



Understanding Children's Work
An Inter-Agency Research Cooperation Project

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An analysis of the determinants of child labour in Nepal, the policy environment and response

Report on child labour

B. Gilligan

January 2003

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**Country Report
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As part of broader efforts toward durable solutions to child labor, the International Labour Organization (ILO), the United Nations Children's Fund (UNICEF), and the World Bank initiated the interagency Understanding Children's Work (UCW) project in December 2000. The project is guided by the Oslo Agenda for Action, which laid out the priorities for the international community in the fight against child labor. Through a variety of data collection, research, and assessment activities, the UCW project is broadly directed toward improving understanding of child labor, its causes and effects, how it can be measured, and effective policies for addressing it. For further information, see the project website at www.ucw-project.org.

This paper is part of the research carried out within UCW (Understanding Children's Work), a joint ILO, World Bank and UNICEF project. The views expressed here are those of the authors' and should not be attributed to the ILO, the World Bank, UNICEF or any of these agencies' member countries.

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ABSTRACT

This paper analyzes and summarizes the current understanding of child labour in Nepal, its determinants, and existing donor and civil society policy recommendations submitted to His Majesty's Government. It proposes, as a step towards implementing these recommendations, a series of low cost and shorter-term action recommendations. It is the wish of the cooperating agencies of the UCW Nepal Project, that in beginning a dialogue with His Majesty's Government on these possible actions, that a way can be found to quickly advance the common agenda to eliminate child labour.

Acknowledgements

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List of Acronyms

BPEP II	-	Basic and Primary Education Programme, Phase II
CERID	-	Research Centre for Educational Innovation and Development
CWIN	-	Child Workers in Nepal Concerned Centre
DACAW	-	Decentralized Action for Children and Women Programme
FNCCI	-	Federation of Nepalese Chambers of Commerce and Industry
FY	-	Fiscal Year
GEFONT	-	General Federation of Nepalese Trade Unions
GNP	-	Gross National Product
HIV/AIDS syndrome	-	human immunodeficiency virus/acquired immune deficiency
HMG/N	-	His Majesty's Government of Nepal
ILO	-	International Labour Organisation
IPEC	-	International Programme for the Elimination of Child Labour
LACC	-	Legal Aid and Consultancy Center
MDG	-	Millennium Development Goals
MTEF	-	Medium Term Expenditure Framework (MTEF)
MoES	-	Ministry of Education and Sports, HMG/N
MoH	-	Ministry of Health, HMG/N
MoLTM	-	Ministry of Labour and Transport Management, HMG/N
MoWCSW	-	Ministry of Women, Children and Social Welfare, HMG/N
NPC	-	National Planning Commission, HMG/N
NR	-	Nepal Rupee
PRSP	-	Poverty Reduction Strategy Paper
SAARC	-	South Asia Association for Regional Cooperation
STD	-	sexually transmitted disease
TBP	-	Time-Bound Programme for the Elimination of the Worst Forms of Child Labour in Nepal
UCW	-	Understanding Children's Work

UCW Project	-	Developing New Strategies for Understanding Children's Work and its Impact: An Inter-Agency Research Cooperation Project
UNDP	-	United Nations Development Programme
UNICEF	-	United Nations Children's Fund
VDC	-	village development committee
WHO	-	World Health Organisation

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1. EXECUTIVE SUMMARY

1.1 Introduction

1. Child labour is a reality for one in every three Nepalese children, with each child labourer a tangible living symbol of a vulnerable and marginalized family: a reminder of an inadequate education system, a government's inability to act, and above all, a society's acceptance of a social wrong. Child labour destroys children's potential, robbing them of opportunities and perpetuating a cycle of poverty and marginalization. It degrades not only its victims but also those that sanctions or ignores its existence.

2. In June 2002, the Nepal Understanding Children's Work (UCW) Project undertook an analysis of the policy issues of not only child labour, but also its wider determinants, such as education, poverty and health issues. This work is a part of the wider international *Developing New Strategies for Understanding Children's Work and its Impact: An Inter-Agency Research Cooperation Project*, coordinated by the Innocenti Research Centre in Florence, Italy.

