

**ASSESSMENT OF THE NEPAL LABOR INSPECTORATE'S
WORK ON CHILD LABOR
2015**



Photo credit: Luca Catalano-Gonzaga



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EXECUTIVE SUMMARY

According to estimates, Nepal has the highest rate of child labor in South Asia, with over 2 million children being exploited for work. The Labor Inspectorate in Nepal has an important role to play in preventing, identifying and addressing child labor, but it faces huge challenges in tackling the problem, including a severe shortage of manpower and lack of resources; insufficient training; low morale; limited collaboration with stakeholders; and lack of strategic planning. These problems, combined with the fact that most children are employed in the informal sector, and thus are largely hidden from view, has made it difficult for the inspectorate to address the problem in any meaningful way. Despite these challenges, the Government of Nepal is committed to improving its response and has partnered with Winrock International, Verité, and Lawyers without Borders through the CLEAR II project to build the capacity of public institutions, including the Labor Inspectorate, to address the issue.

This assessment of the Labor Inspectorate is the first step in the capacity building process and will contribute to a better understanding of the legislative, social and administrative environment in which inspectors function and the challenges they face in their day-to-day work. This information about the operating context and implementation challenges has guided the following recommendations on how the inspectorate can improve its effectiveness and efficiency in combating child labor.

Recommendations:

1. Developing a training program for inspectors that builds their skills at: (a) preventing child labor through awareness and outreach campaigns targeted at vulnerable groups; (b) advising employers on the risks of exploiting children at work; (c) targeting and detecting child labor in sectors where it is prevalent; and (d) addressing the problem whenever it is found by having a rescue plan for children, levying adequate penalties against offenders, seeking restitution for victims and bringing child labor cases to court when warranted.
2. Making serious efforts to fill all remaining “Factory Inspector” and “Labor Officer” vacancies.
3. Developing a strategic plan with stated activities, work plans and monthly indicators for addressing child labor.
4. Increasing collaboration and coordination with other stakeholders working on child labor issues, including other government agencies, trade unions, employer organizations and international and national NGOs.
5. Enhancing reporting, data collection and monitoring and evaluation efforts to improve accountability and be in a better position to advocate for resources.
6. Develop a plan for taking a sectoral or targeted approach to combatting child labor and prioritizing those sectors where the problem is most prevalent.
7. Explore ways to improve the morale of inspectors and increase pride in their work, including more frequent exchanges with others working to address child labor.

It is hoped that by identifying the gaps and challenges and subsequently providing capacity building support to the Department of Labor through the CLEAR II project, the inspectorate will be better equipped to lead the fight against child labor in Nepal.

GLOSSARY

BBN	Better Brick Nepal
CA	Constituent Assembly
CCLC	Co-ordination Child Labor Committee
CCWB	Central Child Welfare Board
CDO	Chief District Officer (Ministry of Home Affairs)
CFLG	Child Friendly Local Governance
CLEAR II	Country Level Engagement to Assist in Reducing Child Labor
CLES	Nepal Department of Labor's Child Labor Elimination Section
CRC	Convention on the Rights of the Child
CTIP	US State Department – Combatting Trafficking in Persons program
CWIN	Child Workers in Nepal Concerned Center
CWISH	Children and Women in Social Services and Human Rights
CWO	Child Welfare Officer
DCWB	District Child Welfare Boards
DDC	District Development Committee
DWCP	ILO's Decent Work Country Program
FNCCI	Federation of Nepalese Chamber of Commerce and Industry
GEFONT	General Federation of Nepalese Trade Unions
GFI	Global Fairness Initiative
HUN	Homeworker's Union of Nepal – part of GEFONT
ILO	UN International Labor Organization
IPEC	ILO's International Programme on the Elimination of Child Labour
MoFALD	Ministry of Federal Affairs and Local Development
MoHA	Ministry of Home Affairs
MoLE	Ministry of Labor and Employment
MoWCSW	Ministry of Women, Children and Social Welfare
NHRC	National Human Rights Commission of Nepal
NNACL	National Network against Child Labor
NPA	National Plan of Action
NTUC	Nepal Trade Union Congress
OSH	Occupational Safety and Health
SAIVAC	South Asian Initiative to End Violence against Children
SAARC	South Asian Association for Regional Cooperation
TDA Report	US Trade and Development Act of 2000 - Findings on the Worst Forms of Child Labor
UNICEF	United Nations Children's Fund
US DOL - ILAB	US Department of Labor's International Labor Affairs Bureau
VCPC	Village Child Protection Committees
VDC	Village Development Committee
WCSC	Nepal Police - Women and Children Service Centers
WFCL	Worst Forms of Child Labor

INTRODUCTION

This assessment of the capacity of Nepal's labor inspectorate to prevent, detect and address child labor was carried out as part of the CLEAR II project, funded by the US Department of Labor's International Labor Affairs Bureau (ILAB). CLEAR II (Country Level Engagement to Assist in Reducing Child Labor) aims to provide assistance to countries that have expressed interest in acting upon information and specific recommendations contained in the U.S. Department of Labor's most recent *Worst Forms of Child Labor* (TDA) report and reducing child labor, including its worst forms. CLEAR II has a three-tiered strategy: to strengthen legal frameworks, improve enforcement, and support social and economic programs.

The purpose of the assessment was to gain an understanding of the inspectorate's mandate and authority, as well as its resources, management structure and overall ability to enforce national laws and meet international obligations as they pertain to child labor. Information gleaned from the assessment will be used to develop tools and a training program on eliminating child labor for inspectors and other relevant personnel, such as trainers, managers and those working within the Child Labor Elimination Section at Nepal's Department of Labor.

The assessment is based on an extensive literature review of laws, policies and reports from international and national NGOs on current issues related to child labor in Nepal. Additionally, field visits to factories and in person interviews with staff from government and civil society stakeholders were held between August 23 – September 3, 2015 in Kathmandu and Pokhara¹, in order to solicit feedback about how the labor inspectorate can increase its ability to address the problem of child labor. The organizations interviewed were:

- Nepal Department of Labor - Office of Director General and Child Labor Elimination Section
- District Labor Offices in Kathmandu and Pokhara
- District Child Welfare Board - Kaski District
- Pokhara Sub-Metropolitan City Office - Kaski District
- The International Labor Organization (ILO)
- Homeworkers Trade Union of Nepal
- GoodWeave Nepal
- Global Fairness Initiative - Better Brick Nepal Program
- CWISH (Children and Women in Social Services and Human Rights)
- CWIN (Child Workers in Nepal)
- World Education
- Plan International
- South Asian Initiative to End Violence Against Children (SAIVAC)
- Save the Children

¹ During the assessment, plans to visit Labor Offices in two other Districts in the Southern part of the country had to be canceled due to renewed violence over the proposed Constitution.

Nepal is one of the poorest and least developed countries in the world. It has a population of almost 28,000,000,⁶ with over 80% living in rural areas and one quarter living below the poverty line.⁷ The size of the labor force is approximately 14.76 million, 75% of who work in agriculture, 7% in industry and 18% in services. Major industries include tourism, carpets, textiles, small rice, jute, sugar, oilseed mills, cigarettes, cement and brick production.⁸ Of the population involved in non-agriculture sectors, over 80 percent work in the informal sector.⁹ Commodities for export include clothing, pulses, carpets, textiles, juice, coffee, and jute goods. 54% of all exports go to India, with the rest going to the United States, China, Germany and Bangladesh. Nepal is a labor-surplus country that supplies unskilled, semi-skilled, skilled and highly-skilled labor to various labor-importing countries, and as a result the country is heavily dependent on remittances, which amount to as much as 25% of GDP.¹⁰ Per capita income in 2014 was \$2,400.¹¹

Nepal has suffered from protracted political upheaval since an interim Constitution was put in place in 2007 following a peace agreement and end of the war. In 2008 a Constituent Assembly (CA) was selected to draft and promulgate a new constitution but was unsuccessful and dissolved in mid-2012. Later, in late 2013, a new CA was elected and the parties committed to promulgating a new constitution by mid-February 2015. During a parliamentary vote, thousands of opposition supporters protested the new Constitution and parliament missed the February deadline. On June 9, 2015 the political parties reached consensus on key issues related to a new Constitution, signing an agreement on the number of federal states, the form of governance and electoral and judicial systems to be set out in the constitution.¹² This move however led to clashes and violence, particularly in the Terai region (Southernmost part of the country) which left 45 people dead. Finally however, on September 20, 2015 a new Constitution was formally promulgated, ending a decade of political in-fighting.¹³

STATISTICS ON CHILD LABOR

Survey data indicates that Nepal has the highest incidence of child labor in South Asia.

⁶*Fact Sheet Nepal*, The World Bank. <http://data.worldbank.org/country/nepal> [last visited 10/20/15]

⁷*Millennium Development Goal 1 – Eradicate extreme hunger and poverty – Nepal*, UNDP, 2015. <http://www.np.undp.org/content/nepal/en/home/mdgoverview/overview/mdg1.html> [last visited 10/20/15]

⁸*The World Factbook – Nepal*, Central Intelligence Agency, October 14, 2015. <https://www.cia.gov/library/publications/the-world-factbook/geos/np.html> [last visited 10/20/15]

⁹*Decent Work Country Programme 2013-2017, Nepal*, ILO, September 8, 2013. <http://www.ilo.org/public/english/bureau/program/dwcp/download/nepal.pdf> [last visited 10/20/15]

¹⁰*Nepal Economy Profile 2014*, Index Mundi. www.indexmundi.com/nepal/economy_profile.html [last visited 10/20/15]

¹¹*Supra* note 8.

¹²*Nepal Parties Reach Consensus on Constitution*, The Wall Street Journal, June 9, 2015. <http://www.wsj.com/articles/nepal-parties-reach-consensus-on-constitution-1433833559> [last visited 10/20/15]

¹³*Nepal formally adopts constitution amid stepped-up security*, Associated Press, September 20, 2015. <http://bigstory.ap.org/article/32212cf531a54b9da396f6d739dc1bba/nepal-steps-security-ahead-constitution-promulgation> [last visited 10/20/15]

Incidence of child labor in South Asia, by age group and country¹⁴

Country	Percentage of Age Group		
	5-9	10-14	5-14
Afghanistan	8.5	23.2	16.1
Bangladesh	.7	7.1	4.1
Bhutan	---	19.7	---
India	.2	3.4	1.8
Nepal	10.9	47.0	29.7
Maldives	---	---	---
Pakistan	---	11.8	---
Sri Lanka	---	1.1	---

Note: --- data is not available.

“Child labor has been widespread in Nepal for many centuries, mostly in rural areas as part of the normal process of socialization. In the countryside children always worked, and continue to work, long hours alongside their parents in the fields and at home.”¹⁵ The US Department of Labor (US-DOL) estimates as many as one in three children in Nepal work.¹⁶ Approximately 89% of working children are employed in the agriculture sector, another 8% work in industry (brick production, carpet weaving, mining and stone breaking, construction and embroidery of textiles) and 3% in services (transportation, rag picking and recycling, portering, and domestic service).¹⁷ According to the last labor force survey it is estimated that over half a million children are engaged in hazardous work.¹⁸ Working children from the rural areas of Nepal are relatively less exposed to hazardous conditions than children from urban areas.¹⁹ It is estimated that around 352,000 children are currently employed in the informal sector, which accounts for 91% of all employment outside the agricultural sector. Excluding agriculture and forestry, most informally employed children work in the electricity, gas and water supply sector, manufacturing and recycling, and the wholesale and retail trade.²⁰

Percentage distribution of currently employed children, by sex and industry²¹

¹⁴ *More and Better Jobs in South Asia*, the World Bank, p. 89, April 2012.

<http://siteresources.worldbank.org/SOUTHASIAEXT/Resources/223546-1328913542665/Chapter3.pdf> [last visited 10/20/15]

¹⁵ *Nepal Child Labour Report based on data drawn from the Nepal Labour Force Survey 2008*, p. xi, ILO and Central Bureau of Statistics Nepal, published January 2011. http://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---ilo-kathmandu/documents/publication/wcms_182988.pdf [last visited 10/20/15]

¹⁶ *Findings on the Worst Forms of Child Labor*, U.S. Department of Labor, p. 611, 2014.

<http://www.dol.gov/ilab/reports/child-labor/findings/2014TDA/2014TDA.pdf> [last visited 10/20/15] See also

Decent Work Country Programme 2013-2017, Nepal, ILO, September 8, 2013.

<http://www.ilo.org/public/english/bureau/program/dwcp/download/nepal.pdf> [last visited 10/20/15] noting that 2.1 million children in Nepal out of 6.2 million are engaged in economic activity.

¹⁷ *Supra* note 15 at p.23 and note 16 at p. 611.

¹⁸ *Supra* note 15.

¹⁹ *Supra* note 15 at p. xiii.

²⁰ *Supra* note 15 at p.57-58.

²¹ *Supra* note 15 at p. 38.

(a)	Working children		Total (d)
	Boys (b)	Girls (c)	
Industry			
Agriculture and fishing	86.1	89.1	87.7
Manufacturing and recycling	2.7	2.3	2.5
Electricity, gas and water supply	3.9	5.8	4.9
Construction	1.3	0.1	0.7
Wholesale and retail trade	3.0	1.2	2.0
Hotels and restaurants	1.3	0.9	1.1
Transport, storage and communications	1.0	0.0	0.5
Private households with employed person	0.2	0.3	0.2
Others	0.5	0.3	0.4
Total	100.0	100.0	100.0

Children are also victims of forced labor, including bonded labor. Specifically, children of families working under the Kamaiya and Hurawa/Charuwa systems are born into a family legacy of bonded labor while other bonded child laborers come from large, landless families.²² Some Nepali children are trafficked to India to work in the agricultural sector or as domestic servants.²³ Others are forced to beg or work in embroidery, leather, garment and sex work industries. It is estimated that 12,000 girls are trafficked annually from Nepal.²⁴

The median monthly income of child workers in Nepal who are paid employees is about Rs 2,167 rupees (21 USD). Children who are plant and machinery operators receive the highest earnings, followed by those working in craft-related occupations. Child workers in agriculture and allied occupations receive the lowest earnings. While the average monthly earnings of boys are much higher than that of girls in most occupations, girls are paid much more than boys in craftwork and other similar occupations.²⁵

There have been some Government initiatives aimed at making education compulsory for all children up to the lower secondary level. However, progress has been slow, thus “a large number of children do not attend school, as many parents cannot afford the cost of education. Although primary education is free, poor people are still often unaware of the advantages and value of education, although this is slowly changing. In some rural areas, children tend to be considered very much from the economic perspective, and many parents prefer them to work as laborers rather than send them to school to study. In this way, children help to supplement the family income for its day-to-day survival. Even though some children may realize that education is an advantage for their future, they do not have access to a school or cannot afford to pay for stationery and fees. They either stay behind at home to assist the parents in their household activities or work as child laborers to make their living ... [data from the most recent

²² *Findings on the Worst Forms of Child Labor*, U.S. Department of Labor, p. 561 (2013).
<http://www.dol.gov/ilab/reports/child-labor/findings/2013TDA/2013TDA.pdf> [last visited 10/20/15]

²³ *Supra* note 22.

²⁴ *Supra* note 9.

²⁵ *Supra* note 15 at p. xii.

labor force survey] shows that of the total child population, 9% of children in Nepal had never attended school and 59% had not completed primary school. Of those that had completed primary level, only about 3.4% of children had attended secondary school or beyond. Among those children who had never attended school, the majority were girls.”²⁶

SECTORS WHERE CHILD LABOR IS MOST PREVALENT

Mining

Gravel and crushed stone, which are crushed by hand, have been increasingly in demand so as to meet Nepal’s growing infrastructure needs. Entire families have moved to quarrying areas to provide the labor, where children work alongside their parents. Children are particularly engaged in tasks including “excavating stone, loading trucks for transport and breaking larger stones into gravel,” which are all hazardous. Children in the mining sector work on-average 5-6 hours per day, but many also attend school.²⁷

Prevalence of child laborers in the mining sector in sample districts ²⁸

District	Number	Percent
Jhapa	277	4.6
Dhankuta	135	2.3
Udayapur	208	3.5
Kavre	88	1.5
Kathmandu (and Lalitpur)	74	1.2
Dhading	2,084	34.9
Dhanusha	35	0.6
Makwanpur	209	3.5
Chitwan*	63	1.1
Kaski	586	9.8
Myagdi	167	2.8
Dang	840	14.1
Rupandehi	655	11.0
Banke	224	3.8
Bardiya	250	4.2
Kailash	70	1.2
Total	5,965	100

Carpet weaving and wool spinning

In 2002, the ILO conducted a rapid assessment of children in the carpet making sector, noting that approximately 12% of workers were children. A 2003 study by the U.S. Department of Labor surveyed children working in spinning wool into yarn for the carpet industry. At that time half of that industry was located in the Kathmandu valley, and the other half was located in eastern districts, primarily in Bhutanese refugee camps. More than 90 percent of the spinning was done by women and girls. The study estimated that there were 8,769 total workers spinning wool in factories. Three percent (283 children) were under 14 years; nine percent (788

²⁶Supra note 15 atp. 27.

²⁷A Rapid Assessment of Children in the Mining Industry, pp. 4 and 53, World Education and Plan.

http://www.worlded.org/WEIInternet/inc/common/download_pub.cfm?id=13986&lid=3 [last visited 10/20/15]

²⁸Supra note 27.

children) were under 16 years; and 14 percent (1,256 children) were under 18 years.²⁹In 2012, it was reported that carpet factories were increasing their employment of bonded child labor, but without any specific statistics.

There are many unhealthy consequences for children who work in the carpet industry. The factories are often poorly ventilated and crowded with looms, workers, and material. Child carpet weavers suffer from respiratory illnesses and other health problems, and are particularly vulnerable to tuberculosis, due to constant inhalation of dust and tiny wool fibers. Another hazard is that children can work 10-16 hours per day, six or seven days a week without rest. The long days spent in cramped positions cause backaches, swelling legs, and severe joint pain. Other commonly reported health problems include swollen knuckles, arthritis, eye strain, and children also complain of sore hands from weaving. Work-caused cuts and wounds are endemic and frequently became infected. Another hazard is sexual abuse by factory managers, co-workers, or labor contractors.³⁰

Brick Production

There are about 750 brick factories in Nepal registered under the Small and Cottage Factory offices in the districts. Brick factories employ more than 500,000 workers including thousands of children. According to a recent study, more than 28,000 children are engaged in work at brick factories. There is a system of moving whole families to the brick factory premises during the brick production season that spans from October/November to March/April. They stay in a make-shift hut called 'Jhyauli' in the brick factory premises provided by the employer. As families migrate, children abandon their schooling to follow their parents and work in the brick factories. Children from neighboring villages may also join brick factories independently, specifically for carrying raw bricks from production site to factory furnace. Instead of a monthly payment, laborers receive payment according to a piece rate system for work completed. All workers, including children, are involved in soil preparation, clay preparation, brick laying, drying, stacking, carrying bricks to the factories, firing and finally taking out bricks from the factories and loading trucks. Small children are generally involved from initial to drying stages. Relatively older child laborers are often also involved in physically demanding tasks such as brick carrying to and from the factories.³¹

Domestic Work

²⁹*Children Working in the Carpet industry of Nepal: Prevalence and Conditions*, US Department of Labor and ICF International, May 2012, p. 20. http://www.dol.gov/ilab/iclre/Downloads/Research/Report/PC_Nepal_Report.pdf [last visited 10/20/15]

³⁰*Supra* note 29.

³¹*A Rapid Assessment of Children in the Brick Industry*, p.4-8, World Education and Plan, 2012. http://www.worlded.org/WEIInternet/inc/common/download_pub.cfm?id=13985&lid=3 [last visited 10/20/15]

Hiring a live-in person to undertake domestic household chores is an integral part of South Asian tradition. The use of domestic child laborers is common in Nepal, especially in affluent urban areas. It is estimated that in Kathmandu one in five households employ children, and that there are around 62,000 child domestic workers under 14 in Nepal.³² According to an ILO rapid assessment on child domestic workers in Nepal, young children are valued for their docility, and the average age of entry into the sector is 10-14. The work itself is demanding, with long hours the norm. Children in the ILO study worked 14 hours days at minimum, starting at 5:00 AM. Throughout these hours, children participated wide-ranging household tasks including kitchen tasks, cooking, cleaning washing, watching younger children, farm/animal work and working in family businesses such as shops. Only half of the children were paid wages, and even in these cases, the earnings went directly to their parents. Children interviewed noted that there were some benefits to the work, such as improved meals and better clothing and living quarters than their home situations. However, these children rarely traveled to see their families, noting that it was their own parents, rather than their employer who pushed them to stay at their job, with most children surveyed staying with one employer. Children involved in this work reported experiencing “loneliness, high workloads, bad treatment and extreme and violent forms of abuse.”³³

Embellished Textiles

The zari (finely embroidered/embellished textiles) sector is expanding in Nepal and there is a labor shortage for workers who are able to complete the small stitches necessary. Thus boys as young as eight years old are often hired to do the work and are subjected to extremely long hours and physically violent punishment. These children’s illiteracy and lack of ability to protest conditions is exploited, and thus low wages predominate. Children working in this sector are reportedly trafficked into the Kathmandu Valley from communities in border districts with high poverty and low school attendance rates.³⁴

Agriculture

The agricultural sector, which is the largest employer of child labor, employs more than 87.7 per cent of child workers in the country.³⁵ It is reported that 65,000 children work as “animal producers for the market.”³⁶ Many children are working on family farms alongside their parents and siblings, however, forced and bonded labor of children is also a significant problem. Children are often recruited by their parents, relatives or recruitment agents to work in Haruwa

³²*Every Child in Nepal*. <http://www.everychild.org.uk/where-we-work/nepal> [last visited 10/20/15]

³³*Nepal Situation of Domestic Child Labourers in Kathmandu: A Rapid Assessment*, p. vi-vii, ILO-IPEC, 2001. http://www.ilo.org/ipec/informationresources/WCMS_IPEC_PUB_2380/lang--en/index.htm [last visited 10/21/15]

³⁴*Child Labor in the Zari Industry - Action Research Report*, World Education/Child Development Society. http://www.worlded.org/WEIInternet/inc/common/download_pub.cfm?id=13991&lid=3 [last visited 10/21/15]

³⁵*Supra* note 15 at p. 23.

