.²³ Currently, there are 10 shelters for trafficking victims in Nepal that are operated by NGOs with little government assistance.²⁴ The shelters assisted 1,021 victims of crime, including trafficking victims, during the last fiscal year, but could not accommodate all identified trafficking victims and did not always care for male victims.²⁵ Further, as the shelters are not able to provide long-term shelter or counseling to victims who file cases against their traffickers, many victims reportedly did not pursue cases against their traffickers.²⁶

B. Access to Education

1. The 2015 Constitution of Nepal and the Education Act Eight Amendment Bill (June 2016) guarantee basic compulsory education through grade 8.²⁷
2. **Nepal has made significant improvements in some areas of education since the last UPR.** The net enrollment rate in primary schools has risen to 97 percent over the last 20 years.²⁸ Basic primary education is now free and compulsory through grade 8.²⁹ Nepal has also achieved gender parity in primary level education.³⁰
3. **In spite of these positive trends for educational opportunity, many Nepali children still face serious problems in accessing their right to education.** 770,000 children between the ages of 5 and 12 are still not enrolled in elementary school. Just half of the students in grades 3, 5, and 8 meet the academic requirements for mathematics in Nepal. Attendance rates are also low at just 51 percent.³¹
4. The hidden costs of school also continue to be a barrier that prevents many children in low-income families accessing education. Although the Constitution guarantees free and

compulsory primary education, government schools still require parents to pay school fees and buy other supplies like textbooks.³² More than half of all expenditures for textbooks and uniforms in Nepal were borne by private households in 2015.³³

5. **The experience of students at The Advocates' Sankhu-Palubari Community School highlights the barrier that hidden costs represent in Nepal.** For example, one female student described how her parents are illiterate and her father works numerous occupations in an effort to make ends meet. The family has no extra money for examination fees, school uniforms or textbooks. If it were not for the free education provided by the Sankhu-Palubari Community School, she would not be able to be in school at all.³⁴
6. Additionally, it is common for low-income families in the area to delay schooling for their children so they can assist in labor in the fields. A student in grade four at SPSC was not able to start school until age nine as he was a victim of child labor.³⁵
7. **Gender barriers continue to exist for girls trying to access their right to an education.** The Government's efforts to reduce discrimination and increase gender parity have been more successful in urban areas than in rural areas. As many as two-thirds of adolescent girls in rural areas reportedly are not attending school.³⁶ Overall, there is a higher dropout rate for girls compared to boys.³⁷ More than 80 percent of Nepali girls are out of school by grade 11.³⁸
8. Girls face barriers to accessing education due to geographic distance from school, household responsibilities, and lack of parental support.³⁹ In addition, 32.4 percent of schools in Nepal lack separate toilet facilities for girls, which creates barriers to school attendance, especially when they are menstruating.⁴⁰ Further, the continued practice of early marriage in Nepal contributes to the high dropout rate for girls. In 2016, thirty-seven percent of girls in Nepal were married before age 18 and ten percent were married before age ten.⁴¹
9. **Children with disabilities also face difficulties accessing education.** In 2016, 30.6 percent of children with disabilities – between 15,000 and 56,000 children, were out of school.⁴² Children with disabilities who do attend school receive unequal and segregated education, and struggle with accessibility. One student, for instance, crawled from classroom to classroom for seven years because his school was not wheelchair accessible.⁴³ Teachers do not have adequate training or curricula to teach children with physical or mental disabilities.⁴⁴

C. Child Labor

10. Nepal revised the Child Labor (Prohibition and Regulation) Act in 2016 following pressure from civil society.⁴⁵ Revisions include increased victim compensation, mandatory detention for the accused during trial, and access to translators for the victim.⁴⁶ Nepal has enacted a ten-year Action Plan for the elimination of child labor by 2025.⁴⁷
11. **Child labor remains a widespread problem in Nepal.** Although child labor is declining in Nepal, there are still an estimated 1.6 million children who are working in child labor.⁴⁸ More than one-quarter (26 per cent) of all 5 to 17-year-olds in Nepal are engaged in child labor.⁴⁹ The Government of Nepal's National Planning Commission reports that, of the children between 5-17 engaged in child labor, 30 percent work in hazardous conditions.⁵⁰