1.2 Summary of Findings: Child Labour and its Determinants

3. In the analysis of the *Body of Knowledge* on child labour in Nepal, it is evident that the elimination of child labour lies in the resolution of wider societal determinants, rather than in a focus on the most egregious and discrete symptoms.

1. Child labour primarily results from household vulnerability. Households that supply child labour are those with low and insecure incomes; and limited access to land, education and social protection. They tend to be marginalized by geography, ethnicity and caste.

2. The education system is inaccessible, exclusionary, poor quality, impractical and inflexible, or perceived as such and can neither prevent child labour, nor engage with current child labourers.

3. There would appear to be wide societal acceptance of child labour from the perspectives of (1) poor children, families and communities, (2) those who employ children and benefit from their exploitation, and (3) the wider Nepali public.

4. Gender discrimination plays a role in the creation of child labourers as girls are more likely than boys to not complete their primary education and to become both involved in child labour, and involved at a significantly younger age. Female child domestic workers are vulnerable to sexual abuse by the male members of their employers' families.

5. Given the state of macro-economic and sectoral policy in Nepal and the lack of either a significant export sector or foreign investment, it cannot be claimed at this point, that these issues affect the scope of child labour in Nepal, for better or worse.

6. While there are benefits to the employers of children, cost-benefit analysis shows that there are large long-term costs to the national economy in terms of the destruction of potential and the creation of uneducated and unproductive adults. There are significant long-term benefits to Nepal from a more educated and thus, more productive population.

7. The decision by His Majesty's Government of Nepal (HMG/N) in July 2002 to annul local governments, as well as the ongoing security situation, has compromised decentralization efforts, including the devolution of education and child welfare responsibilities to communities and local bodies.

8. The current security situation is creating a supply of child labourers through internal refugees, loss of parents or household income, and the closure of schools.

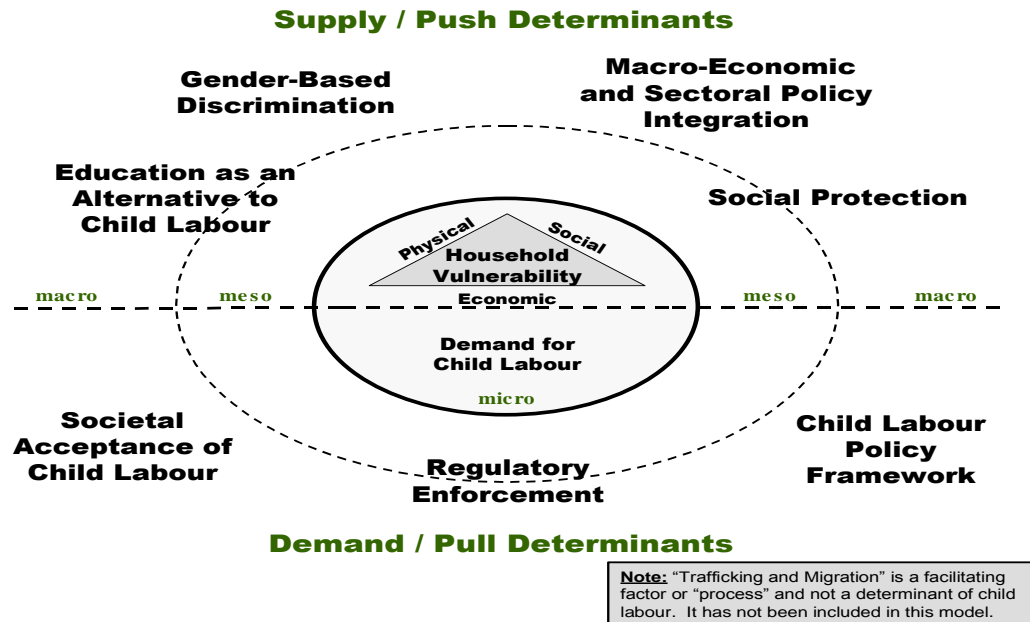
9. While implementation of Nepal's international commitments through its child labour policy framework can be improved, what policy shortcomings do exist is not sufficient to explain the current lack of progress. Similarly, while there are enforcement obstacles, these obstacles are similarly not sufficient to justify the current level of inaction.