³⁶*Child Labor in Nepal Fact Sheets*, CWIN Nepal. <http://www.cwin.org.np/media-centre/fact-sheets/101-child-labour-in-nepal.html> [last visited 10/21/15]

(plowing land for others in exchange for land to cultivate or to repay a debt) and Charuwa (employed to herd cattle). The nature of work, working conditions, working hours and mode of payment reveals that Haruwa-Charuwa workers are marginalized and compelled to work without remuneration or with low remuneration for landowners in a wide range of farm activities. Evidence shows that the average number of working hours for these children is more than 8 hours per day but many work up to 14 hours per day. Methods of payment are generally exploitative and abusive as children are paid very little relative to their volume of work. Monthly payment ranges from 500-800 Rs (\$5-8 USD). Girls' remuneration is approximately 75% of boys both in agriculture and non-agriculture sectors.³⁷

Hospitality/tourism industry

In the Kathmandu Valley, children employed in the hospitality sector tend to work in small-scale operations including “small restaurants, chocolate and cake shops, and mo:mo and tea shops.” These children, primarily boys, come from Janajati (Tamang, Magar, Rai and some Tharu) and Bahun/Chettri communities.³⁸

Research surveying 5,190 small hotels and restaurants operating within the five municipality areas of the Kathmandu Valley, revealed that:³⁹

- 38 per cent (1,998) of employed children are under 18.
- The average number of children employed per hotel was about 2.5.
- The total number of children working in small hotels and restaurants in the Kathmandu Valley is estimated to be about 5,000 (4,995), of which 3,201 (64 per cent) were found within the Kathmandu metropolis.
- About 59 per cent of the children are subjected to different types of abuses (verbal, physical, frequent cursing and verbal humiliation).
- 48 per cent of children are dishwashers, 18 per cent work as waiters, 16 per cent cook and about 8 per cent either wait and clean or cook and clean.
- About 86 per cent of children are involved in this job for one year (12 months) or less.
- This is the first job for 64 per cent of children and the third for 11 per cent of children.
- The hours of children work range from 8 to 17 hours per day, but on average they work 12 hours per day. 53 per cent said they are given some rest time if there is a low client flow and not much to do. In most instances employers noted that children have to work from 6 or 7 o'clock in the morning until 9 o'clock in the evening.

LEGAL FRAMEWORK TO ADDRESS CHILD LABOR

International Legal Framework

Nepal's international and regional commitments include:

³⁷*Forced labor of adults and children in the agriculture sector of Nepal*, ILO Country Office for Nepal – Series no. 11, July 1, 2013. <http://www.ilo.org/ipecinfo/product/download.do?type=document&id=23335> [last visited 10/21/15]

³⁸*Supra* note 36.

³⁹*Supra* note 36.

Ratification of 11 ILO Conventions, all of which are still in force, including:

7 of the 8 Fundamental Conventions

- C029 – Forced Labor Convention 1930 (January 3, 2002)
- C098 – Right to Organize and Collective Bargaining, 1949 (November 11, 1996)
- C100 – Equal Remuneration Convention, 1951 (June 10, 1976)
- C105 – Abolition of Forced Labor Convention, 1957 (August 30, 2007)
- C111 – Discrimination (Employment and Occupation), 1958 (September 19, 1974)
- C138 – Minimum Age Convention, 1973 (May 30, 1997), minimum age specified at 14
- C182 – Worst Forms of Child Labor Convention, 1999 (January 3, 2002)

Nepal has not yet ratified C087 on Freedom of Association and Protection of the Right to Organize, 1948)

1 of the 4 Governance (Priority) Conventions

- C144 Tripartite Consultation (International Labor Standards) Convention, 1976 (March 21, 1995)

Nepal has not yet ratified: Convention 081 – Labor Inspection Convention, 1947; C122 Employment Policy Convention, 1964; or C129 Labor Inspection (Agriculture) Convention, 1969.

The engagement with worker and employer organizations to improve labor compliance and inspection performance is supported specifically by C144 and generally by C98.

3 Technical Conventions.

- C014 – Weekly Rest (Industry) Convention, 1921 (December 10, 1986)
- C131 – Minimum Wage Fixing Convention, 1970 (September 19, 1974)
- C169 – Indigenous and Tribal People’s Convention, 1989 (September 14, 2007)

Nepal has not ratified ILO Convention C189 concerning decent work for domestic workers. The Convention requires that States set a minimum age for domestic workers consistent with the provisions of ILO Conventions number 138 and 182, and not lower than the minimum age established by national laws and regulations for workers in general.

Nepal has also ratified several other relevant UN Conventions and SAARC agreements, including:⁴⁰

- The Convention on the Rights of the Child (CRC)
- The CRC Optional Protocol on Armed Conflict
- The CRC Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography

⁴⁰*An analysis of the determinants of child labour in Nepal, the policy environment and response*, pp. 48-49, UCW, January 2003. http://www.ucw-project.org/attachment/child_labour_Nepal_Gilligan20110628_131727.pdf [last visited 10/21/15]

- The Paloma Protocol on Trafficking in Persons
- Colombo Statement on Children of South Asia, declared on 10 July 2009 to enhance and make effective child protection efforts
- The Declaration of the Rawalpindi Ministerial Meeting on Children (Abolition of child labour)
- Malé Declaration (Fifth SAARC Summit)
- Convention to Prevent and Combat Trafficking in Women and Children for Prostitution
- The Convention on Regional Arrangements for Promotion of Child Welfare in South Asia

National Legal Framework

The following table summarizes Nepal’s national legislative mechanisms to regulate and eliminate child labor. Whether or not particular forms of “work” can be called “child labor” depends on the child’s age, the type and hours of work performed, and the conditions under which it is performed.

Standard	Age	Related Legislation
Minimum Age for Work	14	Chapter 2.3.1 of the Child Labor Prohibition and Regulation Act of 2000 ⁴¹
Minimum Age for Hazardous Work	16 ⁴²	Chapter 2.3.2 of the Child Labor Prohibition and Regulation Act of 2000 ⁴³
List of Hazardous Occupations Prohibited for Children		Schedule of the Child Labor Prohibition and Regulation Act of 2000 ⁴⁴
Prohibition of Forced Labor		Child Labor Prohibition and Regulation Act of 2000 ⁴⁵ ; Children's Act of 1992 ⁴⁶ ; Kamaiya Labor Prohibition Act of 2002 ⁴⁷ ; Article 29 (4) of the Constitution ⁴⁸ ; Human Trafficking and Transportation Control Act of 2007 ⁴⁹

⁴¹Child Labour Prohibition and Regulation Act, 2000, Government of Nepal.

http://www.nepaldemocracy.org/documents/national_laws/childlabour_act.htm [last visited 10/21/15]

⁴² 16 is not consistent with international standards and fails to protect children ages 16 and 17 from work that could jeopardize their health and safety. This also means children ages 16-17 may face criminal charges for participating in commercial sexual exploitation or selling drugs.

⁴³Supra note 41.

⁴⁴Supra note 41.

⁴⁵Supra note 41.

⁴⁶Children's Act, 1992, Government of Nepal. http://www.youthpolicy.org/library/wp-content/uploads/library/1992_Childrens_Act_Eng.pdf [last visited 10/21/15]

⁴⁷Bonded Labour (Prohibition) act, 2002 (Act No. 21), Government of Nepal. http://www.ilo.org/dyn/natlex/natlex4.detail?p_lang=en&p_isn=71670&p_country=NPL&p_classification=03 [last visited 10/21/15]

⁴⁸Constitution Bill of Nepal Article 29(4), 2015, Government of Nepal. <http://www.inseconline.org/linkedfile/Bill%20of%20Constitution%202015%20Sept.pdf> [last visited 10/21/15]

Prohibition of Child Trafficking		Human Trafficking and Transportation Control Act of 2007 ⁵⁰
Prohibition of Commercial Sexual Exploitation of Children	16	Children's Act of 1992 ⁵¹
Prohibition of Using Children in Illicit Activities		Human Trafficking and Transportation Control Act of 2007 ⁵²
Minimum Age for Compulsory Military Recruitment	18	Basic Principles for Appointment and Promotion to Military Service 2007
Minimum Age for Voluntary Military Service	18	Basic Principles for Appointment and Promotion to Military Service 2007
Compulsory Education Age		Nepal lacks a compulsory education law. ⁵³
Free Public Education		Education Act of 2009 (draft)

Note: As of 2014 the Government finalized amendments to the Child Labor Prohibition and Regulation Act of 2000; however, it has not yet been submitted to the Constituent Assembly. If the amendments become law, they will raise the maximum age to be considered a child from 16 to 18 years to be in line with international standards regarding working in hazardous conditions and activities; increase the maximum fine for illegally employing a child, including in hazardous activities and conditions; and provide protections for informants and witnesses involved in criminal investigations of child labor.⁵⁴

Hazardous work, which is a sub-set of child labor, is defined as work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children. Hazardous work includes: (a) work which has been designated as being performed in hazardous industries or occupations in which the employment of children under 18 years of age is prohibited, or (b) work for long weekly hours beyond a certain specified threshold.⁵⁵

In Nepal, employing children in hazardous work is prohibited. Hazardous work is defined in the Child Labor (Prohibition and Regulation) Act 2000 as paid work in occupations identified as being high-risk, which include:⁵⁶

- Service workers and shop market sales workers
- Travel attendants and related workers
- Housekeeping and restaurant services workers
- Personal care and related workers

⁴⁹ *Human Trafficking and Transportation (Control) Act, (Act No. 5 of 2007)*, Government of Nepal. <http://www.hsph.harvard.edu/population/trafficking/nepal.trafficking.07.pdf> [last visited 10/21/15]

⁵⁰ *Supra* note 49.

⁵¹ *Supra* note 46.

⁵² *Supra* note 49.

⁵³ *Supra* note 16.

⁵⁴ *Supra* note 22 at p. 562.

⁵⁵ *Supra* note 15 at p. 15.

⁵⁶ *Supra* note 15 at p. 15.

- Craft and related trades workers
- Miners, shot firers, stone cutters and carvers
- Painters, building structure cleaners and related trades workers
- Metal molders, welders, sheet-metal workers, structural-metal preparer
- Blacksmiths, tool-makers and related trades workers
- Precision workers in metal and related materials
- Potters, glass-makers and related trades workers
- Handicraft workers in wood, textile, leather and related materials
- Printing and related trades workers
- Food processing and related trades workers
- Textile, garment and related trades workers
- Pelt, leather and shoe making trades workers
- Plant and machine operators and assemblers
- Mining and mineral-processing plant operators
- Metal-processing-plant operators
- Glass, ceramics and relative plant operators
- Chemical-products machine operators
- Rubber and plastic products machine operators
- Elementary occupations
- Street vendors and related workers
- Shoe cleaning and other street services elementary occupations
- Domestic and related helpers, cleaners and launderers
- Building caretakers, windows and related cleaners
- Garbage collectors and related laborers
- Mining and construction laborers
- Manufacturing laborers
- Transport laborers and freight handlers

NATIONAL POLICY FRAMEWORK

Over the past several years several policies have been enacted that raise the profile of child labor in Nepal and promote implementation of national laws and compliance with international commitments. These policies include:

National Master Plan on Child Labor 2004–2014: Identifies bonded child labor, rag-picking, portering, child domestic service, mining, carpet weaving, and child-trafficking as the worst forms of child labor to be addressed. The implementation of this plan was overseen by the Government of Nepal's DoL.

National Master Plan on Child Labor 2011-2020: Awaiting approval. Delegates coordination, monitoring and reporting to DoL's Child Labor Elimination Section (CLES). The ILO/IPEC Project on "Support to the Implementation of the Nepal's National Master Plan (2011-2020) on the Elimination of Child Labor" aims at providing direct support to the CLES towards the effective implementation of a number of National Master Plan (2011-2020) driven actions. It aims at collaborating closely with the CLES and engaging the social partners, local and international NGOs working in Nepal, relevant agencies and groups and the donors in policy initiatives and capacity building efforts for child labor elimination. The objectives will be pursued through a consultative and participatory process under the leadership of the CLES, building on knowledge and tools available and informed by ILO-IPEC and other experiences from within and outside the country.

School Sector Reform Plan (2009–2015): Targets children out of school and at risk of entering the worst forms of child labor. The Plan, which is overseen by the Ministry of Education, aims to expand access to education and to provide alternative schooling and non-formal education to vulnerable populations.⁵⁷

National Planning Commission's Three-Year Plan (2013 – 2015) Aims to create an enabling environment for the protection and promotion of children's rights, including elimination of child labor and child abuse in all sectors.⁵⁸

National Plan of Action to Combat Trafficking (2011–2016): Promotes and protects the rights of trafficking victims and survivors and outlines policies for providing justice and punishing perpetrators.⁵⁹

National Strategy on Child Friendly Local Governance: "The Ministry of Federal Affairs and Local Development (MoFALD), in collaboration with development partners, has developed a conceptual framework and guidelines on Child Friendly Local Governance (CFLG). As of 2013 the CFLG approach has been implemented in several municipalities and village development committees in 23 districts, and is in the process of covering all the 75 districts of the country. Under the CFLG, District and Village Child Protection Committees (VCPCs) are envisioned. The MoFALD has included a provision in the blended block grant guidelines for Village Development Committee (VDC), Municipalities and District Development Committees (DDC) to allocate 15 per cent of their capital grant to fund activities targeted for declaring child-friendly VDC, Municipality and DDC under the CFLG framework. Local bodies have also started programs to top-up this budget by going beyond 15 per cent ceiling in those VDCs adopting child friendly local governance strategies."⁶⁰

⁵⁷ *Supra* note 16 at p. 616.

⁵⁸ *Supra* note 16 at 615.

⁵⁹ *Supra* note 16 at 615.

⁶⁰ *Nepal's third to fifth periodic reports to the UN Committee on the Rights of the Child, CRC/C/NPL/3-5*, 23 December 2013, para. 15.

The Comprehensive Standard for Operation and Management of Residential Child Care Homes was formulated by MoWCSW in close collaboration with the Central Child Welfare Board (CCWB) in 2009 and child homes are now being monitored for its compliance. An Emergency Child Rescue Fund has been established as envisioned in the current Three Year Plan (TYP).⁶¹

The Government has recruited **Child Protection Officers (CPOs) and child protection inspectors** in many of the districts.⁶² The CPOs are members of the DCWBs, and work closely with Women and Children Offices (WCOs) in protecting the rights of the child. Various development partners and civil society organizations are supporting this initiative and providing training to the CPOs.⁶³

In 2013, Nepal's **Department of Labor drafted three directives** on the following subjects related to child labor:⁶⁴

1. Guidelines on the Rescue, Reintegration, and the Rehabilitation of child laborers
2. Guidelines on Child Labor Investigation and Monitoring
3. Guidelines for Litigating Child Labor Cases

These directives are currently awaiting endorsement by the Ministry of Labor.

Case Management Guidelines for Children in Exploitive Situations outline activities to be carried out in the pre-rescue, rescue and post-rescue phases and describe how to prevent and respond to safety and protection concerns associated with the process of rescue and withdrawal of children from exploitive situations. Recommended steps include:

- Identifying cases that need to be addressed
- Collecting basic information
- Reporting the situation to CWOs/CROs
- Registering and opening a case file for child
- Collecting additional information on the case from reporting person/agency
- Selecting a personal service provider (PSP) according to needs of case
- Contacting PSP and referring case for frontline case management
- Conducting an assessment of child
- Developing a care plan
- Reporting progress on the case on regular basis to CWOs/CROs
- Arranging regular review meetings and providing recommendations on adjustment if necessary

http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fNPL%2f3-5&Lang=en [last visited 10/21/15]

⁶¹*Supra* note 60 at para. 16.

⁶²*Supra* note 16 at 614.

⁶³*Supra* note 16 at p. 613; See also *Supra* note 60 at para. 22.

⁶⁴*Supra* note 16 at 615.

LABOR INSPECTION

Strong regulatory enforcement mechanisms are critical to effective implementation of laws and polices. The enforcement of labor laws through labor inspection provides essential services to workers and employers and is fundamental to social justice. However, while Nepal has developed some good policies and legal frameworks to address child labor, the Department of Labor and its inspectors face many challenges in implementing these policies.

Organization

Overall Structure

The Nepal government's Department of Labor (DoL) is part of the Ministry of Labor and Employment (MoLE). The Department is led by a Director General who oversees three divisions, which together cover: planning, monitoring and evaluation; child labor; skills development; legal affairs; occupational safety and health (OSH)/inspectorate services; labor migration; training; and trade union issues (see Appendix A for DoL's organizational chart).

Labor Offices

The DoL oversees ten labor offices throughout the country. Labor offices are located in the following municipalities/districts: Jhapa District; Biratnagar (Morang District); Janakpur (Dhanusha District); Birganj (Parsa District); Hetauda (Makawanpu District); Kathmandu (Kathmandu District); Pokhara (Kaski District); Butwal (Rupandehi District); Nepalganj (Banke District); and Dhangadhi (Kailali District). Each Labor Office has jurisdiction over several Districts and are responsible for industrial relations, OSH, dispute settlement and addressing labor violations, including child labor. Labor offices are staffed by an Administrative Head, Section Officer, Factory Inspector, Accountant, and various support staff (See Appendix B for District Labor Office organizational chart). Despite having jurisdiction over a wide geographic area, operating budgets and funding for inspections is inadequate.⁶⁵ For example, the annual budget for the Pokhara/Kaski Labor Office is approximately 3.4 million rupee (32,375 USD). Of that amount, approximately 2.2 million rupees (21,000 USD) is allocated for salaries. Factory inspectors make approximately 24,400 rupees (232 USD) per month. The office has one motorcycle and no computers and is charged with covering 10 of Nepal's 75 Districts.⁶⁶

Inspectors

Each Labor Office is assigned one "Factory Inspector," with the exception of Kathmandu which is assigned two. However, currently only 6 of the 11 Factory Inspector positions are filled. Factory Inspectors have mechanical engineering backgrounds and focus on equipment safety and occupational safety and health issues in the workplace. While DoL did not produce a

⁶⁵ *Supra* note 16 at p. 614.

⁶⁶ Comments by officials at Pokhara/Kaski Labor Office.

formal job description for Factory Inspectors during the assessment, the Labor Law describes their duties as follows:

The Factory Inspectors shall have the power:(a)to enter into places being used for the purpose of the factory as necessary;(b)to inspect factory buildings, lands, plants and machinery and health and safety arrangements; to take samples of finished and semi-finished goods used in the factory and to test them or arrange for them to be tested; to inspect factory registers and documents, and to record any statements of any person, as necessary;(c) to inspect boilers and pressure vessels, and to give permission for their operation;(d)to advise and assist the general manager as needed to arrange for the training of workers or employees;(e)to discharge the functions, duties and powers of the Labour Officer in his absence;(f)to discharge other functions according to the directives of His Majesty's Government and Labour Department.⁶⁷

Eleven “Labor Officer” positions have also been created to investigate labor violations, including those related to child labor.⁶⁸ Labor officers must have a bachelor’s degree and focus on workplace issues such as wages, hours, work contracts, child labor, etc.⁶⁹ Labor Officer duties are described in the Labor Law as follows:

Labour Officers shall have the power: (a)to enter into places being used for the purpose of the establishment according to need; (b)to inspect documents and registers maintained in the establishment that relate to workers or employees;(c) to perform necessary functions or offer advice as may be necessary for the improvement of labour relations;(d)to make efforts to settle disputes between the general manager and the workers or employees;(e)to arrange for the enforcement of welfare provisions where these have not yet been enforced, and where these have already been enforced, to ascertain whether or not such arrangements are operating smoothly;(f)to determine whether or not the minimum remunerations prescribed by His Majesty's Government have been enforced;(g)to record statements of any person as necessary to fulfil the objectives of this Act;(h)to discharge the functions of the Factory Inspector, other than technical functions, in his absence;(i)to discharge other functions according to the directives of His Majesty's Government and the Labour Department.⁷⁰

To date however no Labor Officers have been hired, thus the few Factory Inspectors that exist are doing the work of Labor Officers in addition to their regular duties.

According to Senior DoL officials, the Department’s biggest problem is its shortage of manpower due to the high turnover of inspectors. It was noted that civil service rules allow for employees to request transfers to other Ministries or Departments every two years. Because of the lack of resources at the DoL, many of the Factory Inspectors become bored and demoralized and request to be transferred to places where they are better able to apply their engineering skills. Once a position is vacated, the lengthy bureaucratic process for filling

⁶⁷ *Nepal Labor Act, 1992*, Section 67. <http://www.ilo.org/dyn/natlex/docs/WEBTEXT/30019/64854/E92NPL01.htm> [last visited 10/21/15]

⁶⁸ *Supra* note 16 at p. 614.

⁶⁹ Statements by officials at the Kathmandu Labor Office.

⁷⁰ *Supra* note 67 at Section 65.

positions can take a year or more, which contributes to continuous vacancies in the Department. Officials suggested that increasing the morale of Inspectors and motivating them to do a better job should be a priority as it could lower the rate of staff turnover.

Training

Upon passing the civil service exam, new government workers receive six months of general civil service training and then are placed within a particular Ministry or Department. If the DoL's Labor Officer positions are ever filled, they will come from this pool of candidates. Upon hire by the Department of Labor they would not receive any additional training. Factory Inspectors however, receive seven days of training upon hire to learn technical issues surrounding OSH. Inspectors essentially learn "on the job" using DoL's Enterprise Inspection Manual (See Appendix C for copy of the cover of this Manual). According to a Senior Factory Inspector, there is not much of a career development program within the Department of Labor. While the ILO has held occasional workshops and trainings to increase inspectors' knowledge on child labor, because of constant turnover in the inspectorate, much of that knowledge has been lost.

