



NEPAL's Compliance with the Convention on the Rights of the Child
Report for the Committee on the Rights of the Child

Submitted by The Advocates for Human Rights,
a non-governmental organization in special consultative status with ECOSOC

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I. Reporting Organization

1. **The Advocates for Human Rights** (“The Advocates”) is a volunteer-based nongovernmental organization committed to the impartial promotion and protection of international human rights standards and the rule of law. Established in 1983, 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.
2. 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 a free education, textbooks, uniforms, health checkups and a daily meal to 350 students in pre-K through grade 10. Approximately 40% of the students are members of Janjati (indigenous) groups who do not speak Nepali at home. In the current school year, 52% of the students are girls. The Advocates partners with the local community and the Nepali organization Educate The Children to administer the school.

II. Nepal's compliance with the Convention on the Right of the Child and the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution, and children pornography

A. Scope of International Obligations

3. Nepal has ratified a number of treaties relevant to its obligations to prevent child labor and the sexual exploitation and trafficking of children, as well as its obligations to provide all children in Nepal the right to education. Nepal ratified the Convention on the Rights of the Child on 14 September 1990¹. Nepal also ratified the Optional Protocol to the Convention on

¹ The Convention on the Rights of the Child (entered into force in 1990). Available at <http://www.ohchr.org/en/professionalinterest/pages/crc.aspx>

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the Rights of the Child on the sale of children, child prostitution and child pornography on 6 January 2006² and the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict on 3 January 2007.³

B. List of Issues para. 14, Access to Education (Article 28: Right to Education)

4. During Nepal's last review in 2004, the Committee on the Rights of the Child (Committee) noted in its Concluding Observations deep concern about "widely prevailing de facto discrimination against girls and children belonging to the most vulnerable groups" such as indigenous or ethnic minorities.⁴ Further, the Committee noted concern about the high dropout rate and the significant inequality in access to education, in part due to hidden costs associated with schooling.⁵ The Committee made several recommendations to the Government regarding education, including improving the accessibility to education, in particular for girls, and eliminating disparities.⁶
5. In paragraph 14 in the List of Issues (LOI), the Committee requested that the Government explain the impact on the education system in the last five years of the decrease in the budgetary allocations to the education sector, especially as regards the elimination of hidden costs that effectively prevent a large proportion of children from attending school.⁷ In addition, the Committee requested the Nepali Government to describe measures taken to ensure that children from disadvantaged and marginalized families are effectively enroll in primary schools.⁸
6. The Nepali Government has made efforts to address the barriers that many Nepali children face in accessing their right to education. The School Sector Reform Program (SSRP) was implemented in 2010 with the goal of reducing gender and regional disparities by ensuring necessary provisions toward compulsory basic education.⁹ Seventeen percent of Nepal's budget was allocated toward this initiative, allowing for multiple policy and program changes, including free education up to grade 8.¹⁰ Strategic investment has been made in

² Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (entered into force in 2002). Available at <http://www.ohchr.org/EN/ProfessionalInterest/Pages/OPSCCRC.aspx>

³ Optional Protocol to the Convention on the Rights of the Child (entered into force in 2002). Available at <http://www.ohchr.org/EN/ProfessionalInterest/Pages/OPACCRC.aspx>

⁴ U.N. Committee on the Rights of the Child, *Concluding Observations: NEPAL*, para. 35, CRC/C/15/Add.261 (21 September 2005).

⁵ Id at para. 75.

⁶ Id. at para. 76.

⁷ U.N. Committee on the Rights to the Child, *List of Issues in relation to the combined third to fifth periodic reports of Nepal*, para. 14, CRC/C/NPL/Q3-5 (4 November 2014). To date, the Nepali government has failed to reply to the committee's request in the List of Issues.

⁸ Id.

⁹ U.N. Committee on the Rights of the Child, *Third to fifth periodic reports of States parties due in 2010: Nepal*, para 41, CRC/C/OPSC/NPL/CO/1 (23 December, 2013).