12. Labor in brick kilns is one of the most common forms of child labor and also one of the most exploitative. A 2017 report on child labor in Nepal noted that of participants (ages 5-18), 53 percent of boys and 47 percent of girls worked in brick factories.⁵¹ Child labor is also common in agriculture and other sectors.⁵²
13. **Although Nepal has enacted legislation to combat child labor, serious problems in implementation remain.** Limited human resources and institutional capacity are available to implement child labor policies.⁵³ Insufficient awareness about the causes and consequences if child labor impeded progress on implementation of the National Master Plan that targets all forms of child labor in Nepal.⁵⁴ In addition, free compulsory education is only at the primary level, making children age 13 and older vulnerable to child labor despite not being legally permitted to work.
14. While most child laborers work in the informal sector in Nepal, government inspectors do not regularly inspect the informal sector for violations.⁵⁵ NGOs report that the Department of Labor (DOL) is unwilling to take meaningful action against perpetrators of child and forced child labor and does not undertake many unannounced inspections.⁵⁶
15. Some of the children at the Sankhu-Palubari Community School worked in child labor before coming to the school. For example, one student originally from the Tarai region, was forced to work as a domestic servant at a very young age as his family was unable to support him.⁵⁷ Another student described working with his brothers and their parents at a brick factory, hauling heavy buckets of mud, straw and water used to make the bricks. Even though he was 5 years old at the time, he had to get up at 3 am every day to do the work.⁵⁸ Throughout the interviews, there were multiple children from lower income families who were forced into child labor due to their families economic status, ending or delaying their education.⁵⁹
16. The COVID-19 pandemic also increases risk factors for the use of child labor.⁶⁰ Economic insecurity may cause households to resort to child labor on a more regular basis.⁶¹ Job insecurity may also push children into more informal work where they receive less protection and are more vulnerable to exploitation.⁶² In addition, the shutdown of schools may increase an already high dropout rate among Nepali children.⁶³

IV. RECOMMENDATIONS

Recommendations regarding trafficking

- Revise the Human Trafficking and Transportation Control Act (HTTCA) to bring the definition of human trafficking in line with international law.
- Specifically address pornography and internal trafficking of all kinds in the HTTCA rather than the Foreign Employment Act.
- Increase law enforcement efforts against all forms of trafficking and against officials complicit in trafficking-related crimes.
- Implement HTTCA victim protection provisions and ensure that victim services are available to all victims of trafficking.
- Create a comprehensive trafficking reporting system with data disaggregated by age, sex, geographic location, ethnicity and socio-economic background.

Recommendations regarding education

- Make education compulsory and free throughout Nepal for all children without discrimination from pre-K through grade 10.
- Take steps to address barriers to education caused by hidden costs through scholarship or other programs.
- Continue success in increasing enrollment of girls by prioritizing the gender gap in education for rural girls.
- Expand targeted programs for children from poor families and children from marginalized groups.
- Reward high-performing community schools that serve children from poor families and children from marginalized groups through government subsidies of teacher salaries.
- Increase accountability and transparency in the education budget to address corruption, including independent monitoring of budget allocations and disbursements.
- Desegregate classrooms for students with disabilities and.
- Provide funding and resources to schools to make them more accessible for students with disabilities and provide trainings and curricula to teachers on how to teach children with disabilities.

Recommendations regarding child labor

- Raise the minimum wage of work into full compliance to ensure all children under 18 receive full protection under the Convention on the Rights of the Child and its Optional Protocols.
- Make all efforts, including taking both preventative measures and punitive measures against violators, to ensure that children do not engage in labor under harmful conditions.
- Strengthen the implementation and enforcement of existing legislation and regulations on child labor, including expanding the number of labor-inspector positions and filling all vacant positions with persons with strong qualifications in the area of child labor.
- Expand legislation and regulations of child labor to include the informal sector.
- Collect disaggregated data regarding the situation of children engaged in child labor since the earthquakes of 2015, as well as the during the COVID-19 pandemic.

¹ Human Rights Council, *Report of the Working Group on the Universal Periodic Review on Nepal*, (23 December 2015), UN Doc. A/HRC/31/9. ¶121.8 Finalise the revision of child act in order to set up coordination mechanism related to cases of child victims trafficking (Timor-Leste); ¶121.25 Make increased efforts to introduce and

effectively carry out new measures to deal with human trafficking of women and children (Japan); ¶122.46 Ensure that the police provide a safe and confidential environment for women and girls to report incidents of violence, including sexual violence and incidents of trafficking, and that all complaints are recorded and effectively investigated (Netherlands); ¶122.47 Strengthen measures to combat violence against children, particularly with regard to the prevention of early and forced child marriages and child trafficking and in particular through awareness-raising campaigns among families (Belgium);

² Human Rights Council, *Report of the Working Group on the Universal Periodic Review on Nepal*, (23 December 2015), UN Doc. A/HRC/31/9. ¶123.12 Consider ratifying the Palermo Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (Egypt).