Officials from the DoL said that Inspectors generally have a good understanding of the six or seven laws they are charged with enforcing, including child labor laws. The problem however, is that they have so few resources at their disposal to implement the laws - therefore it was emphasized that any further training provided to them must deal with this reality. It was also noted that the problems that DoL faces must be looked at holistically. For example, while it would be good to train Inspectors on ways to raise awareness about the risks of child labor, if they don't have resources to conduct awareness raising activities, then the training is pointless. Any training provided should focus on achieving concrete results that can be achieved even without additional resources. Guidance on how to work more efficiently would be helpful, such as prioritizing certain sectors when addressing child labor. If that approach is taken, DoL recommends transportation and construction as two areas where Inspectors could make a difference. Officials stated that although domestic work and embroidered textiles are areas where many children are employed, it would be very difficult for Inspectors to work in those sectors. Additionally, it could be helpful to develop an orientation package for new inspectors when they come on-board.

Discussions with Inspectors revealed that they are given very few career development opportunities. Some stated that it would be helpful to learn what inspectors in other countries who face similar constraints have done to effectively address child labor. While inspectors already have a lot of knowledge about child labor laws and policies in Nepal, it would be beneficial to be exposed to case studies that can provide fresh thinking about ways to solve the problem of child labor. It would also be beneficial to learn about ways to raise awareness in particular communities about the negative effects of child labor. One possible area to focus on could be the transportation sector in the New Baneshwar neighborhood of Kathmandu, as it is a hub for busses and mini-vans and many children are employed to collect fares and work in the

garages washing vehicles. Inspectors could coordinate with police who are working at traffic stops to help identify and penalize transport companies who are breaking child labor laws, and with associations of transportation companies to help them understand the hazards and risks of employing children. A training or strategy session on how to take this kind of sectoral approach would be helpful. Finally, inspectors would like to be exposed to new methodologies for monitoring child labor and looking into where children are vulnerable in order to better collaborate with others to get the children out of their difficult situation.

Conducting inspections

According to the US Department of Labor's 2014 report on the Worst Forms of Child Labor, Nepal's DoL conducted 1,037 site visits/inspections between July 2013-July 2014. This was an increase of 800 inspections over the previous year. Over 90 percent of the inspections were in the formal sector and 92 inspections were focused exclusively on child labor.⁷¹ However, interviews with Labor Office staff revealed that inspections are done on a fairly ad hoc basis when resources and staffing is available. For example, the Pokhara Labor Office had not conducted any inspections in the past year due to lack of staffing and resources. When staff is available however, the goal is to visit 2-3 factories per month. Prior to visiting a factory an inspector would normally familiarize himself with the laws on child labor by reviewing a notice that has been published in the paper about child labor (See Appendix D) and a child labor checklist (See Appendix E). Inspectors in that office do not usually write up a report but instead provide oral advice to employers when problems are found. It was noted that one of the biggest issues Inspectors face with respect to child labor is age verification, as young workers often lie about their age.

According to a Senior Factory Inspector, the Kathmandu Labor Office conducts approximately 125 inspections per year. Businesses are picked at random and visits are unannounced. A general checklist and a child labor checklist (different from the one used in Pokhara) are used during investigations (See Appendix F – General Checklist and Appendix G – Child Labor Checklist used in Kathmandu). Inspectors at the Kathmandu Labor Office usually pick one day per week to focus on child labor. In both the Pokhara and Kathmandu Labor Offices, information from inspections does not appear to be collected, analyzed or reported in any systematic way.

Processing complaints

In addition to affirmatively conducting inspections, Inspectors also respond to complaints made to the Labor office. The procedure for making and responding to complaints is as follows:

(1) If one or more workers or employees have any individual claims or complaints against the general manager regarding matters concerning their employment, any such claims or complaints may be

⁷¹ *Supra* note 16 at p. 614.

*submitted to the general manager in writing.(2) On receipt of any claim or complaint under subsection 1, the general manager must settle the problem through discussions with the concerned worker within a period of 15 days.(3) If the discussions held under subsection 2 fail to resolve the problem, the workers or employees concerned may submit an application to the appropriate Labour Office explicitly referring to their claim.(4) **Within seven days from the date of receipt of a claim made under subsection 3, the Labour Office shall settle the problem by arranging for bilateral talks between the general manager and the workers or employees concerned.**(5) **If the problem is not resolved through procedures referred to under subsection 4, the chief of the appropriate Labour Office shall take a decision in respect of the dispute in question within a period of seven days.**(6) **Any party dissatisfied with a decision made under subsection 5 may file an appeal with the Labour Court within a period of 35 days from the date of receipt of notice of the decision.**⁷²*

Thus Inspectors also play the role of mediators, helping to resolve disputes when they occur. In the absence of an official DoL inspector, Chief District Officers (CDOs) and Nepal Police Officers also have authority to act on complaints about child labor.⁷³

Formal vs. informal sector

Nepal's Labor Act only contemplates inspection of establishments operating in the formal sector. The Law defines "Establishment" as "any factory, organization, institution or firm, or group thereof, established under current law with the objective of operating any industry, enterprise or service, and employing ten or more workers or employees."⁷⁴ According to officials at the DoL, a new labor law was recently drafted which will expand Inspectors' jurisdiction to also cover the informal sector, however it has not yet been endorsed. It was noted however, that once the new law is endorsed it will still be very difficult for Inspectors to cover the informal sector given the severe lack of resources.

Although Inspectors do not affirmatively conduct inspections in unregistered businesses, they do respond to complaints about child labor in the informal sector and have conducted raids to rescue children from unregistered and informal workplaces. An official in the Pokhara Labor Office said that when complaints are made to the office he calls both parties in and tries to resolve the dispute. If he finds a problem he also tries to make recommendations to the employer but he does not usually issue fines. If he receives a complaint about an incident of child labor, he usually calls the Ministry of Women, Children and Social Welfare (MWCSW) to intervene and also files the case with the district administration officials.

A Factory Inspector in the Kathmandu Labor Office also stated that he responds to complaints made about child labor, even if it is occurring in the informal sector. For example, he noted that he occasionally receives complaints about child domestic workers. In those cases he notifies the employers that it is a violation of the law to have children working in the home and

⁷²Supra note 67 at section 73.

⁷³Supra note 16 at p. 614.

⁷⁴Supra note 67 at Section 2(b).

issues fines when warranted. In one case he fined the employer 20,000 rupees and ordered that 64,000 rupees in restitution be paid to the child. In another case he received a complaint from a man stating that his nephew was working in a carpet factory. The Inspector responded by putting together a team and conducting a raid on the factory. The child was rescued and the business was fined 10,000 rupees. Additionally, the owner was forced to pay the child 20,000 rupees, which was put in a trust and will be collected by the child when he turns 18. The Inspector also led a team to conduct a raid on a Zari (embroidery) factory where 138 young boys were rescued, and he has issued warnings and fines to brick kilns employing children. Teams usually consist of a representative from CWIN, the police, a CCWB Representative and sometimes members of other NGOs that work in the area of child protection. One of the biggest challenges that inspectors face is what to do with the children once they are rescued as they cannot always be reunited with their families and there are not many services available to them. It was noted that there is no consistent strategy for this type of situation and Labor Offices need more guidance in this area.

Several DoL officials acknowledged that very little child labor is found in the formal sector. Most child labor is occurring in informal and unregistered businesses and in homes. Officials stated that most inspectors are familiar with the laws surrounding child labor but do not have a good plan for addressing the issue and do not regularly meet with or collaborate with others working on child labor issues. One important development that has recently taken place however, is the opening of a “child friendly space” in the Kathmandu Labor Office. This was funded by Save the Children and provides a welcoming place for children to relax while their case is being investigated (See Appendix H for a photo of the Kathmandu Labor Office’s Child Friendly Space).

DoL’s Child Labor Elimination Section

MoLE is responsible for the implementation of the National Master Plan on the Elimination of Child Labor in Nepal. MoLE has delegated major coordination, monitoring and reporting tasks to the Department of Labor’s Child Labor Elimination Section (CLES), the key entity designated with bringing all efforts related to child labor in Nepal together and steering implementation of the National Master Plan.⁷⁵

According to officials, many strategies have been developed at DoL to deal with child labor, however most aren’t being implemented due to a lack of resources. Despite this, and despite the fact that the latest National Master Plan to Eliminate Child Labor is still awaiting endorsement from the government, some continue to make efforts to address the problem. For example, in order to reach vulnerable families with limited education one official published a booklet of poems on the hazards and risks of child labor (See Appendix I for copy of the cover of this booklet). 5,000 copies of the booklet were printed and distributed to labor offices, child

⁷⁵*Eliminating Child Labour in Nepal – Facts, figures, commitments and action*, ILO, p. 4 (June 12, 2012). http://www.ilo.org/asia/whatwedo/projects/WCMS_182777/lang--en/index.htm [last visited 10/21/15]

clubs and other entities concerned with child labor, however it is unclear how the poems were used or if they had much of an impact.

More recently a second publication with case histories illustrating the problem of child labor was drafted. (See Appendix J for copy of the cover of this booklet) and is currently being distributed to organizations in all 75 Districts and to various schools in 20 Districts. They have also been sent to each Labor Office and to the Central Child Welfare Board. It is hoped that the case histories can be used to stimulate conversation about child labor, and be a catalyst for students, teachers, theater groups, and social workers to engage with local communities and raise awareness about the problem. Officials noted that there are many things that can be done to raise awareness about child labor, even with a small budget, including rallies, drama, movies, TV and radio programs.

The Child Labor Elimination Section has also tried to engage with other stakeholders as part of a Child Welfare Committee. The Committee is comprised of representatives from the Labor office, Police (Women and Children's section), the District Development Committee and the Chief District Officer (CDO) who acts as the chair. The Committee meets irregularly, only on an "as needed" basis. Officials noted that that it would be helpful if they met more often but the CDO is very busy. Officials stated they were not aware of CWISH/ILO's Green Flag campaign in Lalitpur District - a successful effort to create a "child free" zone, nor does DoL engage with the child labor helpline (#1098) developed by CWIN, the Ministry of Women, Children and Social Welfare (MWCSW) and Nepal Telecom, which currently operates in eleven districts. Several officials emphasized that the DoL does not need any more polices but instead needs guidance and advice on concrete ways in which they can address the problem of child labor given the severe lack of human resources and very limited budget. Officials at the CLES said that their priorities are (1) developing better methods for preventing child labor from happening in the first place; (2) improving coordination with others working on child labor issues and knowing what to do when a case of child labor is identified; and (3) motivating inspectors and improving their morale.

OTHER AGENCIES/ORGANIZATIONS THAT ENFORCE/IMPLEMENT CHILD LABOR LAWS

In addition to the Nepal Government's Department of Labor, there are multiple other entities with responsibility for addressing child labor.

Central and District Child Welfare Boards The Central Child Welfare Board (CCWB), located within the Ministry of Women, Children and Social Welfare (MWCSW) monitors the enforcement of laws related to child exploitation at the national level, and governs District Child Welfare Boards (DCWBs) which are located in each of Nepal's 75 Districts.⁷⁶ DCWBs are

⁷⁶ Central Child Welfare Board, Ministry of Women Children and Social Welfare.
<http://www.ccwb.gov.np/informations/view/134/About-Us> [last visited 10/21/15]; See also *supra* note 16.

government committees established by the Children's Act whose role is to coordinate and collaborate with various agencies in the District that are working on children's issues. They enforce child labor laws at the local level and have authority to levy civil fines to address child labor issues.⁷⁷The CCWB recruits Child Rights Officers (CROs) to head each of the DCWBs, however, as with the DoL, resources at DCWBs are scarce. The DCWB in Pokhara/Kaski District, stated that they operate on annual budget of 60-70,000 rupees (approximately 1,000 USD) per year (in addition to the CRO's salary). Despite limited resources, if the DCWB receives a complaint about child labor or other child protection issues, it tries to address the problem. Complaints come through the CWIN hotline, the police, Chief District Offices, child clubs, NGOs, and the Labor Office. However it was noted that all too often when DCWB notifies the local Labor Office about a case of child labor, the Labor Office says there is nothing that they can do because they have so few resources and must cover ten Districts.

The DCWB in Pokhara/Kaski currently collaborates with the Pokhara Chamber of Commerce and Industry (PCCI) as well as about 30 NGOs, and supports 60 orphanages/children's homes. It also collaborated with UNICEF in 2012 to produce "The State of Children in Kaski," a report which provides data on school enrollment, immunizations, etc. and describes the various organizations in the District that are working on children's issues, including their roles, projects and contact persons. This publication is available at the CCWB.

The CCWB and the MCWSW also produced case management guidelines for children rescued from exploitative situations. Among other things, the Guidelines state who should address the case, what forms must be completed, what the reintegration plan should be and what steps should be taken for case closure. The DCWB stated however that, although these guidelines are in place, there are very few resources to implement them. Municipalities are mandated to allocate 10% of their budgets to children's issues but there is often not enough money to go around. To address the problem, the role of the Municipality in addressing child labor needs to be enhanced and more effort should be made at coordination among various stakeholders.

The Women's and Children's Service Directorate of the Nepal Police The Nepal Police, which operates under the Ministry of Home Affairs, has established Women and Children Service Centers (WCSCs) commonly called the "Women's Cell" in Kathmandu and in all 75 district police offices. These centers aim to control crime against children and women, conduct investigations into cases reported, and provide essential support to the victims. WCSCs provide support to the victims of the cases of child marriage, forced marriages, trafficking, child labor, child sexual abuse, cases of rape, marital rape, sexual abuse, domestic violence and other civil and criminal offences against children and women. The police officers are trained to receive, monitor and investigate complaints and ensure the prosecution of cases of child abuse, exploitation and neglect and WCSCs often work in coordination with local NGOs to provide referral services to victims. These services are widely advertised, using audio-visual media, including in local

⁷⁷*Supra* note 16.

languages.⁷⁸ There are 240 WCSCs and 1,344 investigators throughout Nepal's 75 districts. WCSCs operate under the MoHA which maintains a database of cases of crimes against women and children including trafficking and exploitation.

National Network Against Child Labor (NNACL) - MoLE formed this network as a referral mechanism to ensure coordination between enforcement agencies and NGOs providing rehabilitation services to children removed from child labor. NNACL serves as a referral mechanism for children who are found in child labor to access services and consists of district labor officers, district women and children officers, officers from the Nepal Police Women and Children Service Center, CDOs, NGOs, and thousands of youth clubs.⁷⁹

National Coordination Committee on Human Trafficking - Implements laws and counter trafficking efforts, including working with NGOs to link children to proper services. The Committee is made up of senior officials from the MWCSW and other ministries, as well as representatives of NGOs and intergovernmental agencies and victims, and serves as the lead agency involved in policy to control human trafficking.⁸⁰

Inter-agency coordination group - Collaborates with the Government in assessing and mapping child protection in Nepal and coordinates activities around child protection. The group is comprised of UNICEF, Plan Nepal, Save the Children International, Terres des homes, World Vision, and World Education International. The Department of Labor and MWSCW are not members but are invited to observe the group.⁸¹

Kathmandu Child Labor Committee - Addresses reports of bonded child labor in Kathmandu. It is comprised of the CDO, three assistant CDOs, the Child Welfare Officer, and others as needed.⁸²

Monitoring Action Committee - Investigates reports of commercial sexual exploitation, including the exploitation of children specifically in the adult entertainment sector.⁸³

Ministry of Land Reform and Management - Enforces laws that prohibit bonded labor in agriculture.⁸⁴

National Steering Committee for the Elimination of Child Labor – Charged with implementing the National Master Plan on Child Labor and coordinating child labor eradication efforts. It is

⁷⁸ UN Committee on the Rights of the Child, Sixtieth session, 29-May – 15 June, 2012, Item 4 of the provisional agenda consideration of reports of States parties, written replies of Nepal, para. 28. http://www2.ohchr.org/english/bodies/crc/docs/AdvanceVersions/CRC_C_OPSC_NPL_Q_1_Add1.pdf [last visited 10/21/15]

⁷⁹ *Supra* note 16.

⁸⁰ *Supra* note 16.

⁸¹ *Supra* note 16.

⁸² *Supra* note 16.

⁸³ *Supra* note 16.

⁸⁴ *Supra* note 16.

headed by the MoLE and comprised of other government departments, NGOs, employers, trade unions and donors.⁸⁵

Coordination Child Labor Committee (CCLC) - Comprised of all ministries and is chaired by the Department of Labor.

Child Bench - Separate bench at the district court level – in 75 districts - based on a provision of Nepal’s Child Rights Act.

Village Child Protection Committees (VCPC) or (CPC) - Comprised of local community people – formed in line with government policy on child rights and affiliated with the local government agency such as village development committees and wards.

Municipal Child Protection Committees - Village and Municipal Child Rights Promotion and Protection Committees work at the village and municipal levels, respectively, and hold the same responsibilities at this level as the District Child Rights Promotion and Protection Committee holds at the district level. Village and Municipal Child Rights Promotion and Protection Committees can identify situations in which children are at risk and, within the context of a child’s reintegration, can monitor the family and the reintegration process.⁸⁶

Child clubs - School-based-child-clubs are designed to make schools child friendly, promote the citizenship rights of children, and increase children’s learning competencies and abilities in line with the UN Convention on the Rights of the Child. School-based child clubs are forums for girls and boys to get information on children’s rights and other related issues, and to develop their personal, social, and leadership skills and participation in school governance. Children themselves lead, manage, and implement the club activities and programs.⁸⁷

Ward Citizen Forums - The Ward Citizens Forum has become the first step of decentralized demand based ‘bottom-up approach’ at the community level for bringing in resources to implement development activities in their villages. The voices of the rural communities through the forum are brought to the Village Council and then through authentic Government channels to be included in the national development plans. It is a new approach for social mobilization in Nepal, stressing the need to engage with local Government to secure services and resources for

⁸⁵Supra note 16; see also *National Master Plan on Child Labor 2004-2014*, Government of Nepal Ministry of Labour. <http://dol.gov.np/ckeditor/kcfinder/upload/files/Master%20plan%20child%20eng.pdf> [last visited 10/21/15]

⁸⁶*Reintegration Guidelines for Trafficked and Displaced Children Living in Institutions*, p. 13, Next Generation Nepal, 2015. http://www.nextgenerationnepal.org/File/2015_01_28_NGN-THIS-Reintegration-Guidelines.pdf [last visited 10/21/15]

⁸⁷*Child Participation in Schools of Nepal – Role and Contribution of Child Clubs*, Bhola Prasad Dahal, p. ii, (January 2014). <http://bsbp.org.np/baikalpic/wp-content/uploads/2014/04/2014-02-18Bhola-PhD-Thesis-Final-with-APA.pdf> [last visited 10/21/15]

better livelihood, better access to health services, safe drinking water and education facilities for children.⁸⁸

Ministry of Industry – Department of Cottage and Industry - Registers companies and includes provisions in registration that include rules around not employing anyone under 18 where there are hazards.

Nepal Human Rights Commission - The Constitution has upgraded the National Human Rights Commission (NHRC) to a constitutional body. Article 248 of the new Constitution vests primary responsibility with the Commission to protect and promote human rights of Nepalese people. The Commission can conduct inquiries and investigations on its own, or upon a petition or complaint filed to it regarding violations of human rights and carelessness and negligence in the prevention of violations of the human rights by any person, organization or authority concerned.⁸⁹ The Government of Nepal has strengthened the measures for the implementation of the recommendations of the NHRC in the field of protection and promotion of the rights of the child. The NHRC has already set up a Child Rights Unit that receives individual complaints on the violation of the rights of children and sends recommendations to the concerned ministries or departments.⁹⁰

The president recently swore in five commissioners to fill vacancies in the NHRC. This was a positive step as the absence of commissioners had undermined the NHRC's ability to function effectively and hindered filling more than 150 vacant NHRC staff positions, out of approximately 310 total positions.⁹¹

The Office of Attorney General, located within the Ministry of Law prosecutes trafficking-related cases from the district level to the Supreme Court.⁹²

The Office of the Special Rapporteur on Trafficking - Monitors the enforcement of laws related to trafficking in persons, including the commercial sexual exploitation of children, at the national level. This office is part of the National Human Rights Commission.

CWIN and the Child Helpline - #1098⁹³

The local NGO CWIN, in collaboration with the MWCSW, supported the establishment of the Child Helpline with the toll-free #1098 and played an important role in developing regulations for its operations. The Helpline is jointly owned by the MWCSW and Nepal Telecom and currently operates in 11 Districts, six of which are supported by CWIN, with the other five

⁸⁸ *Ward Citizens Forum – bottom up approach for inclusive development*, UNDP in Nepal, <http://www.np.undp.org/content/nepal/en/home/ourwork/democraticgovernance/successstories/Ward-Citizens-Forum-bottom-up-approach-for-inclusive-development.html> [last visited 10/21/15]

⁸⁹ *Supra* note 48 Article 249.

⁹⁰ *Supra* note 60 at para. 25.

⁹¹ *Country Reports on Human Rights Practices for 2014*, US State Department.

<http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm#wrapper> [last visited 10/21/2015]

⁹² *Supra* note 16.

⁹³ Comments by CWIN, during an interview held on August 25, 2015.

receiving support from various other NGOs. According to CWIN, the Child Protection Committees in the municipalities are connected to the Child Helpline and use it to receive complaints about child labor. Once a case of child labor is reported, a visit is made to the worksite by CWIN or other relevant actors to see if the allegations are true. If so, CWIN helps the Municipality put in place a rescue and rehabilitation plan that often involves multiple actors, including legal organizations, Labor Office officials, the DCWB, the media and community groups.