¹⁰ Id. Note however that numerous organizations in Nepal have reported to The Advocates for Human Rights that a large percentage of the education budget is unaccounted for and never reaches the government schools. (Communications on file with author.) Further, the Government has been criticized for not spending the full amount budgeted for some of its educational initiatives such as the education program for girls who have escaped Kamlari (bonded domestic labor). U.S. Department of State, "Country Reports on Human Rights Practices in 2014". (31

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scholarships and infrastructure with the goal of reducing gender and regional disparities, particularly for girls, children with disabilities, and children who are members of indigenous groups.

7. These Government initiatives have resulted in encouraging trends such as increasing enrollment of children from marginalized groups increasing enrollment.¹¹ The enrollment rate of Dalit caste and Janjati (indigenous) children increased from 39.4% in 2004 to 66.2% in 2009; Nepal achieved gender parity in primary level education, reaching a total of 93% enrolled females in 2009.¹²
8. **In spite of these positive trends for educational opportunity, many Nepali children still face serious problems in accessing their right to education.** Education is not compulsory across the country as there are only 13 compulsory education pilot districts.¹³ While the Government's official policy is to provide free education for children aged 5 to 12, government schools still charge students for examination fees, uniforms, and textbooks. These hidden costs continue to be a barrier that prevents many Nepali children from accessing education.¹⁴
9. **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 in grade 3 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 was not for the free education provided by the Sankhu-Palubari Community School, she would not be able to be in school at all.¹⁵
10. **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. A gender gap in education persists in rural areas with as many as two-thirds of adolescent girls not attending school in some areas.¹⁶ Some school-age girls do not attend government school due to the lack of separate toilets for girls; the Nepali Department of Education report that 32 percent of government schools do

July 2015), available at,

<http://www.state.gov/j/drl/rls/hrrpt/2014humanrightsreport/index.htm?year=2014&dliid=236646#wrapper>

(Accessed: April 9, 2016).

¹¹ Id.

¹² U.N. Committee on the Rights of the Child, *Third to fifth periodic reports of States parties due in 2010: Nepal*, para 214, CRC/C/OPSC/NPL/CO/1 (23 December, 2013).

¹³ U.S. Department of State, *Country Reports on Human Rights Practices in 2015*, page 32(April 13, 2016), available at <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2015&dliid=252971> (Accessed: April 14, 2016).

¹⁴ U.S. Department of State, *Country Reports on Human Rights Practices in 2014*. (31 July 2015), available at, <http://www.state.gov/j/drl/rls/hrrpt/2014humanrightsreport/index.htm?year=2014&dliid=236646#wrapper> (Accessed: April 9, 2016).

¹⁵ Interview conducted with students at the Sankhu-Palubari Community School by The Advocates for Human Rights (March 2015) (on file with author).

¹⁶ U.S. Department of State, *Country Reports on Human Rights Practices in 2015*, page 32(April 13, 2016), available at <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2015&dliid=252971> (Accessed: April 14, 2016).

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not have separate toilets for girls.¹⁷ Further, some girls do not attend school because of reports of violence against girls or the practice of early and forced marriage.¹⁸

11. Improvements in access to education were disrupted by the 2014 earthquakes in Nepal. By some estimates, the earthquakes damaged 7,093 school buildings in Nepal.¹⁹ UNICEF estimates that the damage from the earthquakes to classrooms resulted immediately in 870,000 children being unable to continue their education.²⁰

B. List of Issue para. 15, Child Labor (Article 32: Protection of Children Under 18 from Child Labor)

12. During Nepal's 2004 review, the Committee noted in its Concluding Observations grave concern about the significant proportion of Nepali children who engage in labor, often full-time and in extremely hazardous circumstances.²¹ The Committee made a number of recommendations to the Government to address child labor, including taking preventative measures, regulating child labor in all areas of work (including the informal sector of the economy), and fully implementing policies, legislation and public awareness campaigns relevant to child labor.²²
13. The Committee, in LOI paragraph 15, requests the Nepali Government to provide information about legislation adopted to protect children from child labor, as well as for information about the results from the 2009 National Plan of Action against Bonded Labor.²³ Further, the Committee requested precise information regarding the monitoring of child labor, including the number of child-labor inspectors.²⁴
14. **Serious problems exist with Nepal's legal and policy framework to address child labor.** Nepali law establishes 14 is the minimum age for work and 16 as the minimum age for hazardous work.²⁵ The Department of Labor has a weak enforcement record, conducting most of its labor inspections in the formal sector rather than the informal sector where most child labor occurs.²⁶ NGOs in Nepal report that there are a limited number of labor-inspector