³ Human Rights Council, Rights Council, *Report of the Working Group on the Universal Periodic Review on Nepal: Addendum*, (24 February, 2016), UN Doc. A/HRC/31/9/Add.1. ¶18

⁴ Human Rights Council, *Report of the Working Group on the Universal Periodic Review on Nepal*, (23 December 2015), UN Doc. A/HRC/31/9. ¶122.102 Ensure equal access to education for all children (Namibia); 122.108 Take measures to ensure compulsory and free primary and quality education for all (Maldives);

⁵ Human Rights Council, *Report of the Working Group on the Universal Periodic Review on Nepal*, (23 December 2015), UN Doc. A/HRC/31/9. ¶122.48 Take measures to enforce legislation prohibiting child labour and to facilitate access to education for all children, particularly the poor and disadvantaged (Brazil); ¶122.49 Enforce legislation prohibiting child labour, facilitate access to education for poor and disadvantaged children and reinforce labour inspections (Slovenia);

⁶ Human Rights Council, *Report of the Working Group on the Universal Periodic Review on Nepal*, (23 December 2015), UN Doc. A/HRC/31/9. ¶122.98 Continue to increase spending on education in order to improve coverage and quality of education with the special attention to the right to education of the vulnerable groups, including poor students, girls and children with disabilities (China); ¶122.103 Continue its efforts to improve access to education for all, including by providing adequate resources (Indonesia);

⁷ Human Rights Council, *Report of the Working Group on the Universal Periodic Review on Nepal*, (23 December 2015), UN Doc. A/HRC/31/9. ¶122.48 Take measures to enforce legislation prohibiting child labour and to facilitate access to education for all children, particularly the poor and disadvantaged (Brazil); ¶122.49 Enforce legislation prohibiting child labour, facilitate access to education for poor and disadvantaged children and reinforce labour inspections (Slovenia); ¶122.50 Reinforce and protect the rights of children, in particular by eliminating child labour and facilitating access of poor children to education (Djibouti); ¶122.51 Give specific attention to the implementation of the plan aimed at eliminating worst form of child labour by 2016 and all forms of child labour by 2020, including prohibiting child labour in the informal sector (Russian Federation);

⁸ The Child Labor (Prohibition and Regulation) Amendment Act, 35 (July 29, 2016). Also available online at [https://pencil.gov.in/THE%20CHILD%20LABOUR%20\(PROHIBITION%20AND%20REGULATION\)%20AMENDMENT%20ACT,%202016\(1\).pdf](https://pencil.gov.in/THE%20CHILD%20LABOUR%20(PROHIBITION%20AND%20REGULATION)%20AMENDMENT%20ACT,%202016(1).pdf)

⁹ Constitution of Nepal, Art. 29 (3). Also available online at <http://www.lawcommission.gov.np/en/archives/category/documents/prevaling-law/constitution/constitution-of-nepal>

¹⁰ Nepal Law Commission, Human Trafficking and Transportation (Control) Act, 2064 (July 24, 2007). Also available online at <http://www.lawcommission.gov.np/en/archives/category/documents/prevaling-law/statutes-acts/human-trafficking-and-transportation-control-act-2064>

¹¹ National Human Rights Commission, *Trafficking in Persons in Nepal*, Office of the Special Rapporteur on Trafficking in Persons (OSRT), (Lalitapur, Nepal: September 2018). Also available online at http://www.nhr-cnepal.org/nhrc_new/doc/newsletter/NHRC_National_Report_TIP_in_Nepal_September_2018.pdf (Accessed March 20, 2020), XIII.