Services are provided to children through the Helpline including counseling, housing, etc. The Child Helpline keeps records of all calls and is meant to share information related to child labor with the Department of Labor. Once the Labor Office is notified, it is up to them to issue fines to the employer and collect compensation for the child, however they often do not have the staff or resources to do such follow up. Often when an incident of child labor is reported to the Helpline and CWIN, the Labor Office requests that CWIN draft the letter to the police and then a labor official will sign it. Although CWIN has brought over 200 cases of child labor to the attention of the Labor Office, labor officials have never referred a child labor case to the Labor Court. CWIN was successful however in creating procedures that allow inspectors to fine establishments in the informal sector for child labor violations. Copies of these procedures can be found with the CCWB. It was noted that it would be helpful if labor inspectors created working procedures on how to better monitor child labor, conduct rescues and bring cases of child labor to court.

In addition to supporting the hotline, CWIN is also currently implementing a three year project, in collaboration with the ILO and CWISH, to build child-labor free municipalities. The focus of the project is to empower local governments and child protection committees to conduct rescue and reintegration of child laborers.

CWISH and the Green Flag Campaign⁹⁴



CWISH is a local NGO working to improve quality education, eliminate the worst forms of child labor, and end child sexual abuse and violence against children. One of CWISH's signature projects has been the development of the Green Flag Campaign, with the support of the ILO and UNICEF. According to CWISH, the original idea of the campaign was to provide flags to households in the Lalitpur Sub-Metropolitan area that did not employ children as domestic laborers. Later the idea was expanded to cover all businesses in the area including brick kilns, hotels, restaurants and shops that agreed not to hire children. The overall goal of the campaign

⁹⁴Comments by management at CWISH, during interviews held on August 25, 2015.

is to raise awareness about the hazards of child labor and provide social pressure to local businesses to remain child labor free.

The campaign was launched on the World Day against Child Labor in 2014 with a rally of 7,000 people holding the flag and today it can be seen flying on businesses and households throughout Lalitpur. The movement was later expanded to Hetauda Municipality which has since been declared child labor free.

CWISH also conducts a yearly survey of domestic workers – many of whom are children, and helped to promote a union of domestic workers, now referred to as the Homeworkers Union of Nepal (HUN). As part of its program to address the problem of child domestic workers (CDWs) CWISH organizes door-to-door campaigns to raise awareness about the problem and identify CDWs. It holds meetings with employers and child clubs and arranges 12-week long non-formal education classes for CDWs to give them knowledge of their rights and get them on a path to education. As a way to prevent households from hiring CDWs, CWISH also provides training to adult domestic workers and links them to the HUN. It then encourages households to hire these newly trained workers instead of children.

All of CWISH's work is done in conjunction with the government (at Ministry and local levels) to encourage ownership. This work has included:

- Assisting in drafting the recent directive on litigation procedures on inspection, monitoring and reporting on child labor. CWISH plans to provide training to the labor inspectorate on these procedures.
- Providing training on child labor monitoring guidelines to 11 municipalities.
- Integrating child labor into the police training curriculum. In discussions with CWISH it was recommended that every government office (including the tourism board) should have such training – noting that it can be incorporated into the 3 months of initial training that every civil servant must go through upon hire.

World Education⁹⁵

World Education is an international NGO which began its work in Nepal supporting schools but found that many of the children involved in its programs were working, therefore projects were developed to address that issue as well. World Education formed an alliance with UNICEF and the Nepal government to launch a “welcome to school” campaign. Because the government used to require children to produce a legal birth certificate in order to attend school, many children could not attend due to lack of documentation. The enrollment campaign was successful and the government changed its requirements, which resulted in 1 million more children entering school. This resulted in a decrease in child labor in many sectors. World Education programs have reached 165,000 children in a few years.

⁹⁵ Comments by World Education in Nepal, during an interview held on August 26, 2015.

During interviews with World Education, it was suggested that Standard Operating Procedures (SoPs) be developed for organizations who are conducting raids on businesses that hire children, and these should be synchronized with SoPs on trafficking and inspections. Case management also needs to be prioritized as there has been a decline in the quality of case management for rescued child laborers. For example, in addition to psychosocial care, legal assistance and educational, livelihoods and rehabilitation services should be provided. World Education has worked with Terre Des Hommes and UNICEF to develop a case management process, however more needs to be done to set up and operationalize a government case management system that includes: case workers, educators, legal service providers, shelter and counseling.

ILO⁹⁶

The ILO is technically supporting Nepal in the prevention and elimination of child labor, bonded labor, trafficking and worst forms of child labor. It supported the drafting of Nepal's Master Plan on Child Labor for the elimination of child labor for the period 2011-2020, which has yet to be endorsed by the Government. Because of these delays, the ILO is instead advocating for a five-year plan to meet the 2020 goals of the National Master Plan. ILO's recent work on child labor has been focused on five municipalities in the Khabri District, including support for schools and child friendly spaces. It is also helping the Municipalities of Dhulikhel and Panauti with projects to become child labor free, and helping Bhaktapur establish child labor desks within the municipality to move its "child labor free" movement forward.

The ILO has done some work with Nepal's Labor inspectors including providing them with periodic training on international standards and reporting on child labor (held in 2010), and the worst forms of child labor (held in 2013). The ILO recommended that any training for inspectors should also involve other organizations that are working on the issue, including: CCWB; DCWB; MWCSW; Chief District Administrative Officers (CDOs) and Local Development Officers; Ward Secretaries from Ward Citizen Forums; and the Police – Women and Children's Service Centers. Inspectors should also be better linked to the Child Labor Committees.

Plan International⁹⁷

Plan's Child Protection Program has a child labor component which aims to strengthen community based child protection systems. Plan's "Hope Project" has worked in five urban municipalities and focuses on prevention of child labor as well as protection by connecting children with formal education opportunities; rescuing and reintegrating children with their families; supporting child clubs; and conducting advocacy for freeing "Kamlari" girls who have been sold into slavery. Specifically, this work includes:

⁹⁶ Comments by ILO Nepal, in an interview held on August 26, 2015.

⁹⁷ Comments by in Nepal, in an interview held on August 26, 2015.

- Identifying children working in the sex industry – particularly in Sansari District.
- Working at the national level to help develop minimum standards and a master plan on combatting child labor and working on strategic plans, tailored to the specific municipalities, to implement the National Master Plan.
- Supporting Biratnagar Municipality with efforts to work with village development committees to declare child free wards.
- Building the capacity of Village Child Protection Committees (VCPCs) (where there isn't one in place, Plan helps to form one) to map vulnerable children in the community, allocate funds to support them and link them with other available support. Plan also helps VCPCs to mobilize resources so that they can protect the children in their own communities.
- Focusing on bonded labor in three districts by rescuing girls from child labor and supporting their education, as well as livelihood and income generating activities.

Plan stated that it is necessary to work with Government and Municipalities in order to have lasting results. However, this can be a challenge as the government is not giving priority to these issues and individuals' roles are often unclear. To improve sustainability of efforts at eliminating child labor, District Child Welfare Boards need to be more involved in rescues and reintegration. There are Women and Children Officers (WCOs) in each District but they have many things on their agenda – and the position doesn't get much support from the Government.

With respect to labor inspection, Plan noted that there are no inspectors in many of the Districts and even in those Districts where they are present it is impossible for them to do all of the monitoring, therefore they must better coordinate with other organizations in the community. Inspectors also need to develop more comprehensive systems and mechanisms when it comes to addressing child labor. They need proper knowledge of the law and of the Ministry of Labor's own procedures, and the worst forms of child labor need to be better understood so that it can be identified when present. Additionally, Inspectors need assistance on how to do proper age identification – which is often very difficult. Finally, Inspectors should be able to exercise their authority in the informal sector.

It was also emphasized that social attitudes towards child labor must change. Many people who hire children believe that they are supporting them rather than exploiting them. Building awareness among children and parents is one of Plan's priorities.

Save the Children⁹⁸

⁹⁸ Comments by Plan, in an interview held on August 25, 2015.

Save the Children's (StC) child labor projects have collaborated with District Child Welfare Boards to address the problem of child labor in brick factories. A three-year project in Bahktapur was organized with Comic Relief which focused on work at the policy level and addressing both the sources and destinations of child labor. Work is being done with ten village development committees (VDCs) in two districts, with one of the goals being to improve outcomes at the source. One of StC's partner organizations – the Child Development Society (CDS) is implementing the activities. StC is also trying to assess whether 10% of block grants to VDCs are being spent on children and Child Friendly Government initiatives, as is required. StC has also supported the development of guidelines for the government on child labor monitoring and rescue and reintegration guidelines.

StC's other work on child labor includes:

- Working with the Central Child Welfare Board (CCWB) to develop a five year strategy to address child labor and with the Ministry of Labor (MoLE) and the Ministry of Women, Children and Social Welfare (MWCSW) to facilitate the creation and implementation of Coordination Mechanisms at the government level.
- Advocating for free and compulsory education up to year 8.
- Advocating for an amendment to the Child Labor Prohibition and Regulation Act so that it includes the informal sector. A new version of the Children's Act was proposed four years ago but has not been endorsed.
- Implementing a Self-Education and Employment Program (SEEP) that includes skills training, literacy and financial training.
- Conducting research on the types of livelihoods training/work that helps prevent child labor.
- Developing a "harmful work policy," which acknowledges that it may not be necessary to prevent children from working entirely, but it is necessary to prevent them from working in poor conditions. To that end, StC is working with employers to improve conditions for children in the workplace.

South Asia Initiative to End Violence against Children (SAIVAC)⁹⁹

SAIVAC is working to develop a monitoring and evaluation framework that has both regional and national components. The focus will be on outcomes and developing a means for verifying the impact of activities. A working group has been formed to see if the plan is effective both upstream (improving policy and laws) and downstream (supporting the work of CSOs). SAIVAC's regional action plan will be connected to Nepal's national action plan.

⁹⁹ Comments by SAIVAC, in an interview held on August 24, 2015.

SAIVAC is also working to strengthen National Action Coordinating Groups (NACGs) – given that they are the backbone of SAIVAC. A big part of SAIVAC’s role is coordination and communication as there are many experts in the various member states that can be called upon when certain levels of expertise are needed in a given area.

Pokhara Sub-Metropolis¹⁰⁰

Work to eliminate child labor falls under the Pokhara Municipal Government’s Social Development Department. The city office has an annual budget of 4.5 billion rupees and 15% of that is allocated for children’s issues. As part of its local governance plan, the Pokhara government is working to create Child Friendly Local Governance (CFLG) in order to ensure that children’s rights are reflected in policies, laws, programs and budgets at the local level. They have two partners in this work: the Pokhara Chamber of Commerce and the media. Accomplishments include: (1) creation of a Child-Labor Committee; (2) three toles¹⁰¹ in ward 12 have been declared “child labor free;” and (3) one tole in ward 17 was declared “child-labor free.”

An official at the municipality in charge of child protection noted that if a child is being exploited, the members of the Child Labor Committee are notified and the child is rescued and placed in a home until he/she can be reunited with the family. If that is not possible then the child will be placed in an alternative home. Follow up is done to ensure that the child does not return to the exploitative situation. Municipality officials regularly participate in meetings held with the District Child Welfare Board (DCWB) and have helped them locate plots of land where they can build rehabilitation centers.

The City also meets with the Labor Office on a regular basis depending on what issues arise. However, in general the Labor Office does not play a very big role in addressing the child labor problem. It was noted that the Labor Office should be doing more to understand children’s vulnerabilities, do more day-to-day monitoring in the sectors where child labor is prevalent, and coordinate better with the local government to help the kids get out of their difficult situation.

PRIVATE SECTOR INITIATIVES

Pokhara Chamber of Commerce and Industries (PCCI)¹⁰²

¹⁰⁰ Comments by the Social Service/Development Department in Pokhara municipality, in an interview held on August 31, 2015.

¹⁰¹ A tole is a geographical administrative unit: wards are sub-divided into toles, which are clusters of households or villages.

¹⁰² Comments by the Pokhara Chamber of Commerce and Industries (PCCI) in an interview held on August 31, 2015.

During the assessment, efforts were made to identify opportunities where Labor Offices might co-operate with the private sector to address the problem of child labor. To that end interviews were held with members of the Pokhara Chamber of Commerce and Industries (PCCI), GoodWeave and Better Bricks Nepal to learn more about their private sector initiatives to end child labor.

The Federation of Nepalese Chambers of Commerce (FNCCI) made an agreement with the ILO to implement a child labor program in 1999. The ILO phased out its involvement after five years, however PCCI continued the work because they felt like it was part of their corporate responsibility to do so. Currently, PCCI partners with Kidasha (a UK based charity) to support 8 contact centers which focus on child welfare. Each center has established a management committee with the support of community police, social activists, employers, parents and teachers, and includes 2 child representatives on each. The project focuses on several catchment areas (each made up of several wards) – which are regularly visited, and if child laborers are found, they are brought into the center. Baseline data is then collected and a plan is made for the child – which usually involves reuniting them with their family and providing some kind of income generating support. In the year 2000, UNICEF and the Municipality conducted a survey on child labor and found that 9,000 children were working. In 2010 a new survey was conducted which found that far fewer children were working, with 2,500 in child labor, and 3,500 at risk. However, since the earthquake in April 2015, the number of child laborers has again increased.

To help address the problem, PCCI also supports (with the help of UNICEF) non-formal and formal education for children. The first level is aimed at basic literacy, and after that the students can enroll in government school – grade 3. If the student passes the second level, they can enroll in the government school- grade 5. Approximately 5,600 children are supported by this program. PCCI also runs a family support program for working children which provides income generation assistance to 47 women’s groups and 600 families. Other actions include a municipal rescue and referral committee which tries to visit workplaces and do assessments. Two years ago the program rescued six children who were working in hazardous conditions in domestic labor and hotel restaurants. In early 2015 PCCI also conducted an interaction program which focused on identification of child labor – including how to verify ages. PCCI tried to involve the Department of Labor, and an official from the Pokhara Labor Office did attend, however he later transferred to another place. PCCI noted that it is usually easier to work with staff from the Municipality rather than Labor Office staff because there is less turnover and therefore more continuity.

The Pokhara sub-Metropolis aims for Child Friendly Local Governance (CFLG) by 2018. Thus far they have met about 80% of the 39 indicators¹⁰³ required to be considered “child friendly.” The

¹⁰³ The Chamber of Commerce can provide a list of these indicators upon request.

CFLG Committee, which is comprised of trade union members, employers, health professionals, the police, Labor Office, NGOs and PCCI tries to meet quarterly. However, despite progress made toward CFLG goals, there are still certain sectors where child labor is prevalent in the region, these include:

- Domestic servants – where there are huge numbers of children working.
- Hotels and restaurants – children are mostly doing kitchen work and room cleaning.
- Sand mines – children are engaged in bringing sand and stones up from the river to load into trucks that supply construction firms.
- Porters – children are hired to carry materials from one place to another.

PCCI suggested that in order to address this problem the Labor Office needs to do a better job at monitoring the child labor situation in the formal sector and should expand its work into the informal sector. Additionally, the Office needs to stop focusing only on trade union issues, and partner more with those organizations in the area that are working to address child labor. PCCI suggested that one of the areas where the Labor Office should consider doing an intervention is with the Contractor's Association and the big construction firms that subcontract with smaller firms, as these smaller firms often hire families who bring their children along to work with them. Another idea is for the Labor Office to work with the Hotel and Restaurant Association on a sensitizing campaign and giving stickers to businesses that are not using child labor.

GoodWeave Nepal¹⁰⁴

GoodWeave is an NGO focused on ending child labor in carpet manufacturing. It does so by collaborating with both import and export businesses in the carpet industry to promote good practices and ensure, through training, workplace inspection and monitoring that no illegal child labor is used in the making of carpets that bear the GoodWeave label. GoodWeave Nepal currently works with approximately 86 licensed carpet companies and 379 factories (including subcontractors/suppliers to the licensees) which have volunteered to be part of the program in exchange for greater access to buyers. As part of its certification scheme GoodWeave inspectors regularly monitor the licensed factories to ensure compliance with its standards and provide guidance and advice where needed. GoodWeave also supports services for children rescued from the carpet industry and provides them with education and vocational training, and carries out preventive education and other welfare programs for children and families of carpet workers.

Better Brick Nepal¹⁰⁵

¹⁰⁴ *About GoodWeave Nepal*, GoodWeave, 2015.

http://www.goodweavenepal.org/article.php?gwan=article_d59578ec1a00b701b7992ac22eaa87f7&gwtn=cate_f5cb7ec5f90bc649cc468ad4e8905274 [last visited 10/29/15]

Better Brick Nepal (BBN) aims to address labor and environmental challenges in the brick kiln industry by creating a market preference for bricks made without the use of forced, bonded or child labor. The brick industry in Nepal employs over 175,000 people, up to 60,000 of whom are children. According to BBN “Brick workers are some of the most marginalized of unskilled workers, often bonded by debt to exploitive labor brokers, and working at wages insufficient to pay off ‘recruiter’ advances. The informal nature of the industry has served to entrench exploitive labor practices such as bonded and child labor. The sector is dominated by migrant and seasonal laborers who live on-site at the kilns during the brick season and have almost no link to local government, community organizations, or representation by worker associations. Unrepresented, unregulated, and for the most part unwanted, brick kiln workers have seen little progress on social, economic, or human rights issues; but with few viable income alternatives they lack the leverage to improve their working conditions or pay.”

BBN, started in 2014, has begun to address these issues by creating a certifiable standard related to child labor, bonded labor and decent working conditions. The goal is for kilns that meet the BBN Standard to achieve business benefits, and to foster needed changes in the brick industry as a whole. BBN currently collaborates with five pilot kilns that expressed interest in receiving technical assistance to improve working conditions, boost production efficiency and raise product quality, as well as make linkages to potential buyers including international agencies and construction firms. Recently BBN also signed an agreement with the Federation of Contractors’ Associations of Nepal (FCAN) which will provide significant support to BBN’s goal of creating market demand for bricks made without child or forced labor.

KEY FINDINGS AND RECOMMENDATIONS

The following are some of the key findings that emerged from research into the legislative and policy environment in Nepal related to child labor, and an assessment of the labor inspectorate. Each finding is followed by a recommendation on how to build DoL’s capacity to better address the problem given its limited resources.

(1) Insufficient/ad hoc training on child labor:

- Factory Inspectors have received periodic training on national laws and international standards related to child labor, however high turnover among staff and a lack of regular and comprehensive training that is institutionalized within the DoL has resulted in a lack of knowledge and skills among inspectors to effectively address child labor.
- DoL does not have a manual on addressing child labor that can be provided to staff upon orientation.

¹⁰⁵ *Better Brick Nepal Program Information*, Global Fairness Initiative, 2015. <http://www.globalfairness.org/our-work/our-programs/better-brick-nepal> [last visited 10/29/15]

- DoL staff are unsure about ways to address the deep seeded cultural acceptance of child labor in Nepal. Even some of those working in the DoL still see child labor as a necessary evil to alleviate poverty rather than a problem that is exacerbating poverty.
- Inspectors do not have the skills to do proper age verification when trying to identify cases of child labor.
- Inspectors do not have a plan for what to do with a child once he or she has been rescued from the workplace.
- Fines and penalties issued against employers who use child labor are given on an ad hoc basis and are not sufficiently burdensome to act as a deterrent.
- Inspectors and Labor Office staff rarely, if ever, refer cases of child labor to Prosecutors or the Labor Court.
- DoL and some Labor Office staff (though not all) consider their role to be reactive rather than proactive - only addressing child labor when it is brought to their attention, rather than working to prevent it from occurring in the first place.
- Inspectors view themselves more as enforcers of the law rather than advisers.

Recommendations

Develop a training program for inspectors that builds their skills at:

- *Preventing* child labor, including ways to raise awareness among the general public about the negative social impact of child labor on children, families, communities, the economy and the development of the country. Awareness raising campaigns should include information about ways in which child labor breaks up families; promotes violence and abuse; causes illiteracy; leads to abandoned and orphaned children, contributes to a low skilled and uneducated workforce; perpetuates poverty; increases income inequality; decreases opportunity for decent work for adults; and discourages foreign direct investment. Vulnerable groups (children and families) should be targeted in any awareness raising campaign about risks and hazards of child labor. Campaigns should make use of a variety of media including radio, TV, newspapers and social media and should encourage the general public to report on instances of child labor. Prevention also includes promoting compliance and best practices among employers. This includes explaining the law to employers, indicating where legal requirements are not met and advising on what needs to be done to comply with the law.
- *Detecting* child labor, including effective methods for: targeting certain sectors where child labor is prevalent, age verification and identifying the worst forms of child labor.
- *Addressing* child labor when it occurs, including a plan for rescue of children, connecting them with services (shelter, counseling, legal aid), levying adequate penalties that deter employers from hiring children, seeking restitution for victims and bringing cases to prosecutors and the labor court when warranted.

This training should not be done on an ad hoc basis but, at a minimum, should be institutionalized as part of an “orientation” package for all Factory Inspectors and Labor Officers.

(2) Delays in hiring

- While a few Factory Inspector positions have been filled, all Labor Officer positions remain vacant. The long bureaucratic process means that positions can remain vacant for a year or more.

Recommendations:

Efforts should be made to fill the Labor Officer positions as soon as possible. “Factory Inspectors” come to the position with engineering backgrounds and are mainly concerned with addressing equipment maintenance and safety issues – but may not have the skills or interest in addressing child labor issues. “Labor Officers,” given their background, are more likely to be concerned with labor issues such as ensuring decent work and protecting children from exploitative conditions. Because Labor Officers are likely to be better suited to the work of addressing child labor, there may not be as high of turnover in these positions.