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ Amnesty International, "Nepal Earthquake Recovery Must Safeguard Human Rights.", p. 19 (November 2015), available at: https://www.amnestyusa.org/sites/default/files/p4583_report_-_nepal_report_on_earthquake_web.pdf_-_adobe_acrobat_pro_0.pdf. (Accessed: April 9, 2016).

²⁰ UNICEF, "Nepal Earthquake: Education for Nearly 1 Million Children in Jeopardy", (7 May 2015), available at: http://www.unicef.org/media/media_81802.html. (Accessed: April 9, 2016). An estimated 24,000 classrooms were affected by the earthquakes, with 14,541 of the classrooms were completely destroyed.

²¹ U.N. Committee on the Rights of the Child, *Concluding Observations: NEPAL*, para. 91, CRC/C/15/Add.261 (21 September 2005).

²² *Id.* para 93.

²³ U.N. Committee on the Rights to the Child, *List of Issues in relation to the third, fourth, and fifth periodic report of Nepal*, para. 14, (4, November 2013). To date, the Nepali government has failed to reply to the committee's request in the List of Issues.

²⁴ *Id.*

²⁵ U.S. Department of State, *Country Reports on Human Rights Practices in 2015*, page 43 (April 13, 2016), available at <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2015&dliid=252971> (Accessed: April 14, 2016).

²⁶ *Id.*

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positions and many of those positions are vacant; as of September 2015, only 12 of 24 labor-inspector positions were filled.²⁷ Further, most inspectors do not have strong qualifications in the area of child labor.²⁸

15. **Child labor remains a widespread problem in Nepal, with more than 2 million children between the ages of 5 and 14 (about 34%) estimated to be engaged in child labor.**²⁹ The highest incidence in child labor occurs in the agricultural sector,³⁰ but children are also engaged in labor in domestic service, portering, recycling, and transportation. The most dangerous conditions of child labor are reported in brick kilns, the stone-breaking industry, the carpet sector, embroidery factories, and the entertainment sector.³¹ Severe physical abuse of children is reported in agriculture, brick factories, the stone-breaking industry, and domestic servitude.³² In the informal sector, children work long hours in unhealthy environments, carried heavy loads, are at risk of sexual exploitation, and can suffer from numerous health problems.³³
16. 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.³⁴ 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.³⁵
17. While no clear data exists about child labor in Nepal since the 2014 earthquakes, Government and non-governmental organizations have expressed concern that the economic impact of the earthquakes, along with the disruption in education, has led to an increased risk of child labor in Nepal.

C. List of Issues para. 16, Sexual Exploitation and Trafficking of Children (CRC Articles 34 & 35)

18. During Nepal's 2004 review, the Committee noted in its Concluding Observations deep concern about the trafficking and sale of children within Nepal and across the border for the

²⁷ *Id.*

²⁸ *Id.*

²⁹ U.S. Department of Labor, 2014 Findings on the Worst Forms of Child Labor, p. 1 (October 15, 2015).

³⁰ *Id.*

³¹ U.S. Department of State, *Country Reports on Human Rights Practices in 2015*, page 43 (April 13, 2016), available at <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2015&dliid=252971> (Accessed: April 14, 2016).

³² U.S. Department of State, *2015 Trafficking in Persons Report*, p. 287-289, (2015), available at, <http://www.state.gov/documents/organization/226848.pdf>. (Accessed: April 9, 2016).

³³ *Id.*

³⁴ Interview conducted with students at the Sankhu-Palubari Community School by The Advocates for Human Rights (March 2015) (on file with author).