10. Current international and national policy commitments present a dilemma. Their rigorous implementation, without the provision of adequate alternatives to child labour will result in harm to existing child labourers, driving them further in destitution, marginalization and vulnerability. Without alternatives for child labourers and their families in the form of rehabilitation, social support and education programs, a rigorous application of the policy framework is morally indefensible.

11. Programming approaches to child labour that have not dealt in an integrated manner with the wider determinants and their interplay have had little impact. In addition, there seems to be little linkage between the extent of policy research conducted and recommendations made by donors and the level of policy action by HMG/N.

1.3 Determinants of Child Labour and Recommendations

4. In order to understand the interplay between the nine identified determinants of child labour, an analytical framework model has been developed using two different dichotomies: *supply/push* – *demand/pull* and *micro* – *meso/macro*. “Trafficking and Migration”, which is a facilitating factor is presented separately.



5. The “action recommendations” presented by this analysis, are based upon a review of existing donor and civil society recommendations and were developed in accordance with three principles: “do no harm”, practical and specific, and ownership. The recommendations are divided between a description of (1) the major recommendations of the Nepali child labour *Body of Knowledge* which tend to be large, long-term, complex, cost-intensive, and, as yet, not implemented and (2) the “action recommendations” of this paper which are modest, shorter-term, relatively simple, and no/low-cost.

6. The “action recommendations” should be understood as interim measures and “bridges to the larger existing recommendations of the *Body of Knowledge*. They should also be considered as a starting point for a dialogue between HMG/N, donors and stakeholders, to validate the “action recommendations” of this analysis in the context of the larger pre-existing recommendations, identify the responsible parties, set deadlines for implementation, and establish follow-up actions.

1.4 Matrix of Recommendations

Child Labour Determinants	Recommendations
Poverty, Economic and Sectoral Integration	<p>Key Factors:</p> <p>Low agricultural productivity</p> <p>Lack of land reform</p> <p>Low worker productivity; non-competitive manufacturing and industrial sectors</p> <p>Regional disparities and a lack of income opportunities in communities</p>
	<p style="text-align: center;"><u>Major Existing Recommendations:</u></p> <p>The World Bank's <i>Country Assistance Strategy</i> is contributing recommendations in the areas of land productivity, productivity of rural labour, returns on public investments with a special emphasis on decentralization, and government services.</p> <p>The ILO's <i>Decent Work for Poverty Reduction: An ILO Contribution to the Poverty Reduction Strategy Paper in Nepal</i> proposed ten recommendations of relevance to this section. The recommendations that are most relevant to child labour are:</p> <p><i>Make... make employment intensive growth objectives an explicit criterion of public expenditure programmes.</i></p> <p><i>Training for emigration of Nepalese workers, systematic and streamline public support for outward bound and returning migrants...</i></p> <p><i>Begin the reform of Nepal's system of vocational training...</i></p> <p><i>Strengthen the implementation of measures already agreed, ensuring the enforcement of relevant legislation, ensuring land distribution to former Kamaiya families, laws on minimum wage and child labour, and the extension of targeted labour inspection services to informal/unorganized sectors.</i></p> <p><i>Promote the organization of workers and employers in those sectors, industries and forms of work that are currently unorganized.</i></p> <p><i>Review and prepare recommendations for an integrated set of reforms to labour legislation...</i></p> <p>The ILO stresses that national time-bound programs against child labour must develop macroeconomic strategies and poverty reduction interventions in order to:</p> <p>Promote economic growth with equitable income distribution.</p> <p>Avoid policies that contribute to fiscal and macro-economic imbalances/deficits that could lead to inflation, unemployment and worsening poverty.</p> <p>Ensure that economic reforms do not further impoverish poor households.</p> <p style="text-align: center;"><u>Action Recommendations:</u></p> <p>The commitment of child labour involved HMG/N agencies to mainstream child labour through the development of a social analysis process to measure the impact of HMG/N decisions on child labour. This process would be used by the NPC to analyze the likely <u>short-term</u> impacts of proposed macro-economic, trade, agricultural, industrial, labour and other policies and actions of HMG/N upon current child labourers and those at risk of becoming child labourers and propose risk management measures. (short-term)</p> <p>The commitment of "child labour" involved ministries to develop formal positions on the determinants of child labour and to lobby on behalf of them within HMG/N. To build the broadly based partnerships required to develop these positions, and the internal capacity to create formal positions on the wider determinants of child labour. (medium-term)</p> <p>The commitment of "child labour" involved ministries to request that the NPC to develop the research methodologies required to understand the: Economic and productivity costs to Nepal for its dependence on child labour, Role of child labour in depressing adult wages in Nepal, and Impact of macroeconomic and labour market actions on child labour. (short-term)</p>
Education as an Alternative to Child Labour	<p style="text-align: center;"><u>Key Factors:</u></p> <ul style="list-style-type: none"> • Education supply is poor: costly, impractical, inaccessible, exclusionary and unpleasant (reality and perception) • Low demand for education: • Lack of child/household/community appreciation of education • Lack of community ownership and responsibility for education • Inability to engage current child labourers or reintegrate former labourers