(3) Lack of planning

- Inspectors are not aware of any comprehensive strategic plan that has been endorsed by the DoL for preventing, detecting or addressing child labor. Although guidelines have been drafted on Child Labor Investigation and Monitoring; Rescue, Rehabilitation and Reintegration of Child Laborers; and Litigating Child Labor Cases – these have yet to be endorsed by MoLE.
- No goals or targets (weekly, monthly, annually) have been set by the DoL or Labor Offices to inspect for child labor or address the problem.
- Although it is widely acknowledged that the vast majority of child labor takes place in the informal sector, no plans for conducting inspections in the informal sector have been formulated.

Recommendation:

DoL should develop a strategic plan with guidelines for Labor Offices that have suggested activities, work plans and monthly targets related to addressing child labor. Plans should include ways to monitor those sectors in the region where child labor is prevalent and plans for conducting strategic inspections of businesses operating in those sectors, whether or not they are formally registered as a business. Plans should include:

- Stated priorities (e.g. target particular sectors or geographic areas, focus on prevention, etc.);
- Measurable goals and objectives and time-bound targets that reflect the desired results;

- Action plans for Labor Offices and inspectors to implement directives and make effective use of scarce resources (e.g. identify who inspectors should coordinate with, which sectors to focus on and places to visit, # visits per month per inspector, what to do when cases of child labor are identified, how the media will be used to spread message, etc.);
- Consideration for how results will be monitored.

Plans also should be communicated to all relevant parties so that everyone is aware of their responsibilities and time frame.

(4) Insufficient collaboration and coordination with others

- Staff at Labor Offices do not effectively coordinate and collaborate with other organizations and agencies that are working to address child labor. Any collaboration that does occur is done on an ad hoc and informal basis.
- Inspectors and DoL staff have very limited knowledge about the Child Helpline or other major efforts at eradicating child labor such as the “Green Flag Campaign” and child-labor free zones.

Recommendation:

Given the severe lack of resources at the DoL and Labor Offices, it is essential that they coordinate with other stakeholders to address the problem of child labor. Labor Offices should be given guidance on how to conduct mapping of the government agencies and other organizations in their Districts who are working to address child labor and guidance for developing a coordination plan with those entities. Coordination and collaboration can take many forms including:

- Encouraging *employer organizations* to advise their members on good work practices and help them do self-inspections and create plans to ensure that all parts of their supply chain comply with child labor laws
- Working with *trade unions* to bring violation of child labor laws to the attention of employers and their organizations.
- Working with *local government agencies*, agricultural extension officers, child welfare organizations, etc. to make them aware of child labor laws and regulations and create a collaboration plan to address the problem.
- Working with *private sector initiatives* such as GoodWeave and Better Brick Nepal to exchange best practices and promote knowledge sharing among inspectors and cooperate in the identification of child labor.

Monthly reports should be submitted by District Labor Offices to DoL’s Child Labor Elimination Section (CLES) that detail coordination efforts. In this way the CLES can monitor the situation and provide advice and feedback.

(5) Lack of information/data and lack of accountability

- DoL and Labor Offices have limited ability to monitor child labor in their Districts. No formal data collection system is in place to collect analyze and report on information related to child labor.
- Limited oversight of Labor Offices has resulted in a lack of accountability among Inspectors.
- DoL and the District Labor Offices have extremely limited financial resources and a severe lack of staff to cover the wide geographic areas they are assigned.
- Eliminating child labor is not a priority of the DoL. The Child Labor Elimination Section is understaffed and underfunded.
- DoL is not respected and is rarely considered by other stakeholders to be part of the solution to eradicating child labor.

Recommendation:

DoL should enhance its monitoring and evaluation tools and require District Labor Offices to regularly collect data and report on their efforts to address child labor. This information can then be used to:

- Improve accountability among Inspectors and other Labor Office staff;
- Highlight DoL's work on child labor and raise the profile of the CLS and Labor Offices;
- Support DoL's efforts at advocating for more resources;
- Raise public awareness about the negative consequences of child labor.
- Support efforts at improving labor legislation by reporting on problems not covered by the law (e.g. instances of child labor found in the informal sector).

(6) Lack of a sectoral or targeted approach to inspections

- DoL does not take a sectoral approach to addressing child labor, whereby specific sectors with high levels of child labor are strategically targeted for inspections.

Recommendation:

Given DoL's limited human and financial resources, Labor Offices should consider taking a sectoral approach to addressing child labor. This would require gathering information about which sectors in the area have the biggest risk of child labor and developing a plan for focusing efforts on those sectors, including collaborating with trade unions and employer associations that work in those sectors.

(7) Low morale

- Factory inspectors are overwhelmed and demoralized and are not motivated to address the problem of child labor.
- Inspectors have limited opportunities to communicate, share experiences and learn from others about how to address child labor.

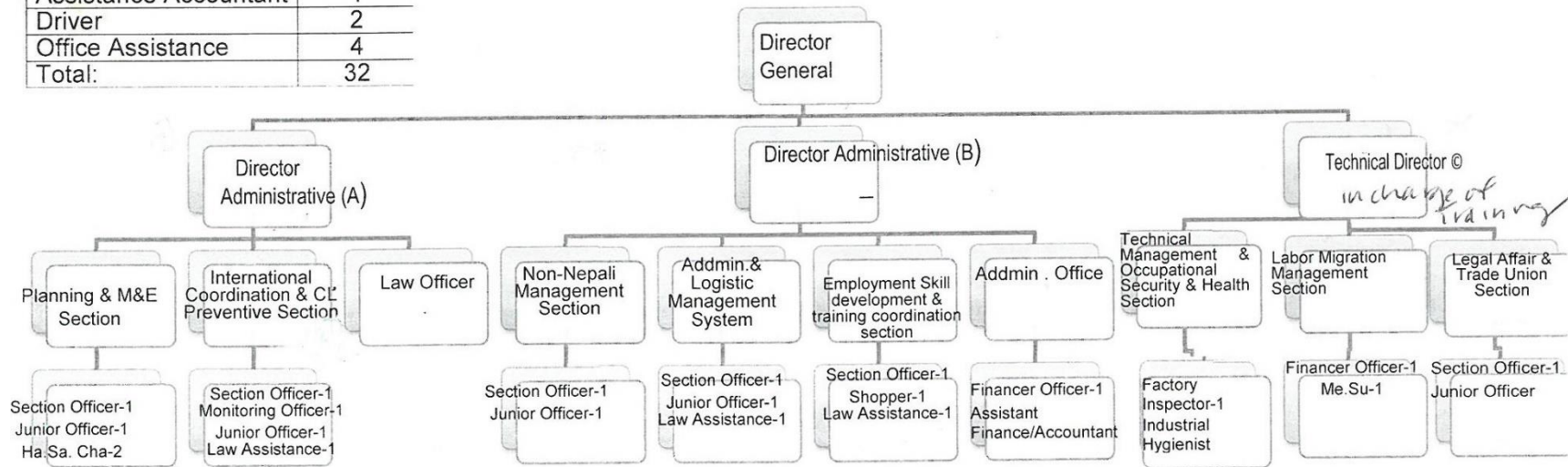
- Inspectors are not given opportunities to further their education or learn about new and innovative initiatives in other countries to successfully address child labor.

Recommendation:

DoL should consider inexpensive ways to boost the morale of inspectors and instill pride in their work – such as small awards for coming up with innovative ideas or approaches to a problem or for meeting/exceeding targets. Methods for inspiring Inspectors may also include exchanges between inspectors and others working to address child labor, in order to share ideas and encourage each other. Additionally, former child laborers can be asked to share their stories and help Inspectors realize the real life implications of their work.

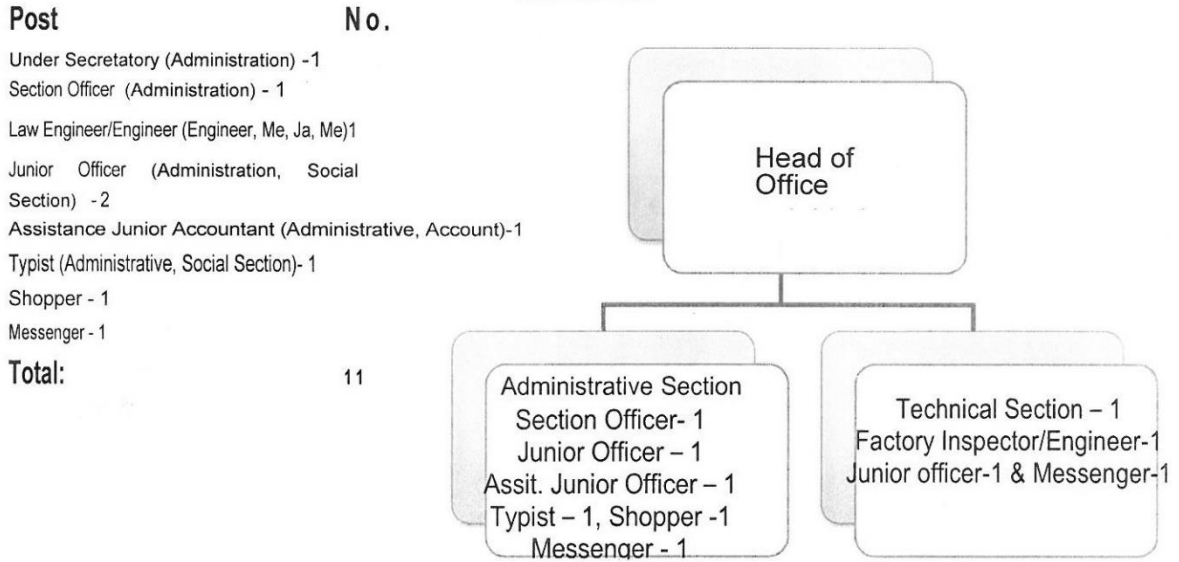
Appendix A:Nepal Department of Labor Organizational Chart

Post	No.
Director General	1
Director	2
Director	1
Section Officer	6
Law Officer	1
Finance Officer	1
Factory Inspector	2
Industrial Hygienist	1
Junior Officer	5
Computer Officer	1
Computer Operator	1
Health Assistance	1
Me. Su	1
Junior Officer	1
Assistance Accountant	1
Driver	2
Office Assistance	4
Total:	32



Appendix B: Labor Office Organizational Chart

Purpose Administrative, Labor Office Structure of Banke District



प्रतिष्ठान निरीक्षण पुस्तिका (Enterprises Inspection Manual)



नेपाल सरकार
श्रम तथा रोजगार मन्त्रालय
श्रम विभाग
मिनभवन, काठमाडौं



नेपाल सरकार
श्रम तथा रोजगार मन्त्रालय
सिंहदरबार, काठमाण्डौ ।

बालश्रम सम्बन्धी अत्यन्त जरूरी सूचना

बाल श्रम (निषेध तथा नियमित गर्ने) ऐन, २०५६ को दफा ३ को उपदफा १ ले कसैले पनि चौध वर्ष उमेर पूरा नगरेको बालबालिकालाई श्रमिकको रूपमा काममा लगाउन हुदैन । त्यसको विपरित काम गरेमा निजलाई तीन महिनासम्म कैद वा दशहजार रुपैया सम्म जरिवाना वा दुवै सजाय हुने व्यवस्था छ । त्यस्तै उपदफा २ मा बालबालिकालाई अनुसूचीमा उल्लिखित जोखिमपूर्ण व्यवसाय वा काममा लगाउनु हुदैन । साथै दफा ४ मा कसैले पनि बालबालिकालाई ललाई, फकाई वा भुक्त्याएर वा कुनै प्रलोभनमा वा डर त्रास वा दवावमा पारी वा अन्य कुनै तरिकाले निजको ईच्छा विरुद्ध श्रमिकका रूपमा काममा लगाउनु हुदैन । त्यसको विपरीत काम गरेमा निजलाई पचास हजार रुपैया सम्म जरिवाना वा एक वर्षसम्म कैद वा दुवै सजाय हुन सक्ने व्यवस्था रहेको कुरा सर्वविदितै छ । अझै नेपाल सरकारका राष्ट्र सेवकको निवासमा नै बाल श्रम प्रयोग भएको भनी व्यापक जनगुनासो प्राप्त हुन आएकोले त्यसतर्फ श्रम तथा रोजगार मन्त्रालयको ध्यानाकर्षण भएको छ । बाल श्रम प्रयोग गरेको देखिएमा वा त्यस्तो जानकारी प्राप्त भएमा सम्बन्धित श्रम कार्यालयमा निवेदन दिन सकिने व्यवस्था रहेको छ । त्यसैले बाल श्रम (निषेध तथा नियमित गर्ने) ऐन, २०५६ विपरित कसैले बालश्रम प्रयोग गरेको पाइएमा कडाभन्दा कडा कारवाही गरिने हुँदा बालश्रम प्रयोग नगर्नुहुन र यदि कसैले प्रयोग गरेको पाइएमा सम्बन्धित श्रम कार्यालय, श्रम विभाग तथा श्रम तथा रोजगार मन्त्रालयमा जानकारी गराई बाल श्रम निवारणमा सहयोग गरिदिनु हुन सम्बन्धित सबैको जानकारीको लागि यो सूचना प्रकाशित गरिएको छ ।

Appendix E: Child Labor Checklist Used by Labor Inspectors in Pokhara Labor Office

नेपाल सरकार
श्रम तथा रोजगार मन्त्रालय
श्रम विभाग
श्रम कार्यालय
गण्डकी अञ्चल, पोखरा
बालश्रम निवारण निरीक्षण फाराम नं. १

उद्योगको विवरण:

निरीक्षण मिति	
कारखानाको नाम, ठेगाना फोन नं.	
व्यवस्थापनको नाम:	
दर्ता मिति:	
उत्पादनको प्रक्रिया:	
उत्पादनहरू:	
वार्षिक उत्पादन:	

कामदारको विवरण:

कामदारको संख्या	पुरुष	महिला	नेपाली	गैर नेपाली

बालक (१६ वर्षमुनिका) को संख्या:

कामदार संख्या	केटा	केटी	उमेर खुलेको आधार	काम गर्ने समय	कसको साथमा आएको	संरक्षक

बालक १६ वर्षमुनिका) भएमा निजहरू संलग्न भएको कामको प्रकृति:

पारिश्रमिक:

माकिस रु.	ज्यालादारी रु.	ठेक्का रु.	पिसरेट रु.	अन्य

स्वास्थ्य तथा कल्याणकारी व्यवस्था

पिउने पानीको व्यवस्था	
पुरुष तथा महिला शौचालयको व्यवस्था/संख्या	
कार्यस्थलमा सरसफाईको व्यवस्था	
कार्यालयमा हावा र प्रकाशको व्यवस्था	
कार्यस्थलमा घुइँचो	
स्कूल तथा पढ्ने व्यवस्था	
औषधोपचारको व्यवस्था	

निरीक्षण गर्दा प्रतिष्ठानमा सम्पर्क भएको व्यक्तिको नाम:

Appendix F: General Checklist for Labor Inspectors



नेपाल सरकार
श्रम तथा रोजगार मन्त्रालय
श्रम विभाग
श्रम कार्यालय
गण्डकी अञ्चल, पोखरा

फोन नं.: ०६१-४६६६३३
फ्याक्स : ०६१-४६६६३३

उद्योग प्रतिष्ठान निरीक्षणको जाँचसूची

मिति :

१. सामान्य जानकारी

प्रतिष्ठानको नाम: प्रतिष्ठान दर्ता र सञ्चालन मिति:
ठेगाना: प्रबन्धक/व्यवस्थापकको नाम::
सम्पर्क व्यक्ति: सम्पर्क व्यक्तिको पद:
सम्पर्क फोन: उद्योगको किसिम:

२. कामदार कर्मचारी सम्बन्धी विवरण:

विवरण	नेपाली					गैर नेपाली		जम्मा	कैफियत
	स्थायी	अस्थायी	पिस रेट	करार	दैनिक ज्याला	भारतीय	अन्य विदेशी		
पुरुष									
महिला									
जम्मा									

३. कार्य सञ्चालन समयतालिका:

कार्य विवरण	कार्य समय		विश्राम समय		कैफियत
	देखि	सम्म	देखि	सम्म	
पहिलो सिफ्ट					
दोस्रो सिफ्ट					
तेस्रो सिफ्ट					
अन्य					

४. ट्रेड यूनियन सम्बन्धी विवरण:

क. ट्रेड यूनियन: छ / छैन
ख. ट्रेड यूनियनको संख्या:
ग. आधिकारिक ट्रेड यूनियनको नाम:
घ. सामूहिक सौदावाजी भएको पटक:

General Checklist for Labor Inspectors (continued)

५. प्रतिष्ठान व्यवस्थापन सम्बन्धी विवरण

क्र.सं	व्यवस्थापन सूचक	विवरण	कैफियत
१.	कामदार/कर्मचारीलाई नियुक्तिपत्रको व्यवस्था गरिएको छ/छैन		
२.	हाजिरी किताब छ/छैन		
३.	न्यूनतम् पारिश्रमिक (ऐन बमोजिम भएको/नभएको)		
४.	महँगी भत्ता दिएको /नदिएको		
५.	कामदार/कर्मचारीहरूको संचयकोषको व्यवस्था छ/छैन		
६.	ओभर टाइमको व्यवस्था छ/छैन		
७.	सामाजिक सुरक्षा कर काटेको छ/छैन		
८.	वोनस वितरण गरेको विवरण पेश गरेको छ/छैन		
९.	वासलात पेश गरेको भए सो को आ.व.		
१०.	राष्ट्रिय कल्याणकारी कोषमा रकम जम्मा गरेको छ/छैन, भए सो सम्बन्धी विवरण		
११.	ऐन नियमानुसारको विदा दिएको छ/छैन		
१२.	विनियम बनाइएको छ/छैन		

६. व्यवसायजन्य सुरक्षा र स्वास्थ्य स्थिति:

क्र. सं.	सूचक	विद्यमान अवस्था (छ/छैन/अपर्याप्त छ)	क्र. सं.	सूचक	विद्यमान अवस्था (छ/छैन/अपर्याप्त छ)
१.	प्रत्येक मालसामानलाई छुट्टा छुट्टै राख्न स्थानको प्रवन्ध (House Keeping)		९	कार्यस्थलमा कामदार कर्मचारीहरूलाई काम र खतरा जोखिमको बारेमा सूचना तथा संचार गर्ने प्रकृया	
२.	मेशिनको छेकवार सम्बन्धी व्यवस्था		१०	खाना/खाजा खानको लागि स्वस्थ र सफा क्यान्टीनको व्यवस्था	
३.	बिद्युतीय जोखिमबाट सुरक्षाको व्यवस्था		११	कार्यक्षेत्रको नजिक आवश्यक संख्यामा शौचालयको व्यवस्था	
४.	प्रकाश (Light) को व्यवस्था		१२	प्राथमिक उपचार सामग्री र उपचारको व्यवस्था	
५.	कार्यस्थलमा संवातना (Ventilation) को व्यवस्था		१३	स्वास्थ्य र सुरक्षा सम्बन्धी आवश्यक सूचना, संकेत, पोष्टर सम्बन्धी तालिम र जानकारीको व्यवस्था	
६.	ध्वनि (Noise) प्रदूषण हटाउनको निमित्त व्यवस्था		१४	संचालनमा रहेका मेशिनहरूको नियमित मर्मत संचारको प्रवन्ध	
७.	आपत्कालीन अवस्थाका लागि अग्नि नियन्त्रणको प्रवन्ध		१५	प्रतिष्ठानमा कुनै दुर्घटना भएको भए सो को विवरण	
८.	व्यक्तिगत सुरक्षाका साधनहरूको उपलब्धता		१६	उद्योगले समाजमा उपलब्ध गराएको सुविधा वा योगदान	

व्यवस्थापक/प्रबन्धक/सम्पर्क व्यक्तिको सही :

निरीक्षकको नाम र सही :

Appendix G:Child Labor Checklist Used by Labor Inspectors in Kathmandu Labor Office



नेपाल सरकार
श्रम तथा रोजगार मन्त्रालय
श्रम विभाग
श्रम कार्यालय

फोन/फ्याक्स नं.: ४२९९६२०

बागमती अञ्चल, काठमाडौं
बालश्रम निरीक्षण फारम

(१) संगठित/असंगठित क्षेत्र सम्बन्धी विवरण :

- | | | | |
|------|---|------|--------------------|
| १.१ | नियोक्ताको नाम : | १.२ | पूरा ठेगाना : |
| १.३ | दर्ता नं. र मिति : | १.४ | पान/भ्याट नं. : |
| १.५ | सम्पर्क व्यक्ति : | १.६ | फोन/फ्याक्स नं. : |
| १.७ | निर्देशक/व्यवस्थापक : | १.८ | कार्य समय : |
| १.९ | मुख्य कार्यहरु : | १.१० | कार्य परिमाण दर : |
| १.११ | कार्यको प्रकृति : (क) जोखिम पूर्ण (ख) सामान्य | १.१२ | शाखाहरुको संख्या : |

(२) कामदार/कर्मचारी सम्बन्धी विवरण :

- | | | | | | |
|-----|---|-----|----------|-----|----------------|
| २.१ | पुरुष संख्या : २.२ महिला संख्या : | २.३ | नेपाली : | २.४ | गैह्र नेपाली : |
| २.५ | १४ वर्ष मूनिका बालबालिकाको संख्या :- बालक : | | | | बालिका : |
| २.६ | १४ देखि १६ वर्षका बालबालिकाको संख्या:- बालक : | | | | बालिका : |

(३) गैह्र नेपाली नागरिकको श्रम स्वीकृति लिए/नलिएको : लिनको संख्या:

नलिनको संख्या:

(४) बालश्रम निरीक्षण जाँच बुँदाहरु :