³⁵ 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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purposes of sexual exploitation.³⁶ In LOI paragraph 16, the Committee asks the Nepali Government to provide detailed information on the practical measures taken to put an end to the sexual exploitation of children, particularly girls.³⁷

19. **Trafficking and sexual exploitation of Nepali children remains a significant problem in Nepal.** Nepal is a source, transit, and destination country for trafficking. 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 18.³⁸ Boys who are trafficked are often forced into dangerous child labor.³⁹
20. Every year, an estimated 12,000 children are trafficked to India to work in brothels or exploited for their labor.⁴⁰ 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.⁴¹
21. Police officers lack awareness regarding the anti-trafficking law, leading to poor investigation techniques and impeded prosecutions. Further, reports of corruption include authorities being pressured by political parties to drop cases in addition to reports traffickers are tied to government officials. In addition to this, allegations of police officers, party officials, and individuals in positions of power own establishments which contribute to the trafficking field such as dance bars, however, there is little direct evidence of these allegations. Businesses discovered to facilitate trafficking are rarely prosecuted.⁴²
22. Additionally, the funds allocated toward victim relief are insufficient. The Government of Nepal partially funded eight mixed-housing shelter homes for female victims, in addition to women’s emergency shelters for victims of trafficking and other forms of abuse. However, there was a lack of transparency regarding how those funds assisted victims. According to the United States State Department, the government disbursed \$36,100 to these shelters to offer medical treatment, legal services, education, food, and clothing. These funds remain unspent because the NCCHT did not receive sufficient requests for money for protection and rehabilitation efforts.⁴³

³⁶ U.N. Committee on the Rights of the Child, *Concluding Observations: NEPAL*, para. 95, CRC/C/15/Add.261 (21 September 2005).

³⁷ U.N. Committee on the Rights to the Child, *List of Issues in relation to the third, fourth, and fifth periodic report of Nepal*, para. 16, (4, November 2013). To date, the Nepali government has failed to reply to the committee’s request in the List of Issues.

³⁸ “Eliminating Child Labour in Nepal.” *International Labour Organization*.

http://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---ilo-kathmandu/documents/projectdocumentation/wcms_182777.pdf

³⁹ Exploitation the New Danger for Nepal’s Children.” UNICEF. <http://www.unicef.org.au/blog/july-2015/exploitation-the-new-danger-for-nepal-s-children>

⁴⁰ “More than 160 Trafficked Nepalis Rescued by India in Aftermath of Nepal Earthquake.” ABC News. 14 Feb 2016. <http://www.abc.net.au/news/2016-02-15/nepal-earthquakes-cause-spike-in-human-trafficking/7168398>

⁴¹ Id.

⁴² Id.

⁴³ Id.

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23. Victims do not receive adequate protection and support as anti-trafficking laws are inconsistently implemented and the government ineffectively uses the funds allocated for victim protection. Problems include weak victim identification sex trafficking victims being returned to the trafficker abuser instead of given shelter, and repeated victimization.⁴⁴

III. Recommendations

Recommendations regarding education

24. The Government of Nepal should:

- 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 for children who cannot afford books, uniforms, exam fees, etc.
- Continue success in increasing enrollment of girls by prioritizing 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.
- Take all measures, as a matter of priority, to facilitate reconstruction and reopening of schools damaged in the 2015 earthquake.

Recommendations regarding child labor

25. The Government of Nepal should:

- 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, policies, 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.
- Take steps to collect data regarding the situation of children engaged in child labor since the earthquakes of 2015.

Recommendations regarding trafficking

⁴⁴ U.S. Department of State, *2015 Trafficking in Persons Report*, p. 287-289, (2015), available at, <http://www.state.gov/documents/organization/226848.pdf>. (Accessed: April 9, 2016).

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26. The Government of Nepal should:

- Increase efforts to protect children from violence and trafficking in areas affected by the earthquakes and incorporate their needs in recovery and reconstruction efforts.
- Revise the Human Trafficking and Transportation Control Act (HTTCA) to bring the definition of human trafficking in line with international law.
- 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.