Child Labour Determinants	Recommendations
	<p style="text-align: center;"><u>Major Existing Recommendations:</u></p> <p>Continued support for BPEP II to develop a system that is accessible, inclusive and of good quality. This includes improved facilities, curricula, teaching and student materials, and standards. Monitoring of progress on these objectives. In particular, support for three of the specific recommendations of the <i>BPEP II – Report of the Technical Panel</i> would have a significant impact upon the supply of children to labour markets: <i>Adopt community empowerment, visible transformation of schools, and direct allocation of resources to schools as means of making schools functional and effective.</i> <i>Empower and enable VDC/VEC to support and sustain school improvement efforts.</i> <i>Consolidate and strengthen Resource Centres ... and Resource Professionals as mobilizer, facilitator and supporter of school improvement efforts.</i></p> <p>Continued support for decentralization of education decision-making power to the local and community levels. Local bodies should be encouraged to enforce free compulsory primary education and create incentives for girls and students from marginalized groups.</p> <p>Continued development and implementation of flexible and relevant non-formal education options for child labourers, including apprenticeship programs.</p> <p>The development of a human rights curriculum for primary schools, in order that children of all genders, castes, ethnicities and languages better understand their rights and responsibilities as Nepali citizens.</p> <p style="text-align: center;"><u>Action Recommendations:</u></p> <p>The commitment of the Ministry of Education and Sport (MoES) to require local school authorities to be accountable for creating a demand for schooling that is representative of the demographic profile of their areas. Such an accountability structure would involve the comparison of the demographics of school catchments with enrollment (taking into account private school enrolment), and regular progress reporting. (Short-Term)</p> <p>The commitment of the MoES to develop incentives for schools and local government to recruit and retain poor children and children (especially girls) from marginalized ethnic and language groups and castes. This could include support for criteria for targeting the improvement of school facilities based upon a weighed index which accords points based upon the following suggested criteria: 30% for ratio of girls to total students 40% for ratio of children from socially disadvantaged groups to total students 30% for ratio of enrolment of Grade 5 to Grade 1. (Short-Term)</p> <p>The commitment of the MoES, working with the revenue ministry and other relevant agencies, to investigate incentives and regulatory requirements for private schools to offer a limited number of scholarships to qualified but marginalized students who otherwise could not consider enrolling. (Medium-Term)</p>
Social Protection (Health, Social and Community Services)	<p style="text-align: center;"><u>Key Factors:</u></p> <ul style="list-style-type: none"> • Lack of health and social support services: health emergencies and chronic health issues (e.g. disabilities), natural disasters, loss of a wage earner • Lack of protection for child labourers, including occupational health • Long-term chronic and acute health implications for individual child labourers, including sexual health of sexually exploited children • Reproductive health conditions which contribute to child labour: 41% of population is below 16 years, families with a broad spread of children's ages, young age of mothers at the birth of their first child