क्र.सं.	जाँच बुँदाहरु	विद्यमान अवस्था			तुरन्त गर्नु पर्ने	कैफियत
		छ	छैन	अपर्याप्त		
४.१	जोखिमपूर्ण व्यवसाय संचालनको सुचना श्रम कार्यालयमा दिएको ।					
४.२	बालबालिकालाई काममा लगाइएको विवरण श्रम कार्यालयमा दिएको ।					
४.३	बालबालिकालाई जोखिमपूर्ण काममा लगाइएको ।					
४.४	बालबालिकालाई उच्च विरुद्ध श्रमिकको रुपमा काममा लगाएको ।					
४.५	बालबालिकालाई श्रममा लगाउन श्रम कार्यालयको स्वीकृति लिएको ।					
४.६	काममा लगाउन नसकेको तर लगाएका शर्तहरुको पालना भएको ।					
४.७	श्रमिकको रुपमा काम लगाउन योग्यताको प्रमाण पत्र लिएको ।					
४.८	बालबालिकाको दर्ता किताब राखिएको ।					
४.९	बालश्रम सम्बन्धि सूचनाहरु प्रतिष्ठानको सूचनापाटीमा टाँस गरेको ।					
४.१०	बालबालिकालाई विदाको सूविधा दिएको ।					
४.११	बालबालिकालाई नियमानुसार श्रमश्रमिक दिएको ।					
४.१२	बालबालिकाको स्वास्थ्य र सुरक्षा सम्बन्धि व्यवस्था					
४.१३						

(५) बालश्रम सम्बन्धी विवरण :

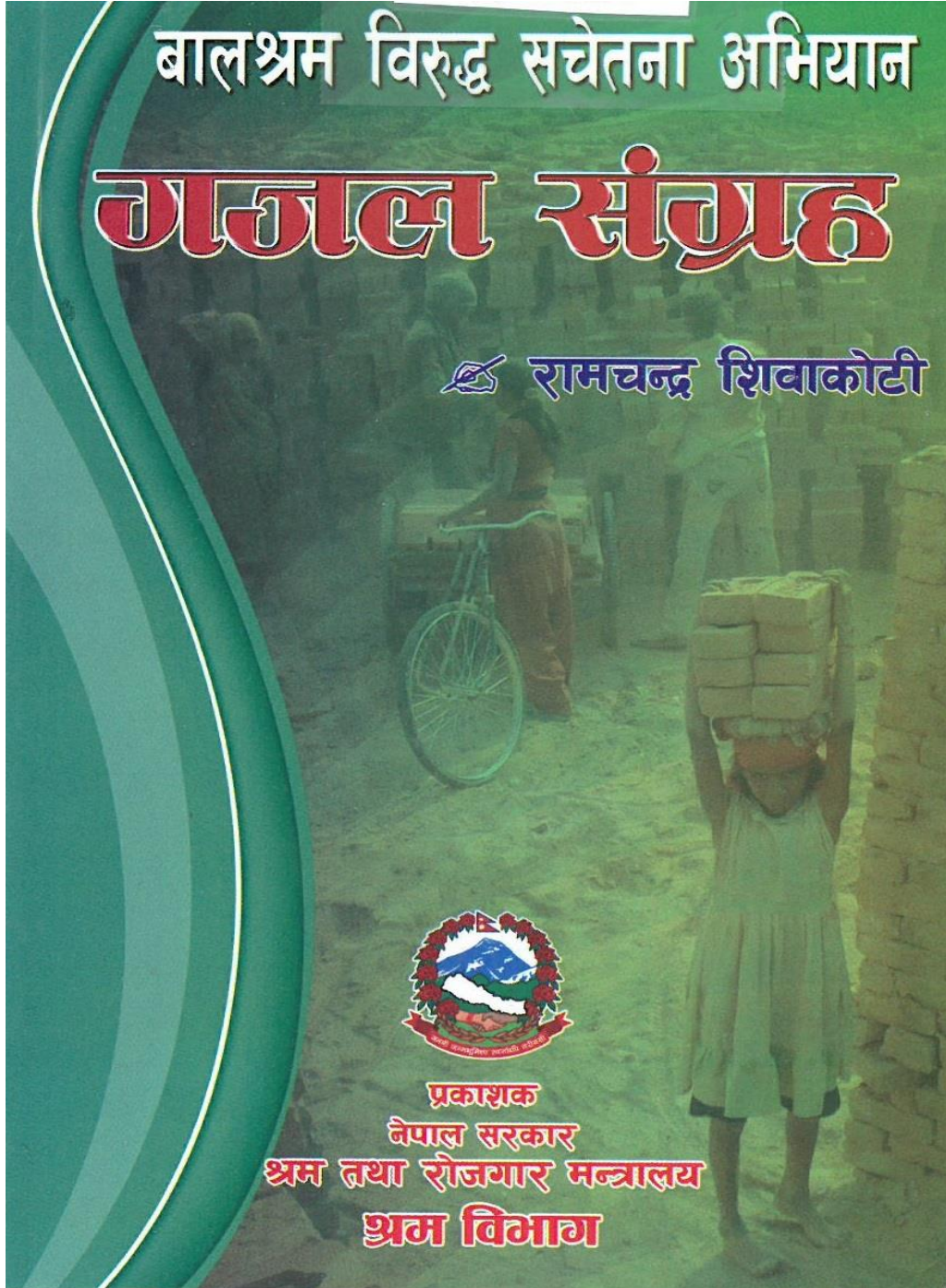
- | | |
|-----|---|
| ५.१ | बालबालिकालाई काममा लगाइएको समय : |
| ५.२ | बालबालिकालाई आरामका लागि दिएको समय : |
| ५.३ | कामबाट हटाउन आदेश दिइएको बालबालिकाको नामावली : |
| ५.४ | संरक्षकको जिम्मा लगाइएको बालबालिकाको नामावली र जिम्मा लिनको नाम, ठेगाना : |
| ५.५ | बालबालिकासंगको नाता |
| ५.६ | निरीक्षण कर्ताको अवलोकन प्रतिक्रिया तथा सिफारिश : |

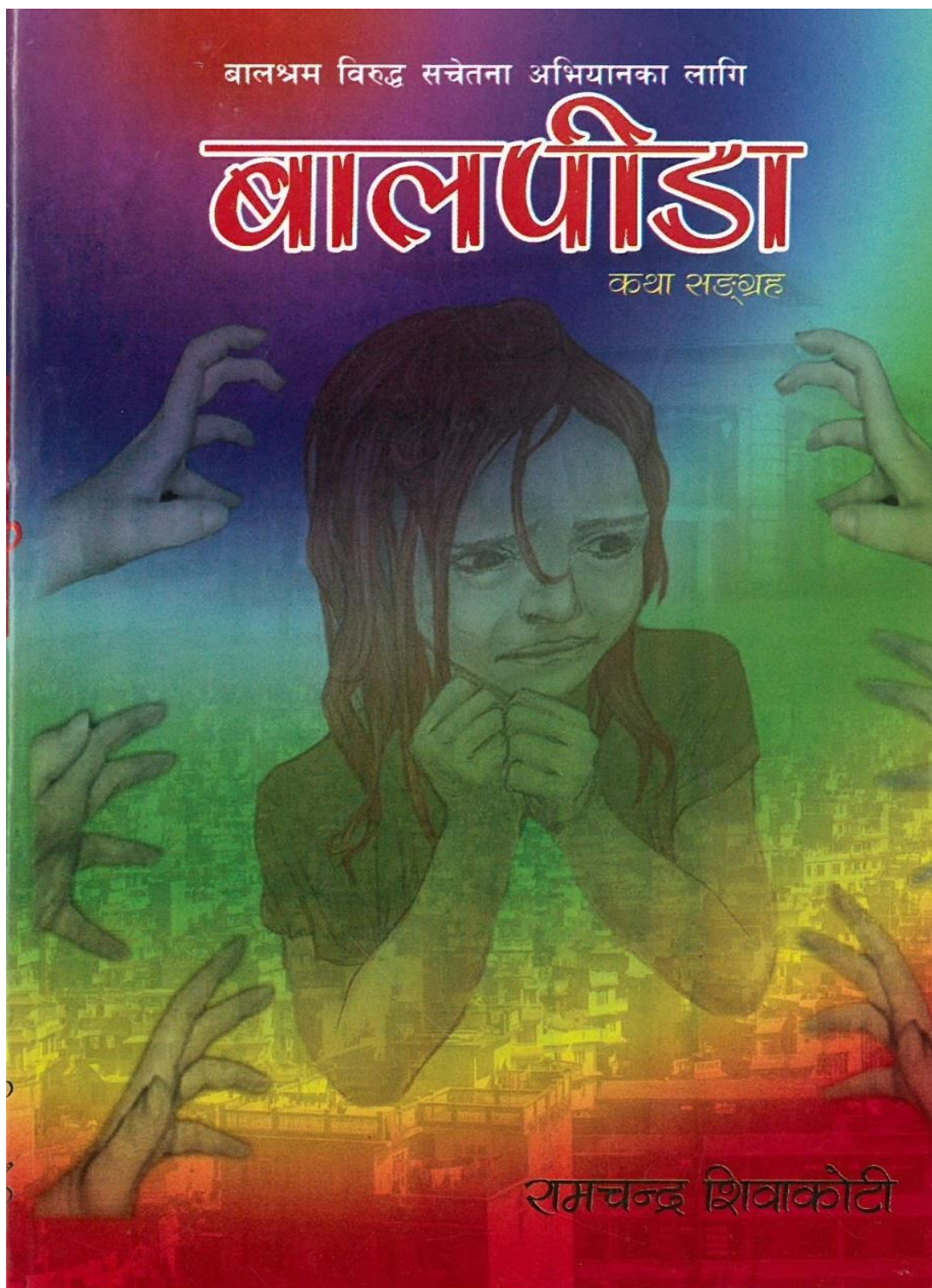
नियोक्ता प्रतिनिधीको नाम:

निरीक्षण कर्ताको नाम:

Appendix H:Child friendly Space in Kathmandu Labor Office







Child Labor Inspection and Monitoring Directive, 2071

Preamble

Whereas, it is expedient to recognize, protect and fulfill child rights in accordance with the duties conferred by national legislation including Interim Constitution of Nepal 2063, Child Labor (Prohibition and Regulation) Act 2056, and Children Act 2048 and the international commitment expressed in capacity of signatory nation of Convention on the Rights of the Child 1989, ILO Convention no. 138 on the minimum age for admission to employment and work, and ILO Convention no. 182 on the worst forms of child labor, the Ministry of Labor and Employment has issued this directive to prohibit and regulate child labor by inspecting and monitoring child labor.

Chapter 1

Preliminary

1. Short Title and Commencement

- a) The directive shall be named directive is Child Labor Inspection and Monitoring Directive, 2071
- b) This directive will come commence immediately

2. Definition

- 1) Unless the subject or context otherwise requires
 - a) “Ministry” refers Ministry of Labor and Employment
 - b) “Department” refers Department of Labor
 - c) “Relevant Office ” refers to the labor office as well as other offices that are given rights according to Child Labor (Prohibition and Regulation)Act 2056
 - d) “Child” refers to underage child according to Section 1(a) of Child Labor (Prohibition and Regulation)Act, 2056 (2000)
 - e) “Child Labor” refers to any act dangerous or harmful for the educational, mental, physical, healthy, spiritual, emotional, moral and social development of children.
 - f) “Manager” refers to the person who can take final decision on the activities of any institution or business, and this term also refers to any person appointed as the chief of any part, unit or house of any institution or business with an authority or responsibility to take final decisions.
 - g) “Institution” refers to any factory, business, association, organization, firm, company or their group incorporated or registered in local body as

per the existing laws and established and operating with an objective to operate any industry, business or service.

- h) "Inspector" refers to the member of staff designated by labor office or department for inspection and monitoring of child labor.
- i) "Child Labor Monitoring Committee" means the committee formed under section 8 and 11, and this term shall also refer to the monitoring team committee formed under this directive.

3. Compliance of Directive and Penalty

While performing any act related to child inspection and monitoring, it shall be the responsibility of all stakeholders to fully follow and comply with the provisions mentioned on this directive.

Chapter 2

Provision on Child Labor Inspection and Monitoring

4. Child Labor Inspection and Monitoring: Inspection and monitoring of child labor should be done on the following basis:

- a) Whether children under the age prescribed by law are involved in work or not
- b) When employing children of the permitted age for work, whether certificate mentioning the qualification to work is received before employing for work or not.
- c) Whether children of the age permitted to work are employed in risky and dangerous work or not,
- d) Whether following provisions are fulfilled or not while employing children of permitted age for work:
 - 1. The working hours should fall between 6 am and 6 pm
 - 2. Maximum of 6 hours of work daily
 - 3. Half an hour break after every three hours of work
 - 4. Paid off-day every one day of the week
 - 5. Not obstructive for regular education
 - 6. Appropriate arrangement for health and safety
 - 7. Children should have regular contact with their parents
 - 8. No discrimination based on gender, color, caste, ethnicity and faith on pay and perks
 - 9. Free from inhumane behavior such as bullying, humiliation, abuse, negligence, exploitation, bodily harm
 - 10. A registration book mentioning details such as the children's name, address, age, gender, payment amount, name and address of the guardian and nature of the child's work and the date of joining.
 - 11. A permission from the labor office to employ the child for work.

4. **Order for improvement or rehabilitate to the family:** While inspecting and monitoring for child labor, if the children of the age permitted to work are found in following situations, the Inspector or the Child Labor Monitoring Committee can order the related institution or individuals for improvement if Sections 5, 6, 7, 8, 9, 10, 11, 12, 13, 14 of Child Labor (Prohibition and Regulation) Act 2056 are violated and rescue the children if Sections 3(1), 3(2), 4 of Child Labor (Prohibition and Regulation) Act 2056 are violated or the situation is as mentioned in Section 6 of Child Labor Inspection and Monitoring Directive 2071.

Written or oral order can be issued for improvement or rehabilitation as necessary:

- 1) Obstruction in regular education,
- 2) No certificate certifying qualification to work as a laborer
- 3) Employed for work beyond the permitted hours of 6 am to 6 pm
- 4) Employed for work for more than 6 hours a day
- 5) No half-an-hour break after every three hours of work
- 6) No paid weekly day-off
- 7) The minimum wage determined by the government not paid
- 8) No appropriate provisions about health and safety
- 9) Discrimination based on gender, color, caste, ethnicity and faith on pay and perks
- 10) Non-maintenance of registration book mentioning details such as the children's name, address, age, gender, payment amount, name and address of the guardian and nature of the child's work and the date of joining.
- 11) No labor agreement
- 12) Other issues deemed necessary by the Inspection and Monitoring team.

6. Rescue:

(1) If children employed for work are found to have been treated in the following way by the employing individual or institution, the Inspector or Child Labor Monitoring committee can rescue the child immediately:

- a. Inhuman treatment such as humiliation, bullying, abuse, negligence, exploitation and bodily harm
- b. Adverse impact on child's health observed or child's health likely to be adversely affected due to the nature of work or place of work.
- c. Child labor sexually abused by employer or other laborers
- d. Employed in dangerous and risky work
- e. Employed in work by coercion against will

(2) Depending on the situation of the child laborer, the Inspector or Child Labor Monitoring Committee can rescue child if it deems necessary in situations other than the ones mentioned in subsection (1).

(3) If rescue of child laborer is required as per the condition mentioned in section (6) of this directive, the Inspector or Child Labor Monitoring Committee should prepare a note as per the Directive on the Procedure of Child Labor Investigation and Proceeding 2071 Section (2.2) subsection (2.2.5)

(4) On the condition of Section (6) of this directive, if objects or materials that could be taken evidence of child labor are found, such objects should be confiscated and sealed and a note prepared as per the Directive on the Procedure of Child Labor Investigation and Proceeding 2071 Section (2.2) subsection (2.2.5)

(5) If improvement orders issued by the Inspector or Child Labor Monitoring Committee are not complied with, such child laborers can be rescued immediately.

7. Preparation of Report:

(1) While monitoring child labor under this directive, the Inspector or Child Labor Monitoring Committee should prepare a Child Labor Inspection and Monitoring Report in the format given in annex 2.

(2) The report prepared as per subsection (1) should be submitted to the relevant office.

(3) If child laborer's situation is found as per Section 6 in the report under sub-section (1), the relevant office should register the report as a complaint and proceed with action against the individual or institution employing the child labor under Child Labor Investigation and Punishment Directive 2071.

Chapter 3

Provisions on Child Labor Monitoring and Inspection Mechanism

8. Central Child Labor Inspection and Monitoring Coordination Committee:

(1) A Child Labor Inspection and Monitoring Coordination Committee will be formed at central level to carry out child labor inspection and monitoring tasks in an organized and effective way.

(2) The function of central coordination committee under section (1) shall be performed by Child Labor Elimination Committee formed under Rule 29 of Child Labor (Prohibition and Regulatory) Regulation 2062.

(3) Child Labor Elimination Committee can designate organizations, officials or experts who have contributed in the child labor sector as members of the committee or can invite them as invited member in its meetings if it deems necessary.

9. Provisions on Meetings of Central Child Labor Inspection and Monitoring Coordination Committee:

- (1) The committee shall meet at the place, date and time appointed by the chairperson. The member-secretary should provide notice of the meeting to its members at least seven days before the meeting.
- (2) The decision/suggestion of the majority will be accepted at the meeting. If equal number of votes is given on both sides, the chairperson of the meeting will cast the decisive vote.
- (3) The member-secretary shall verify the decisions of the committee.
- (4) Other procedures related to the meetings of the committee shall be as determined by the committee.
- (5) The chairperson and the members of the committee shall be entitled to a meeting allowance for participating in the meeting as determined by Nepal government.

10. Functions, duties and powers of central child labor inspection and monitoring coordination committee:

In addition to the functions, duties and powers mentioned in Child Labor (Prohibition and Regulatory) Regulation 2062, Rule 29, the committee shall have following functions, duties and powers:

- a) Monitor or have monitored ongoing activities related to child labor reduction and provide necessary suggestions for effective implementation to relevant departments, offices or agencies implementing tasks related to child labor reduction.
- b) Review the progress of activities on child labor monitoring and inspection sector and submit an integrated report on policies and action plans the state should adopt in the future for child labor reduction with necessary suggestions to the Ministry of Labor and Employment.
- c) Maintain uniformity in child labor monitoring and inspection tasks by collaborating and coordinating with district level committees.
- d) Provide feedback in the making of necessary policies for child labor monitoring and inspection.
- e) Support in the implementation of policies prepared by the government.
- f) Perform other necessary tasks related to inspection and monitoring.

11. District Child Labor Inspection and Monitoring Coordination Committee:

(1) A District Child Labor Inspection and Monitoring Coordination Committee shall be formed at the district level to carry out child labor inspection and monitoring tasks in an organized and effective way.

- (2) The committee formed under subsection (1) shall have the following officials:
 - a) Chief, Labor office/chairperson, District Child Welfare Committee – Coordinator
 - b) Officer Representative, District Administration Office – member
 - c) Chief, Women and Children Office – member
 - d) Officer Representative, District Development Committee Office – member

- e) Officer Representative, District Education Office – member
- f) Officer Representative, District Police Office (Women and Children Service Centre) – member
- g) Officer Representative, District Hospital – member
- h) Official, three persons from District level Trade Unions – member
- i) Official, Chamber of Commerce and Industries – member
- j) Two persons nominated by the coordinator from the officials or officer representatives of non-governmental organizations working in the relevant district in child labor sector.
- k) Labor office/Board member or officer of District Child Welfare Committee – member secretary

(3) The chief of the labor office, in the district having a labor office, shall work as the coordinator of the committee formed under subsection (2), the chairperson of the district child welfare committee or a board member or an officer designated by him/her shall function as the coordinator only in the district without a labor office. An officer designated by the chief of the labor officer shall function as member secretary in the district having a labor office; a board member or an officer of the district child welfare committee designated by chairperson shall function as the member secretary of the committee only in the district without a labor office.

(4) If the committee deems necessary it can invite an individual or an organization which has contributed in the child labor sector in the meeting of the committee.

12. **Meeting of District Child Labor Inspection and Coordination Committee:**

(1) The regular meeting of the committee shall take place at least once in three months or as necessary at the place, date and time appointed by the chairperson. The member-secretary shall provide notice of the meeting to its members at least seven days before the meeting.

(2) The decision/suggestion of the majority will be accepted at the meeting. If equal number of votes is given on both sides, the chairperson of the meeting will cast the decisive vote.

(3) The member-secretary shall verify the decisions of the committee.

(4) The meeting shall not convene without the presence of at least 50 percent of the existing members of the committee.

(5) Other procedures related to the meetings of the committee shall be as determined by the committee.

13. **Functions, duties and powers of district child labor inspection and monitoring coordination committee:**

(1) The committee's functions, duties and powers will be as follows:

- a) Develop an integrated action plan for child labor inspection and monitoring in collaboration with organizations working in child labor sector and implement it.
- b) Monitor activities related to child labor carried out in the district,
- c) Review the progress of activities on child labor monitoring and inspection sector and submit an integrated report to the central coordination committee through the department.
- d) Train the local organizations on child labor inspection
- e) If information about use of child labor is received as per section 17, go and conduct monitoring and inspection at the site where child labor is used.
- f) Perform other required functions related to inspection and monitoring.

(2) The committee can form Local Child Labor Monitoring Committee with a maximum of 11 members at every VDC and municipality level for inspection and monitoring of child labor under section (1).

(3) While forming a Local Child Labor Monitoring Committee under subsection (2), it should be formed in collaboration with the VDC or the municipality.

14. Formation of Child Labor Monitoring Committee:

(1) The committee formed under section 8 and 11 can also perform the function of child labor inspection and monitoring required under this directive through a child labor inspection team it can form with a maximum of 11 members.

(2) The committee's board member will function as the coordinator of the team formed under subsection (1), and committee members, representatives of stakeholder agencies, representatives of organizations working in the sector of child labor reduction and individuals and experts who have contributed to this sector can remain as members of the committee.

(3) While forming the team under subsection (1), it should be formed with a specific functions and tenure. After the completion of the tenure the team will be considered automatically dissolved.