¹² International Labor Organization, *Eliminating Child Labour in Nepal: Facts, Figures, Commitments and Action*, June 12, 2012. Also available online at http://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---ilo-kathmandu/documents/projectdocumentation/wcms_182777.pdf

¹³ Kate Moore, *Exploitation the New Danger for Nepal's Children*, UNICEF, Jul. 23, 2015, <http://www.unicef.org.au/blog/july-2015/exploitation-the-new-danger-for-nepal-s-children>

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- ¹⁷ National Human Rights Commission, Trafficking in Persons in Nepal, Office of the Special Rapporteur on Trafficking in Persons (OSRT), (Lalitapur, Nepal: September 2018). Also available online at http://www.nhrcnepal.org/nhrc_new/doc/newsletter/NHRC_National_Report_TIP_in_Nepal_September_2018.pdf
- ¹⁸ Chandan Kumar Mandal, *Nearly 1.5 Million Nepali at risk of human trafficking, report says*, Kathmandu Post, August 6, 2019, <https://kathmandupost.com/national/2019/08/06/nearly-1-5-million-nepali-at-risk-of-human-trafficking-while-35-000-trafficked-last-year-nhrc-report>.
- ¹⁹ U.S. Department of State, *Trafficking in Persons Report 2020: Nepal*, (June 25, 2020). Available at <https://www.state.gov/wp-content/uploads/2020/06/2020-TIP-Report-Complete-062420-FINAL.pdf> (accessed July 7, 2020.)
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- ²⁶ U.S. Department of State, *Trafficking in Persons Report 2020: Nepal*, (June 25, 2020). Available at <https://www.state.gov/wp-content/uploads/2020/06/2020-TIP-Report-Complete-062420-FINAL.pdf> (accessed July 7, 2020.)
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- ²⁹ World Education News and Reviews, *Education System Profiles: Education in Nepal*. (April 3, 2018). Available at <https://wenr.wes.org/2018/04/education-in-nepal> (Accessed March 20, 2020).
- ³⁰ United Nations Educational, Scientific and Cultural Organization (UNESCO), *Championing girls’ right to education in Nepal*, (September 11, 2019). Available at <https://en.unesco.org/news/championing-girls-right-education-nepal> (Accessed July 6, 2020).
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- ⁴⁰ U.S. Department of State, Country Reports on Human Rights Practices in 2019: Nepal, Bureau of Democracy, Human Rights and Labor (April 13, 2016). Available online at <https://www.state.gov/reports/2019-country-reports-on-human-rights-practices/nepal/> (Accessed July 6, 2020.)
- ⁴¹ Human Rights Watch, “Child Marriage in Nepal,” (September 8, 2016), <https://www.hrw.org/report/2016/09/09/our-time-sing-and-play/child-marriage-nepal>
- ⁴² Human Rights Watch, “Nepal: Barriers to Inclusive Education,” (September 13, 2018), <https://www.hrw.org/news/2018/09/13/nepal-barriers-inclusive-education>.
- ⁴³ Human Rights Watch, “Nepal: Barriers to Inclusive Education,” (September 13, 2018), <https://www.hrw.org/news/2018/09/13/nepal-barriers-inclusive-education>.
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⁵⁴ International Labor Organization, *Eliminating Child Labour in Nepal: Facts, Figures, Commitments and Action*, June 12, 2012. Also available online at http://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---ilo-kathmandu/documents/projectdocumentation/wcms_182777.pdf

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⁵⁶ U.S. Department of State, *Trafficking in Persons Report 2020: Nepal*, (June 25, 2020), available <https://www.state.gov/wp-content/uploads/2020/06/2020-TIP-Report-Complete-062420-FINAL.pdf> (accessed July 7, 2020.)

⁵⁷ Interview conducted with students at the Sankhu-Palubari Community School by The Advocates for Human Rights (March 2015) (on file with author).

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⁵⁹ Id.

⁶⁰ ILO and UNICEF, *COVID-19 and Child Labor: A Time of Crisis, a Time to Act*, (New York: June 2020). Also available online at <https://www.unicef.org/sites/default/files/2020-06/COVID-19-and-Child-labour-2020.pdf>

⁶¹ International Labor Organization and the United Nations Children's Fund, *COVID-19 and Child Labor: A Time of Crisis, a Time to Act*, a Time to Act, (New York: June 2020), 11. Also available online at <https://www.unicef.org/sites/default/files/2020-06/COVID-19-and-Child-labour-2020.pdf>

⁶² International Labor Organization and the United Nations Children's Fund, *COVID-19 and Child Labor: A Time of Crisis, a Time to Act*, (New York: June 2020), 7. Also available online at <https://www.unicef.org/sites/default/files/2020-06/COVID-19-and-Child-labour-2020.pdf>

⁶³ International Labor Organization and the United Nations Children's Fund, *COVID-19 and Child Labor: A Time of Crisis, a Time to Act*, (New York: June 2020), 17. Also available online at <https://www.unicef.org/sites/default/files/2020-06/COVID-19-and-Child-labour-2020.pdf>