Child Labour Determinants	Recommendations
	<p style="text-align: center;"><u>Major Existing Recommendations:</u></p> <p>A commitment from HMG/N to enforce occupational safety standards, particularly where child labourers are concerned, and to prosecute violators.</p> <p>A commitment from HMG/N to develop community support and involvement in the prevention of child labour and the enforcement of child labour norms and standards, as well as child labour health issues.</p> <p>The continued development and implementation of the Poverty Alleviation Fund (PAF) as a part of HMG/N's decentralization efforts: <i>"Mobilization of a Poverty Alleviation Fund (PAF) and micro-credit schemes will be initiated at the district level to sustain a continuous supply of drugs through the community drug program, health insurance schemes and health cooperatives..."</i></p> <p style="text-align: center;"><u>Action Recommendations:</u></p> <p>The commitment of "child labour" involved ministries to develop data to monitor those reproductive health indicators that have an impact on child labour and to develop policy positions on reproductive health issues relevant to the determinants of child labour. This should be done with the specific goal of promoting two reproductive outcomes: (1) compressing the years in which families produce children, and (2) delaying the age of a mother's first pregnancy. (Medium-Term)</p> <p>A commitment of "child labour" involved ministries to include child labour as a factor to be measured in all pilot social protection programs under their jurisdiction and to develop policy positions on programs under the jurisdictions of other ministries, which are relevant to child labour. All social protection programs of HMG/N, such as micro-health schemes, disability insurance, and emergency micro-credit should be monitored in order to test their ability to reduce the number of children "pushed" in to the labour markets by household health issues or emergencies. Inclusion of "reduction of child labour" as an indicator should be required in all relevant community health and social services programs and schemes. (Medium-Term)</p> <p>A commitment of "child labour" involved ministries to develop their knowledge of the impending World Bank's <i>South Asia Regional Social Protection Strategy</i> and develop a strategy of how to access and use this strategy for social protection initiatives that include child labour. (Short-Term)</p> <p>An immediate public commitment from HMG/N to guarantee health services, including sexual health services, are available and accessible to child workers, particularly those without an adult guardian and those with infectious diseases. (Immediate)</p>
Child Labour Policy Framework	<p style="text-align: center;"><u>Key Factors:</u></p> <ul style="list-style-type: none"> • Lack of policy coordination and clarity; weak coverage • Lack of clear authorities and well understood responsibilities • Lack of resources for implementation, including mitigation programs.

Child Labour Determinants	Recommendations
	<p style="text-align: center;"><u>Major Existing Recommendations:</u></p> <p>The need for HMG/N leadership and immediate action on child labour, as well as the development of medium- and long-term programs such as the Time-Bound Programme.</p> <p>Continued legislative reform and development of the child labour policy framework/action plan. This would include reform and development in the following areas:</p> <ul style="list-style-type: none"> • Consistency of international obligations and national legislation • Child trafficking • Definition of child labour • Minimum age for admission to work • Minimum age for admission to hazardous work and definition of hazardous work • Legal coverage of child labourers in the informal sector, including the "self-employed" • Increased penalties for those found illegally employing child labourers • Removal of children from illegal child labour situations • Effective complaints system • Effective monitoring mechanisms <p>The need to publicize child labour laws and work to develop the "legal literacy" of affected communities through (1) publicizing the law, (2) training relevant professional groups, and (3) legal education for children, and communities.</p> <p style="text-align: center;"><u>Action Recommendations:</u></p> <p>A renewed commitment by "child labour" involved ministries to inter-departmental coordination bodies and the creation of policy review mechanisms that involve civil society stakeholders; the creation of goals for these bodies and the monitoring of these goals. (Short-Term)</p> <p>A commitment by HMG/N to reform of the birth registration system to bring it in compliance with Nepal's international obligations under Article 7 of the United Nations Convention on the Rights of the Child. Specifically, that the birth registration system be simplified and tasked to the Ministry of Health, given the high rate of post-natal examinations and first year inoculations. (Medium-Term)</p> <p>A commitment by the Ministry of Labour and Transport Management to increase the criminal penalties for employers who repeatedly violate child labour laws, including the temporary closing of the enterprises that are repeat offenders. (Medium-Term)</p> <p>A commitment by "child labour" involved ministries to develop, within the policy framework, the special responsibilities of employers of youth, including food/nutrition, sleep, occupational safety, and education. (Medium-Term)</p> <p>A commitment by the Ministry of Labour and Transport Management to regulate labour contractors and criminalize predatory contracting practices, and those contracting practices that engage children. (Medium-Term)</p>
Regulatory Enforcement	<p style="text-align: center;"><u>Key Factors:</u></p> <ul style="list-style-type: none"> • Non-enforcement of laws and insignificant penalties • Regulatory enforcement responsibilities not well understood • Lack of regulatory capacity • Local/community social service bodies have limited understanding of responsibilities and limited capacity • Lack of community censure of child labour