(4) The tasks performed by the team and the report submitted by the team will be considered the task performed and report submitted by the Child Labor Monitoring Committee.

Chapter 4

Inspection and Monitoring Procedure and Process

15. Inspection and Monitoring Procedure and Process:

(1) The Inspector or Child Labor Monitoring Committee can devise its own procedure and process for inspection and monitoring before doing so.

(2) Following aspects must be addressed while developing a procedure and process for child labor inspection and monitoring under subsection (1):

- a) Determination and management of required materials for inspection and monitoring,
- b) Work division and mentoring of members to manage functions in the course of monitoring and inspection such as interviewing the manager and looking at related documents, and acquiring required information.
- c) Collaboration with nearby police office, stakeholder agencies and organizations,
- d) Note-taking of observed things related to child labor in the course of inspection and monitoring at the working site,
- e) Interview with children engaged in child labor and other staff members
- f) While interviewing a child, it should be done in a child-friendly way following the code of ethics related to dealing with children
- g) If objects that could be taken in evidence of child labor are found, its details must be noted down, it should be photographed, and it should be seized or sealed,
- h) If the condition of child laborers is as mentioned in section 5 of this directive, order for immediate rectification/improvement, and if it is something that takes time have the manager present a plan for improvement and allow reasonable time for improvement as per the plan and continue surveillance for the improvement.
- i) Rescue and protect the child laborer if his/her condition is as mentioned in section 6 of this directive.

(3) Child Labor Monitoring Committee can coordinate with and take support of the nearby police office, stakeholder or other government agencies or various other organizations in inspection and monitoring of child labor.

(4) The inspection and monitoring report should be prepared as per section 8.

(5) The form in the format given in annex 1 should be filled up while inspecting and monitoring.

(6) The Inspector and Child Labor Monitoring Committee should submit the monitoring form and the report prepared under subsection (4) and (5) to the relevant office within 7 days of the child labor inspection and monitoring.

(7) The form in the format mentioned in subsection (5) and the report under section 8 can be used also by other authorized bodies while conducting the inspection and monitoring and submitted to the relevant office.

16. Authority to enter with or without notice:

(1) The inspector or Child Labor Monitoring Committee can enter a site where child laborer might have been used with or without notice.

(2) If anyone obstructs the way of an Inspector or Child Labor Monitoring Committee while trying to enter a house, room or premise for search, a notice and time for removing the obstruction should be given, and if the obstruction is not cleared the premise, room

or house can be entered by breaking in through an outward opening or inward opening door or window.

Chapter 6

Miscellaneous

- 17. Information source:** The Inspector or Child Labor Monitoring Committee can take information obtained as follows as source of information for child labor inspection and monitoring:
- a) Written or oral information or complaint received by Inspector or Child Labor Monitoring Committee.
 - b) News on child labor published in various newspaper, magazines, various media of mass communication, online and news disseminated through various social networking sites.
- 18. Child Protection and Promotion Subcommittee can carry out Inspection and Monitoring Functions:**
- (1) Town/village Child Protection and Promotion Subcommittee can perform the functions of child labor inspection and monitoring under this directive by informing the district child labor inspection and monitoring coordination committee.
 - (2) If town/village child protection and promotion subcommittee carries out child labor inspection and monitoring under subsection (1) it should prepare a monitoring report in the format given in annex 1 and submit it to district child labor inspection and monitoring coordination committee.
 - (3) If the district child labor inspection and monitoring coordination committee receives such report under subsection (2), it should take necessary action for maximum welfare of the child or for improvement in the condition of child labor, or rescue or rehabilitate the child labor under this directive.
- 19. Seeking support for Child Labor Inspection and Monitoring:**
- Child Labor Monitoring Committee can take support from various organizations, trade unions, government agencies, local police, and town/village child protection and promotion subcommittee for child labor inspection and monitoring.
- 20. Development of Code of Conduct:**
- (1) The labor office or Child Labor Monitoring Committee can develop a code of conduct and implement it to make the functions of child labor monitoring organized and effective.
 - (2) All officials and members involved in inspection and monitoring are obliged to follow the code of conduct prepared under section (1).
- 21. Confirmation required after Child Rescue:** If child laborer is rescued under section 6, 2 confirmation notes must be prepared in the format given in annex 3 and a copy of the confirmation should be given to the person using child labor.

22. **Expense Management:** Child Labor Monitoring Committee can collaborate with local government body or organizations for managing the expenses such as required materials and transportation for child labor inspection and monitoring.
23. **Void:** If things mentioned in this directive contradict the existing laws, they will be automatically void to the extent of contradiction.

Annex 1

(Related to subsection (5) of section 15 and subsection (2) of section 18)

Child Labor Inspection and Monitoring Form

Form No.

1. Detail of the child used as child labor

a) Full Name:..... Age:.....

Physical Description:.....

Date of Birth:

Gender: Boy Girl Others

b) Address:

Permanent address: District: VDC/Municipality: Ward no.

..... Tole(neighborhood):

Temporary address: District: VDC/Municipality: Ward no.

..... Tole:

c) Nationality:

d) Father's name: Living Dead Estranged

Since when?

Current location: Current occupation:

Contact no.

e) Mother's name: Living Dead Estranged

Since when?

Current location: Current occupation:

Contact no.

f) Step father/step mother (if applicable)

Step Father's Name: Living Dead Estranged

Since when?

Current location: Current occupation:

Contact no.

Step Mother's Name: Living Dead Estranged

Since when?

Current location: Current occupation:

Contact no.

g) Guardian other than parents (if applicable),

Guardian's Name: Contact No.

Address: District: VDC/Municipality:

Ward no. Tole:

h) Educational status of children

Educated Not Educated Drop out

If educated which grade Till when (year):

School Name and Address:

2. Detail of child's employer:

- a) Name of Industry/Factory/Hotel/Restaurant/Business/Institution/Organization that employed the child:

.....

Address:

- b) Name of Manager/chief:

Contact no.

Detail of child labor:

- a) Date of employment:
- b) Detail of nature/type of work:.....
- c) Daily working hours:.....
- d) Break-time:.....
- e) Number of weekly working hours:
- f) Monthly salary:

3. Type of Holidays

- | | |
|---|---|
| a) Regular leave <input type="checkbox"/> | f) Special leave <input type="checkbox"/> |
| b) Public Holiday <input type="checkbox"/> | g) Education leave <input type="checkbox"/> |
| c) Home leave <input type="checkbox"/> | h) Others <input type="checkbox"/> |
| d) Sick leave <input type="checkbox"/> | |
| e) Bereavement leave <input type="checkbox"/> | |

4. Other facilities

- | | |
|---|---|
| a) Gratuity <input type="checkbox"/> | e) Snacks allowance <input type="checkbox"/> |
| b) Provident Fund <input type="checkbox"/> | f) Dashain allowance <input type="checkbox"/> |
| c) Insurance <input type="checkbox"/> | e) Others <input type="checkbox"/> |
| d) Medical treatment <input type="checkbox"/> | |

5. Detail of Working Premise:

- a) Clean drinking water facility: Yes No
- b) Toilet facility: Yes No
- c) Proper ventilation, enough lighting and appropriate temperature in workspace: Yes No
- d) Canteen facility: Yes No

6. Record of children's health:

- a) Health checkup done before employing in work: Yes No
- b) Periodic health checkup: Yes No

7. Record on permission

- a) Permission taken from labor office: Yes No
- b) Written permission from parents: Yes No
- c) Doctor's advice (In cases where age hasn't been verified, make arrangements for submission of age verification)
.....
- d) Children certified for work by doctor: Yes No

8. Detail of the person bringing or recommending the child for work

- a) Full Name:
- b) Address:
- c) Contact no.
- d) Physical description:
- e) Photocopy of citizenship certificate or any other documents available? Yes
No

9. If any of the following incidents happened on the child, its details:

- a) Beating
- b) Labor exploitation
- c) Sexual abuse
- d) Rape
- e) Scolding
- f) Others

10. Safety arrangements: (Safety arrangements provided by the management to prevent the risk of physical accident and possible risk of physical and mental health depending on the nature of work)

.....

11. If any other things need to be mentioned:

=====
 =====
 =====

12. Comments of the Inspector or Monitor:

=====
 =====
 =====
 =====
 =====
 =====

Detail of Inspector or Monitor:

Name	Designation	Signature	Agency/office/organization

Name of individual or institution employing child labor: =====

Signature:=====

(Note: Detail of all monitors should be mentioned. If possible signature of the person or manager employing the child labor should be obtained.)

Date: =====

Annex 2
(Related to section 7)

Child Labor Inspection and Monitoring Report

1. Background:=====

=====

=====

=====

2. Region:..... Zone:District:=====

VDC/Municipality===== Ward no. ===== Tole=====

3. Duration:

4. Procedure:

a) Nature of Inspection and Monitoring:

Regular Sudden Periodic

b) Index:

Age, nature of work, working situation, social security

5. Detail of child labor:

5.1 Detail of child labor:

S.N.	Name of child	Age	Address	Nature/s of work	Name and address of employer	Family status	Risk situation	Education status	Health	Remarks

5.2 Remuneration and facilities:

S.N.	Nature/Sector of work	Remuneration	Working hours	Holidays	Healthcare	Educational facility	Other facilities	Remarks

5.3 Social and welfare status:

S.N.	Nature/sector of work	Status of Educational institution	Location of Health Institution	Accidental Insurance	Drinking Water	Fire control technology	Remarks

5.4 Other statuses:

6. Detail of major tasks performed by the children.

7. Problems observed in Inspection and Monitoring:

8. Conclusion and Suggestions

Prepared by:

Name	Designation	Affiliated Office	Signature

Date:

Annex 3
(Related Section 21)

Confirmation Note on Child Rescue

Where as, the child aged..... son/daughter of residing at district:
..... VDC/Municipality: Ward no. Tole: was found
being employed at (industry/factory/hotel/
restaurant/institution/business/organization) located at district:
VDC/Municipality: Ward no. Tole: since
..... against the clauses in Child Labor (Prohibition and Regulation) Act 2056,
and was rescued and his responsibility taken by us and this confirmation note given.

Signature:

Name:

Address:

Date: Year..... Month Date.....Day

(The person who has been given the confirmation note must be asked to sign on a copy of the confirmation note saying he has received a child laborer responsibility confirmation note)

Child Labor Investigation and Litigation Guidelines 2071

Preamble:

Where as, it is expedient to discourage the trend of using child labor;

in accordance with Child Labor (Prohibition and Regulation) Act 2056 and policy and regulations on child labor;

the Ministry of Labor and Employment has developed this guideline to simplify, ease and make effective the process of filing complaints, investigating and punishing cases of child labor.

Chapter - 1

Preliminary

1. Short Title and Commencement:

1. The name of this directive is “Child Labor Investigation and Litigation Guidelines 2071”.
2. This directive will be effective immediately.

2. Definitions: For the purpose of this directive,

- a) Act refers to “Child Labor (Prohibition and Regulation) Act 2056”.
- b) “Children” refers to children below the age of sixteen.
- c) “Institution” means any factory, association, organization, firm, company or a group of such entities established according to the existing law with an objective to run any industry, business or service.
- d) “Office” refers to any Labor Office; if any other officer is designated to look at a case of child labor under the prevalent law, this term also refers to the bench of such official.

Chapter – 2

Procedure to be followed in the investigative and judicial process

2 Investigation process of the Case

2.1 Filing of the complaint

2.1.1 Filing of complaint: Following individuals or organizations or agencies can file a complaint at the Labor Office in their area if they get to know that anyone is employing child labor or forcing children in child labor.

- a) The factory monitoring official as per section 15 of the act
- b) Police of the related area
- c) Related Child or his/her father, mother or guardian
- d) Related Village Development Committee or Municipality office
- e) Trade union of the institution level, or
- f) Any agency or non-governmental organization established as per existing law working for the rights and welfare of children.

2.1.2 Details required in the complaint: The labor office should ask for following information as far as possible from the individual or organization or agency filing the complaint or giving notice of the use of child labor.

- a) Name, age of the child forced in employment
- b) Name and address of his/her father, mother or any other member of the family
- c) Name, address, and physical description of the person or institution using labor
- d) Evidence that the child labor has been used
- e) Any other details related to the child labor.

2.1.3 Complaint can be filed as written, oral or report: The information of the child labor can be given in writing or orally. If the information about child labor has been given orally, concerned officer must write the name of the individual or institution using child labor and the details of child labor and read it out to the informant and take his signature. If security personnel arrest any person involved in such crime through any medium, such person also must be presented before the officer looking at the case along with the file.

If the person giving notice of child labor wants to stay anonymous, the officer at the labor office should present the information obtained from the person as a report.

If child labor is found during the monitoring as per section 17 of the Act then the monitoring officer must register the case as a report.

- 2.1.4 Format of the complaint or report: A complaint can be filed in the template given in annex 1 of this directive and a report can be filed in the template given in annex 2 of this directive.
But, a direct complaint can be made in any format.
- 2.1.5 Registration at the registration book: Relevant labor office should register a complaint or notice or report in the registration book in the template given in annex 3. If someone sends the notice or complaint through post then the relevant labor office should receive such complaint and register it and summon the sender in the relevant office and ask for relevant details.
- 2.1.6 Confirmation Note of Registration to be Provided: The person coming with the complaint should be given a confirmation note in the format given in annex 4 after registering the complaint as an evidence of the registration.
- 2.1.7 Action can be taken whichever way the information has been received: The relevant labor office should proceed with action if they receive complain about child labor through telephone, telefax, email or through a complain report if a personnel comes to know of it.
- 2.1.8 Complaint not to be rejected only on the basis of improper format: As the complaint is a notice of a crime the registration should not be rejected just because it is not in the format given in this directive.
- 2.1.9 No fees are applicable and even a postal ticket is not required while registering a complaint.
- 2.1.10 Things to be confirmed while registering a complaint: A case should be registered only after ensuring whether the case is in the jurisdiction of the relevant office, whether time limit has expired or not and whether there is some claimant or not.

2.2 Investigation process after complaint registration:

- 2.2.1 Appointment of Investigation Officer: The office can designate a member of staff as investigation officer for investigation of the case.
- 2.2.2 Functions of Investigation Officer: The officer designated as Investigation Officer on the case of child labor should carry out following functions:
a) Take testimony of the victim child labor

- b) Take situation report of the incident site
- c) If any object or goods that could be taken in evidence is found, take the objects in control,
- d) If there are any goods or materials that can't be taken in control immediately arrange a system to keep the goods safely.
- e) Take written statement from people who have seen or heard or seen and heard about the incident
- f) Take the statement of the accused.

2.2.3

Taking Statement of Child Laborers: The statement of a child laborer should be taken in the witness statement format given in annex 5. If the child laborer had been present with the complaint or notice or report, his/her statement should be taken immediately. If he/she had been present some other day or the investigating officer shall bring him/her to the office and the statement taken revealing the following details in front of the case hearing officer.

- a) Name, Surname, Age and Permanent Address
- b) Names and addresses of the parents and if there are other relatives in the district where the labor office is located, name and address of such relatives.
- c) Currently in whose house or industrial institution or office has he/she been working as child laborer and since when.
- d) The work and the nature of the work done as child laborer
- e) Working hours, time for education and entertainment
- f) Treatment towards the child labor (discrimination in food, the way of talking, beating, physical and mental violence)
- g) Whether he/she is sent to school or not for education, and if yes, grade, and name and address of the school
- h) School going time and returning time
- i) Whether he/she is meeting the parents or not. If yes, when and how
- j) Other things deemed necessary by the investigating officer.

2.2.4 Statement of accused: The statement of the accused must be in writing. Following things should be considered while having the accused give statement before the investigating officer:

- a) Statement should not be taken against will (a statement taken against somebody's will is not admissible in evidence under Evidence Act 2031, Section 9).
- b) The statement must be taken in the format given in annex 6 of this directive.
- c) While taking the statement, humane behavior must be shown towards the person giving the statement.
- d) Nobody should be made to sign document by coercion or intimidation.
- e) A witness examined once can be summoned and examined again only he/she needs to be examined because of some issues that were not clear in the first examination on reasonable grounds.
- f) If a defendant not on bail comes to give the statement any day before the judgment of the case, his statement must be taken the same day as soon as he is present.

2.2.5 Search and Rescue: If there is enough reason to believe that there is a child labor inside any house or institution or if there is enough reason to suspect there is a child labor the investigation officer should search that place complying with the following process:

- a) If a child labor is found in the search, he/she should be rescued. While rescuing, a rescue detail must be prepared in the format mentioned in annex 7 of this manual. During the search, if any object/goods that verify the employment of a child labor is found and seized, a seizure document must be prepared in the format of annex 8.
- b) If anyone obstructs the person present for search from entering into a house, room or premise, and if there are women they should be given a notice and time and chance to clear off and if required the search officer can enter the premise to search by breaking a door or window if necessary.
- c) If women don't get out of the way, they should be removed by taking the help of women police as far as possible, and if not possible by taking the help of other women.
- d) When entering inside a house or office or premise for search the provisions mentioned in section 116 of the chapter on Courts should be fulfilled and search can be done between sunrise and sunset.
- e) At least two trusted representatives of some organization/committees should be kept as witnesses in the rescue and search document.
- f) The name and signature of the concerned officer must be placed on the rescue and search document.

2.2.6 Situation report of the incident site: The situation report of the incident site must be prepared in the format mentioned in annex 9 keeping the people around the incident site as witnesses by clarifying all the details and situation of the site where the incident took place.

2.2.7 Following things should be clarified when preparing the situation report of the incident site:

- a) Name of the office preparing the document,

- b) Location of the place described (boundaries),
- c) Application or short description of the notice, details of the four boundaries of the incident site, if possible a rough map of the incident site,
- d) What objects and details were obtained from within the boundary of the incident site,
- e) Details of other things observed in the incident site,
- f) The relation of the situation of the incident and objects recovered there with the crime and the criminals.
- g) Mention the name, surname, age, and address of the people present during the site examination and have them sign on the document.
- h) Mention the name, surname, address of the people sitting as witnesses and have them sign.

People who should be kept as witnesses:

- a) Person giving the application or notice
- b) Accused (if arrested)
- c) Representative of the local body or local people
- d) Investigating officer and other staff performing the task.

2.2.7 Procedure for taking statement from eye-witness:

A document explaining the incident details must be prepared in the template at annex 10 clarifying as much details as possible from the account of people who have seen, heard or learnt of the incident.

Following details must be clarified while preparing a document on the details of the incident from the people who have seen, heard or known about the incident:

- a) Application or brief description of the notice
- b) Detail of the crime location
- c) Topics of questions that need to be understood or answered in relation to the incident.
- d) Details of the incident as written or mentioned by those willing to give a written statement.
- e) The details mentioned or written by the people should be mentioned in separate paragraphs by people or in separate sheets of paper.

2.2.8 Identification of physical evidence: Following things should be considered while identifying an object or material:

- a) The identification must be made from those persons who had seen the object at the time of seizure of the object,
- b) The good or object should be shown to the person and asked whether it is the same object/material picked up from the incident location or not
- c) Identification can also be done on whether the object was something being used by the accused or not.
- e) After the identification, a document must be prepared on whether the object was identified or not.
- f) Which object was identified before which person must be mentioned.
- g) The name, surname and address of the identifying person must be mentioned and
- h) The signature of the identifying person must be taken on the identification paper.

2.2.9 Procedure to be followed while sealing/cordoning: In the course of investigation of a case, if there are any materials that cannot be seized and taken away, then such materials should be cordoned/sealed in the place where they were found without any alterations.

Following things should be considered to while sealing/cordoning:

- a) Inspect the things to be sealed carefully,
- b) Count the things if they can be counted,
- c) Check if doors and windows can open from anywhere else,
- d) If there such doors and windows, latch them from inside so as to prevent it from opening from outside, and close them.
- e) If it's a small object sew it inside a pouch (unable to open) and close it,
- f) Lock with a padlock on the main gate or door and put a wax-seal on the lock so that it cannot be opened by its keys,

- g) If it's a small object or thing, seal the bag or pouch with wax, so that it cannot be opened,
- h) Prepare a detail of the sealing action and ensure having witnesses in the process,
- i) Prepare a document and handover the object to the relevant owner with verification paper, and have him sign on the paper saying he could be punished if the seal is broken.

2.3 Charge-sheet filing: The investigation officer should prepare the charge-sheet in the format of annex 11 and file the charge-sheet. The charge-sheet submitted to the case hearing officer should be checked to see whether following requirements are met or not and if the requirements are met it should be registered in the registration book according to the template in annex 12:

- a) Whether the claim as per the law is clear or not,
- b) Physical evidences submitted or not,
- c) Whether the charge-sheet has been filed by an authorized officer or not,
- d) Whether the documentary evidences or physical evidences mentioned in the charge-sheet have been submitted or not, whether the name, surname, address, father's name, and House no. of the accused summoned for inquiry and mentioned as defendants in the process of investigation in the charge-sheet, but not yet in trial Dates, and Tole, Alley, street name, Block No. mentioned or not in case of an address in a municipality.

The submitted charge-sheet must be registered on the "Charge-sheet file" and the registration no. and the date should be mentioned on the top of the charge-sheet. If there are crosses and corrections in the charge-sheet the chief of office should verify and sign with remarks.

The physical evidences submitted with the charge-sheet should be kept at the office unless otherwise proven.

Following details must be mentioned in the charge-sheet:

- a) Name, surname and address of the accused.
- b) Description of the information on the crime
- c) Detail of the crime
- d) Charge against the accused and the evidences related to it
- e) Relevant Acts
- f) Possible sentence for the accused
- g) If a compensation is required for the person suffering loss from the offense, the amount of the compensation
- h) Demand claim about returning or seizing a claimed good
- i) If there are any evidences or materials that cannot be brought to the office, description on where and under whose custody the goods are should be clearly mentioned and a document or proof explaining the responsibility should be submitted
- j) In the course of giving statement in front of the case hearing officer, if an accused mentions the name of any other persons involved in the offense other than those mentioned in the accusation section of the charge sheet the case hearing officer can order to investigate on such persons and upon investigating on such persons if the investigating officer deems prosecution against them necessary than he/she can file a supplementary charge-sheet against him/her,
- k) After the investigation officer has taken statement from the defendant, if he needs to clarify more details related to the case then only he can be asked to make a supplementary statement.

2.4 Procedure to be followed with regards to Date (Tarikh) and the defendant:

Procedure related to Date (Tarikh): The Date must be fixed in the following way:

- (a) Date: The case must be put on Date, and proceeded and settled as soon as the parties to the case are present.
- (b) Date warrant: The parties of the case in the Date must be given a Date warrant in the format mentioned in annex 13.
- (c) Date Receipt: Those who have received the Date Warrant must be asked to sign the receipt and it should be included in the case-file.

If the complainant is a government body, such body need not be given a Date Notice. If they need to be examined they can be contacted through telephone or mail correspondence and such organization or body can be asked to send concerned person on the mentioned date. If the labor office doesn't have any additional points to question with the complainant or informer such persons also need not be called for the Date.

The children who are the victims of child labor should not be kept in the Date.

(d) Things to be considered while appointing the Date:

- 1) While giving the Date notice, the date notice must contain the tasks that will done on the date and the signature of the office staff.
- 2) The people receiving the date notice must be given the date notice in the format mentioned on annex 13 of this manual.
- 3) The officer appointing the Date must sign on the Date notice every time he issues it.
- 4) When the receiver of the Date notice receives it, a receipt of Date notice in the format mentioned in annex 14 of this manual must be signed.
- 5) Company seal must be stamped on the top of the Date notice.
- 6) The Date must not be fixed for day when the office will be closed.
- 7) If the date fixed for the Date happens to be an off-day, the Date will not be considered violated if concerned persons present themselves the first day after the office opens.
- 8) If the person who needs to be present on a date is kept in custody by some office or court and such information is received at the case hearing office, the office does not need to wait to go ahead with the proceeding if the person is not in a situation to be released soon. If

he/she needs to be examined/inquired he/she can be summoned for the examination.

- 9) If the person who was in custody presents to the office within five days of the release date except the time of travel he/she must be kept in Date and proceeding continued.
- 10) If the parties of a case violate the deadline, judgment should not be issued till the date allowed by the law.
- 11) If the summoned misses Date by not being able to be present on the date and time mentioned due to reasons beyond his/her control he/she can get a concession for up to 30 days for once or up to three times.
- 12) If the party that needs to be present on a date isn't present, the office need not wait for them. It can continue with the proceedings of the case according to the law.
- 13) On the appointed date of the trial, the client(s) must be present at the appointed place from the appointed time till the proceedings complete or till another trial date is not fixed.
- 14) If a summoned isn't present on the appointed trial date his complaint that the appointed task could not be completed on that date will not be heard and a summoned who comes after the closure of the office will not get a concession on the trial date.

(c) Procedure for summoning a defendant

As soon as a case on child labor is registered, the defendant must be summoned with a summon letter in the format of annex 15 of this manual with a deadline of 7 days barring the time of trial. Three copies of the summon letter should be issued.

2.5 Procedure for summoning

- 1) The labor office can designate a member of its staff for the task to summon someone. In a situation where summons needs to be issued, the summons must be prepared and the task along with the summons must be delegated to the related member of staff. Three copies of the summons should be given to the designated staff and a receipt must be signed.
- 2) If the member of staff knows the person to whom the summons is addressed, he/she can submit the summons to the person wherever he/she meets him/her. If the designated person does not know the summoned person or even if he/she knows him/her, doesn't meet him elsewhere, then his/her home address must be found out and the summon be given there.
- 3) The summons must be handed over to whoever it is addressed to as far as possible. But if the addressee is not found at home, it should be handed over to an adult person staying in the same family as the addressee.

- 4) Upon reaching the person's house/rented place on whose name the summons is addressed, if the addressee or any of his family members are not found present in the house or if they refuse to receive the summon the summon notice must be pasted on the door of the house/rented house visible to everyone.
- 5) While issuing a summon notice to someone whose exact house no. is not mentioned or known the summon notice must be pasted in a public place noticeable to everyone if the village, neighborhood, or town name is mentioned, if even that much information is not mentioned the notice must be placed at a public place noticeable to everyone near the office.
- 6) The notice must be posted at the presence of two socially trusted people of that area. The date when the summons was submitted to the concerned person or the when it was posted in his/her door or in a public place must be mentioned in the submission detail in the copy of the summons out of the 3 copies that will be brought back to the office.
- 7) While issuing the summons, the local people present and the officer delivering the summons should sign on the copy to be brought back to the office.
- 8) If the summon has been issued by posting it on the door of the summoned the respective municipality or the village development committee must be notified along with the date the summons was posted and the third copy of the summon. On doing so, a receipt must be received from a representative of the respective municipality or VDC. So must be mentioned on the back page of the copy that goes back to the office and a signature obtained.
- 9) Once a municipality or VDC receives the notice that the summons has been posted at the door the VDC or municipality should issue a notice towards that and post it on its notice board immediately.
- 10) If the respective municipality or VDC doesn't post the notice about the summons even after the summon has been posted on the door of the summoned, the process will not be considered incomplete due to the VDC/municipality's omission if other processes have been complete.

- 11) If summon cannot be mentioned through the above mentioned methods, the summons can also be issued by publishing notice in newspapers.
- 12) While issuing a summons, a description of the receipt along with the received date in the format mentioned in annex 16 of this manual must be given at the back page of the summons to the concerned person.

2.6 Proceeding after the presence of defendant or after the deadline for presence is lapsed

1. **Defendant Statement:** If the defendant presents himself/herself within the given date his/her/its statement must be taken immediately as per the template in annex 6.
2. **Order to examine evidence:** The case hearing officer should order evidence examination limiting only to the issues to be proved in the case. Once the questions to be answered in the case are determined, evidences related to it must be examined. A judgment issued without examining crucial evidences lacks judicial conscience and is liable to be revoked.
3. **Witness examination:** After the order on witness examination as evidence, prosecution and defense witnesses should be summoned to the case hearing office and examined. While appointing the date for examining witnesses mentioned on the statements of plaintiff and the defendants, the same date must be appointed and informed.

Witnesses must be asked to speak the truth and swear on their religion and honesty and be informed that they will be punished if they speak false before taking the statement. While taking the statement of a witness the lawyer of the other party must be given chance to cross-examine.

Any person can be a witness other than those determined by the court as unable to understand questions they are asked or give logical/reasonable answers due to young age, very old age or physical or mental disease or similar other reasons.

People who are unable to speak can give testimony by writing or through sign language. Any member of staff can also be examined as witness.

2.7 Procedure of witness statement taking

- 1) The clients of the case should present the witnesses they have submitted as evidence to the case by themselves on the date scheduled by the office.
But, if there is someone who must be interviewed about the case the office can itself summon the person and inquire him/her.
- 2) In case of witnesses such as old people or disabled people who cannot come to the office, inquiry can be made by going to their homes.
- 3) The witness is obliged to respond to the questions asked.
- 4) Witness should be examined at the presence of both the clients.
- 5) The prosecution's witness can be examined on the scheduled date even if the defendant is not present on that date.
- 6) If a witness cannot be presented on a scheduled date due to unusual situation such as road obstruction or flood or landslide, and an application is submitted to reschedule the date within 10 days except the travel time with proof from related Village Development Committee or Municipality office or a government office, then a second date must be scheduled and witness examined.
- 7) When taking witness testimony, all the witnesses called on a particular date must be interviewed on the date they are called as far as possible. If that is not possible, the remaining witnesses must be called the next day.
- 8) The witness statement must be taken at the bench of the case-hearing officer.
- 9) When taking witness statement, the witness must swear an oath mentioning he/she will speak the truth accurately in all honesty and religion, the witness must be told what will be penalty of giving a wrong statement, and statement must be taken through questioning.
- 10) After the completion of question-answer with the witness, the witness must be asked if he/she has anything further to add on the topic; his statement, written, should be read back to him and he should be asked to verify if it is accurate, if he amends anything it must be mentioned in the statement.
- 11) After writing all questions-answers, the witnesses name should be written below the text in such a way that nothing can be added below

and it should be closed and the witness be asked to sign. The date must be written at the bottom, and at the top and at the close office seal must be placed and at the bottom and the close the case hearing officer's signature.

- 12) When a witness is being examined, he/she should be examined in the presence of whichever client presented the witness.
- 13) While taking the statement, short question must be asked and the question and answer must be recorded.
- 14) While examining the witness, one witness's statement should not be heard by another witness.
- 15) A witness examined once can be summoned and examined again only he/she needs to be examined because of some issues that were not clear in the first examination on reasonable grounds.
- 16) Insulting a witness unnecessarily and asking irritating questions can be stopped.
- 17) While taking a witness statement, prosecution can question first if he/she is prosecution's witness and defense should question first if he/she is defense's witness. If the clients have appointed lawyers the lawyers can question on behalf of the clients. Then, if required the other party can cross-examine. After the cross-examination, the client can question the witness again.
- 18) Both the parties can choose not to question their witness themselves and request the office to question them, upon which the labor office can question the witness. Even in such case where the witness is questioned by the office the other party can still cross-examine.

2.8 Bench management

The bench management should be done as mentioned below:

- 1) The proceeding and judgment in a case of child labor should be done by the chief of labor office. Nobody should be allowed with arms/weapons in the bench, and a disciplined, dignified and calm environment must be maintained in the bench preventing everyone from doing anything undue.
- 2) The bench for judicial work can be scheduled for a certain day and time in the week or as per the requirement.
- 3) A certain employee can be designated to help the case hearing officer on the hearing, judgment and judgment preparation of cases and to take responsibility of the advisory book for cases which have been set for trial and case-files have been submitted.

- 4) A separate courtroom or if unavailable the room of the case hearing officer can be designated as the bench for the proceeding and decision in the case.
- 5) Appropriate seating arrangement must be arranged for the plaintiff, defendant and lawyers in the bench.

2.9 Hearing Management

The hearing can be managed in the following way:

- 1) The client can himself or herself present in the court and highlight the issues on his/her case or a counsel he has appointed can plead in the hearing on his/her behalf.
- 2) The arguments will first be submitted by the prosecution or on behalf of the plaintiff of the case then on behalf of the defendant. Upon the completion of argument from the defense, the prosecution can cross-question on new questions raised during the argument of the defense.
- 3) The bench can direct both clients and their lawyers representing them to limit their argumentation only on the questions to be decided in the case.
- 4) The bench can schedule a date and time for the hearing according to the nature and topic of the case.
- 5) The clients of the case or their representing lawyers can also submit their arguments in writing (argument notes) and such client can also plead.
- 6) It will be the duty of the clients and the representing lawyers to answer questions related to case asked by the bench in the course of the argument, to limit the argument to the scheduled time and to follow the given instructions.
- 7) In a case where Nepal government is a client, a notice of the court date for hearing should be given to the officer filing the case.

Chapter – 3

Procedure on Judgment, Judgment Execution, Subordination and Appeal

3.1 Judgment: Following procedure should be followed while issuing judgment in a case:

- 1) The chief of the concerned labor office should judge the case related to Child Labor.
- 2) The case hearing officer should not hear and judge a case related to anyone whose property would be inherited to him if he/she died and uncles, aunts, in-laws, nephews, nieces, grandparents, special teacher (who administers specific mantra), someone with whom he/she has financial transactions, servants and anyone living in the same family as the above and anyone who has an adversarial relation with them.
- 3) If a case you can't hear comes to your office, and if there is an officer with equivalent authority as you is present in your office he/she should hear the case if not the case should be forwarded along with the court-date and the case-file to nearby another office with an officer having equivalent authority as you.
- 4) If a case beyond your jurisdiction, beyond the time limit, or if a case without a claimant had been registered such case should be annulled without examining the evidence of the case.
- 5) When deciding a case, the case should be decided after hearing it in an open bench in the presence of the parties of the case and the lawyers present at the appointed place, date and time.
- 6) If a date and time had been appointed for the judgment of a case, the case should not be decided before the appointed date and time.
- 7) On the day appointed for evidence examination, upon showing the evidences submitted by both parties and after required questioning, and upon consideration on whether the two parties agree or not, if both parties seem to agree, a decision should be given immediately.
- 8) After the completion of the pleadings/arguments from the clients of the case or their representatives or the lawyers on the day of the Court, the judging officer should prepare the decision and verify it and read himself/herself the judgment out to the client from the same bench the same day.

- 9) After giving the verdict, the judging officer should write the summary of the case in the advisory book in the format mentioned in annex 27 of this manual, and sign it.
- 10) If there is insufficient time to write the judgment on the day the verdict was issued, the imposed sentence must be written on the advisory book the same day, the judging officer should sign it and judgment points should be clarified and its conclusion must be read out from the same bench.
- 11) If a judgment has been announced, but the judgment has not been written, then the judgment should be written and included in the case file within seven days of the judgment.
- 12) If it is case which can be appealed, a document mentioning the name of the appeal hearing office or court and the deadline for appeal should be prepared and read out to the client getting the deadline, and have him/her sign the text mentioning the details have been heard, get the signature on the document as per annex 18 of this manual and include in the case file.
- 13) On the day of the court hearing, after the hearings if more study or time is deemed necessary due to the complexity of the case, then a document explain such situation should be prepared and a next date fixed.
- 14) Even if any of the clients remain absent at the time and place appointed for case hearing, the hearing and judgment should not be put off, judgment can be made as per the law.
- 15) If a person who needs to be present is in custody by some office, and the concerned office writes about it and if he is going to be released within one month, then a verdict should not be given within that month. If the person is remanded for more than a month, he can be summoned and questioned as required and the case can be judged.
- 16) If a case could not be decided on the appointed court date for some reasons, and if the client has missed the deadline, then decision should not be made until the time allowed by the law.
- 17) In the case where there are multiple defendants or the defendant has not been arrested and gone beyond deadline, then the case should be settled within 3 months, or in a case where the required evidences have been examined, then the case should be settled within next 15 days, even if the 3-month deadline is remaining. It should not be delayed than that.
- 18) If the verdict is not issued within that deadline due to reasonable grounds, then the office should request with the appeal hearing office or court and take an extension and decide the case within the extended deadline.
- 19) Once a case has been decided, the case of the same clients should not be re-judged except in the case that an appeal is filed as per the law.

20) The officer who has issued the judgment should sign at the bottom of the first page, and put short signature at the bottom and top of each page after the first, and sign in full at the end of the last page and the office seal must be placed at the top of every page.

21) After a case is decided, the date should be mentioned on the registration book and on the outer-cover of the case-file.

22) If a person accused in a case dies before the verdict of the case, the proceeding of the case need not be continued for him/her. He/she will not be indicted in any parts of the case.

23) While writing the judgment, it should be written in the format mentioned at annex 19 of this manual clarifying the following points in separate paragraphs.

- 1) Name of the Judging office and the officer
- 2) Registration of the case, Case no. including the year and the name,
- 3) Full names with address of all plaintiffs and defendants.
- 4) Name of all witnesses from the prosecution and defense and other evidences
- 5) Name and section of the legislation that provides the jurisdiction and authority to the judging office and officer
- 6) Brief summary of complaint/report
- 7) Brief summary of the statements and testimonies of the plaintiff and the defendant and other people related in the case, affidavit and other documents prepared in the course of investigation.
- 8) Brief summary of the charge-sheet.
- 9) Brief summary of the statements and testimonies of the plaintiff and the defendant and other people related in the case, in front of the case hearing officer.
- 10) Main points of the topics argued by the lawyers.
- 11) Questions raised based on facts and laws.
- 12) Analysis of whether or not the case laws mentioned in the case apply to the presented case.
- 13) Judgment along with basis, reasons and legal provisions.
- 14) Whether the accused can be found guilty or not under which Section of which Act and if he is found guilty what will be the sentence to him under which Section of Which Act and the amount to be paid as compensation to the victim child labor from the defendant.
- 15) Other things that need to be done while executing a judgment.
- 16) If it is a case which can be appealed, the people who have the right of appeal, time for appeal and the name of the office hearing the appeal.
- 17) Name of the stenographer or typist of the judgment if there is one.
- 18) Date of judgment.

3.2 Provision on subordination: If the labor office needs to take a decision of imprisonment while taking action according to the Act, it should forward it to the related court of appeal along with the case file and the judgment, and do as directed by such court.

3.3 Procedure on appeal

Provision on deadline and information on appeal

- 1) Upon the judgment of a case, the defeated client should be given a 35-day deadline for appeal in the template provided at annex 21 of this manual for cases which can be appealed.
- 2) In cases where appeal deadline should be given, the appeal deadline should be issued within 3 days of the judgment of the case.
- 3) In cases where the clients of the case are present in the office during the judgment of the case, the judgment should be read to them and they should be told whether the judgment is appealable or not and in case the judgment is appealable the name of the court hearing the appeal should be explained and they should be asked to sign a document verifying that they have heard the details.
- 4) In cases where a document verifying that the judgment is heard by the clients is signed, no separate appeal deadline needs to be issued. The deadline starts from the date the judgment have been heard.
- 5) Even if the appeal deadline hasn't been issued as required, if penalty has been paid or copy of the judgment has been taken the deadline for the appeal starts from whichever is the earlier date.
- 6) The appeal deadline should be sent to the home address of the client who was not present while the judgment was issued.
- 7) Following information must be clear on the appeal deadline:
 - a) What penalty or sentence has been declared in the judgment
 - b) Which is court of appeal
 - c) How many days is allowed for the appeal

3.4 Execution of judgment: The following procedure must be followed while executing a judgment.

- 1) The office first hearing the case on child labor and settling it should execute the judgment.

- 2) Have a designated member of staff execute the decision you took, and monitor whether it has been executed or not.
- 3) Following things should be paid attention to while executing the judgment.
 - a) If the act mentions prison, there should be prison,
 - b) If a fine or compensation has been imposed, and if that is not paid, then prison term must be served in lieu of the fine and compensation. While sentencing imprisonment this way, it should be done within the limits of Muluki Ein, Section 38 of Chapter on Punishment.
 - c) If the final judgment from the court of appeal sentences someone to prison and if the defendant dishonors the deadline for appeal, an arrest warrant can be issued.
 - d) If the person imposed fine comes to submit the fine, the fine should be received, verified and the receipt must be given.
 - e) If the person sentenced to imprisonment presents himself after the final judgment or if he is submitted after arrest he/she should be sent to the prison office with details of the prison term.
 - f) Once the prison sends the information that the prison details have been transferred to their book, the record should be reduced from the office
 - g) If the person who is imposed a fine is not present immediately but later appears at the court because of some other work he/she should be arrested immediately and the required fine should be taken. Such defaulter can be arrested by the office staff anywhere to receive the money owed.
 - h) If a person who has been imposed a fine has deposited some property as security deposit, then there is no need to receive the fine amount until the final judgment is issued.

Chapter - 4

Miscellaneous

4.1 Record of settled case-files

Following things should be considered while keeping the record of a settled case-file:

- Each settled case-file should be kept registered in a separate registration book as per the template in annex 22 of this manual.
- If a settled case-file is requested from any other offices or courts it should be dispatched only after mentioning in the registration book.
- When a settled case-file sent to other courts is returned the case-file should be kept in its designated place after mentioning the detail of the return.

4.1 List of judgments: Once a case has been decided, the list of penalty, fine, original sum should be mentioned in the inventory in the template provided at Annex 20 of this manual, and the action must be taken as per it.

Following details must be mentioned in the list:

- a) The full name, surname, address and the father's name of the payer
- b) Precise figures of penalty, fine and the original sum to be received
- c) Case no., judgment date and other necessary details,
- d) The inventory number should be mentioned in the respective case-file of the case and related officer must sign and verify when the inventory is sealed.
- e) If an appeal is filed on the judgment of this office and the original sentence is amended from the appellate level and if a written information from the appeal hearing court is received the detail must be amended in the previously sealed inventory and verified and sealed again.

- 4.3 **Entitlement of copy:** A copy of case-file at the office hearing the case should be given to any stakeholders who ask for it. The copy must be verified as is on the original with a fee of Rs two per page. While giving the copy, at the top of the page, the receiver's name and as per original copy should be written and an official stamp of the office and a stamp of the chief of the office should be put.
- 4.4 **Compensation:** The officer hearing the case should ensure compensation by ordering the defendant to pay compensation within seven days of the presence of the defendant to compensate the victim children for the loss they had on their educational, physical and mental effect and the cost required for reintegration with the family. If the defendant is not present, compensation amount must be mentioned and be collected from the defendant and be given to the victim children as per section 3.4 of chapter 3. 9

Nepal Government

Ministry of Labor and Employment

Singhdurbar, Kathmandu

Urgent notice on Child Labor

Under subsection 1 of section 3 of Child Labor (Prohibition and Regulation) Act 2056, nobody should employ a child who haven't completed the age of fourteen as a worker. Anyone who violates this provision can be sentenced with upto three months imprisonment or upto ten thousand rupees fine or both. Likewise, under subsection 2 a child should not be employed in risky occupation or work mentioned in the annex. Further, under section 4 nobody should seduce, allure or deceive a child into work or use child labor through intimidation or coercion against his/her will. It is common knowledge that those who violate this code can be sentenced with up to fifty thousand rupees fine or up to one year imprisonment or both. Further, the Ministry of Labor and Employment's attention has been drawn towards widespread complains that child laborers are being used in residences of civil servants of Nepal government. There is a clause that if the use of child labor is seen or known petition can be filed at the relevant labor office. Therefore this notice has been issued for the information of all relevant requesting support in child labor eradication by not using child labor and reporting the use of child labor to the relevant labor office, labor department and labor and employment ministry, as strong action would be taken against those using child labor against Child Labor (Prohibition and Regulation) Act, 2056.