Child Labour Determinants	Recommendations
	<p style="text-align: center;"><u>Major Existing Recommendations:</u></p> <ul style="list-style-type: none"> • Increased staff and resources for regulatory agencies, including the possible the establishment of child labour enforcement officers. • Development of awareness and knowledge of the policy framework among regulatory bodies, the judiciary and lawyers. This should include work with the various regulatory enforcement bodies to find ways to increase the awareness and acceptance of child labour laws by employers. • Development of a separate court system for children (including child labourers) with specially trained judges and appropriate procedures. • Clarification of investigative procedures and regulatory authorities. • Development of community capacity to prevent and respond to child labour. <p style="text-align: center;"><u>Action Recommendations:</u></p> <ol style="list-style-type: none"> 1. A commitment of "child labour" involved ministries to work with the various regulatory enforcement bodies to develop short- and medium-term enforcement strategies such as: <ul style="list-style-type: none"> • Enforcement and prosecution targets and targeted enforcement, • Compliance regimes, • Regulatory harassment, and • Supporting public awareness campaigns. (Short- and Medium Term) 2. A commitment of "child labour" involved ministries to work with the various regulatory enforcement bodies to develop innovative ways to extend the existing regulations to cover unregulated enterprises, and other gaps in the legislation. (Short-Term) 3. A commitment of "child labour" involved ministries to extend inspection and/or investigation powers to District Child Welfare Committees, and/or the authority to order regulatory bodies to undertake inspections and investigations. (Medium-Term) 4. A commitment of "child labour" involved ministries to test the efficacy and application of legislation in the courts through the formal sponsoring of test prosecutions. (Short-Term) 5. A commitment by the Ministry of Labour and Transport Management to investigate the possibility of moving the burden of proof and responsibility for child labour from government to employer. As already provided by law through the requirement to register youth employee, force employers to certify that a labourer is not a child. (Medium-Term) 6. A commitment of "child labour" involved ministries to develop the appropriate monitoring systems for the existing child labour laws and their application (e.g. administrative penalties and criminal charges laid, cases prosecuted, and convictions obtained). (Medium-Term)
Societal Acceptance of Child Labour	<p style="text-align: center;"><u>Key Factors:</u></p> <ul style="list-style-type: none"> • Wide social acceptance of child labour as benevolent or unavoidable; lack of community censure • Lack of leadership from Nepali elites • Economic and social realities of Nepal • Child Labour an established and successful strategy for income generation and diversification and vulnerability reduction • Education is not an actual or perceived alternative to child labour • Culturally acceptable "rites of passage" to adulthood; lack of appreciation of the rights of the child and the duties of parents

Child Labour Determinants	Recommendations
	<p style="text-align: center;"><u>Major Existing Recommendations:</u></p> <ul style="list-style-type: none"> • The development and support of an effective social mobilization program on child labour that would (1) build alliances of institutional actors, (2) raise awareness in the general public and those affected by child labour, (3) obtain commitments of support from policy makers and opinion leaders, and (4) empower those affected by child labour. • A review of the existing Information, Education and Communication (IEC) programs on child labour, to understand the successes, failures and lessons learned. Consideration should be given to narrower targeting of the programs. • Development of IEC programs for communities on child labour and the benefits of education. The programs should be developed in coordination with the improvement of the "supply" of education to communities. Consideration should be given to IEC programs that can reach out to "easy to reach" (urban) child labourers. • Development of "legal literacy" among current and potential child labourer, their families and communities. This should be developed in coordination with current education initiatives and should focus on the development of a citizenship curriculum that develops an understanding of the rights and responsibilities of Nepali citizenship. <p style="text-align: center;"><u>Action Recommendations:</u></p> <ol style="list-style-type: none"> 1. A commitment by HMG/N to develop norms for public service staff on the employment of children, particularly child domestic workers. The creation of these norms should include a complete ban on the new employment of all children under 14 years of age, and the development of criteria for the responsible and humane completion of employment of children under fourteen. Norms for child labourers 14 and over should include: (1) conditions of work, (2) education, (3) minimum wage and payment of wage, (4) hours and days of work, (5) punishment, (6) family visits, and (7) communication of the terms of work to the child and their consent. (Short-Term) 2. A commitment by HMG/N to develop the above norms into a mandatory code of conduct for HMG/N public service staff and politicians. The code of conduct would be completed with sanctions, including dismissal, for violations of the code. (Medium-Term) 3. A commitment by HMG/N, through the Time-Bound Programme to the recruitment of prominent political and civil society "champions" to communicate the need to eliminate the worst forms of child labour; commit resources to this IEC campaign. (Medium-Term) 4. A combined commitment by HMG/N and civil society organizations to sponsor a wider societal discussion on child labour in order to articulate the minimum responsibilities of adults to the children they employ. (Medium-Term) 5. A commitment by HMG/N to ensure that it employs no child labourers directly or through its contractors, particularly physical infrastructure works. The HMG/N also commits to ensure that none of its suppliers employ directly or indirectly child labour. Such commitments are to become terms of all HMG/N contracts. (Short-Term)
Household Economic, Physical and Social Vulnerability	<p style="text-align: center;"><u>Key Factors:</u></p> <ul style="list-style-type: none"> • <u>Economic Vulnerability:</u> landlessness; limited access to resources, capital, and markets; few income options • <u>Physical Vulnerability:</u> physical and climatic disasters; limited access to social and health services, injury and disability; hunger and cold • <u>Social Vulnerability:</u> exclusion, discrimination and a lack of access due to ethnicity, caste, language and gender; family dysfunction and child abuse

Child Labour Determinants	Recommendations
<p style="text-align: center;"><u>Major Existing Recommendations:</u></p> <ul style="list-style-type: none"> • Monitor the role of the Tenth National Development Plan in reducing both the number of children entering the labour market and the number of children in the labour market. • Focus income generation and poverty reduction programs on regions, communities, and families that are the most at risk for child labour. Monitor the impact of these programs upon child labour rates. • Pilot social protection programs such as crop insurance, micro-health schemes and disability insurance in order to test their ability to specifically reduce the number of children "pushed" into labour by household income loss or emergency expenses. <p style="text-align: center;"><u>Action Recommendations:</u></p> <ol style="list-style-type: none"> 1. A commitment by "child labour" involved ministries to evaluate all child labour programs for their contribution to reducing household vulnerability to child labour. A commitment to request that donor funding for child labour be used to test appropriate poverty reduction programmes for effectiveness in eliminating child labour. (Medium-Term) 2. A commitment by "child labour" involved ministries to include child labour in the social analysis of all income generation and poverty reduction programs and measure the ability of these programs to both reduce the number of children entering the labour market and reduce the numbers in the labour market. (Medium-Term) 3. A commitment by HMG/N to better measure child labour from the perspectives of gender, caste, ethnicity, language and household vulnerability. (Medium-Term) 	
Demand for Child Labour	<p style="text-align: center;"><u>Key Factors:</u></p> <ul style="list-style-type: none"> • Perceived attractiveness of child labour • Societal acceptance of child labour • Demand for special characteristics of child labour: virginity, STD-free, size, less aware of rights, more malleable for criminal activities, etc... • Weak laws, limited prosecution and small penalties
<p style="text-align: center;"><u>Major Existing Recommendations:</u></p> <p>Most of the recommendations are focused on controlling the demand for child labour through an improved Child Labour Policy Framework and strengthened Regulatory Enforcement. Other recommendations include:</p> <ul style="list-style-type: none"> • Awareness campaigns to develop an understanding of employers of their legal duties to child labourers. Building of networks of enterprises opposed to child labour. • Development of voluntary codes of conduct with regard to engaging legal youth labour. <p style="text-align: center;"><u>Action Recommendations:</u></p> <p>This document proposes <u>no</u> separate action recommendations of its own for this section.</p>	
Gender-Based Discrimination	<p style="text-align: center;"><u>Key Factors:</u></p> <ul style="list-style-type: none"> • Low social position of girls makes them more vulnerable to child labour • Lack of support for girls' education • Reproductive health issues as a factor in child labour • Victims of trafficking for sexual exploitation • Girls are under-represented or inaccurately represented in labour force data due to a lack of appreciation for women's work
<p style="text-align: center;"><u>Major Existing Recommendations:</u></p> <p>Most of the recommendations are already found within Section 5.3.2: Education as an Alternative to Child Labour. For the most part they have focused on the same four issues that are included below:</p> <ul style="list-style-type: none"> • Ensure that gender is included as an issue in program design and implementation. • "Mainstream" gender specific policies through all strategies and activities. • Develop special programming for girl child labourers and girls at risk of becoming child labourers as need warrants. Create accountability structures for such programming to ensure its success. • Monitor the impact of programming on girls and develop gender specific indicators for managing performance. <p style="text-align: center;"><u>Action Recommendations:</u></p> <p>This document proposes <u>no</u> action separate recommendations of its own for this section.</p>	

Migration and Trafficking of Child Labour Recommendations

Key Factors:

- Migration as an established and successful strategy for income generation and diversification and to reduce vulnerability
- Lack of appreciation of the rights of the child and the duties of parents – “commodification” of the child
- “Moral” approach and a policy focus on the end result of trafficking as opposed to the process itself
- **Weak laws, limited prosecution and small penalties**

Major Existing Recommendations:

- The policy, legal and regulatory framework must:
 - Fulfill its international commitments to create a policy and legal framework that does not discriminate against or marginalize women.
 - Move from a focus on the victims and results of trafficking, to one on the traffickers. This includes that prostitutes are not further criminalized and marginalized.
 - Ensure that consensual women migrants are not discriminated against.
 - Distinguish between adults and children on the issue of informed consent.
- Programs should make a philosophical shift from only rescue, repatriation and rehabilitation to one that includes the promotion and protection of the human rights of trafficking victims and creates opportunities for sustainable incomes.
- Develop social mobilization programs against trafficking, particularly for the purposes of prostitution. Involve local bodies in the community-level prevention of prostitution.
- Support HMG/N to take an active role in the protection of Nepali citizens trafficked to neighbouring states and in developing transboundary cooperation mechanisms.

Action Recommendations:

This document proposes no separate action recommendations of its own for this section.

7.

Donor and Civil Society Response Recommendations

Key Factors:

- General need for donor coordination and to focus funding more on the determinants of child labour
- HMG/N policy inaction: analysis and response required
- Child labour needs to be mainstreamed and institutionalized into programming and organizational cultures
- Fragmented child labour stakeholder community

Action Recommendations:

1. The cooperating agencies of the UCW Nepal Project and the Time-Bound Programme should commit to ensuring that more child labour programming is devoted to reducing household vulnerability through income generation, wealth distribution and social protection, particularly in the most impoverished and remote regions of Nepal, which are the major suppliers of child labour. They should also continue to commit themselves to encouraging the "mainstreaming" of child labour in all donor-funded program development.
2. The cooperating agencies of the UCW Nepal Project and the Time-Bound Programme should commit themselves to improving coordination and information sharing, as well as the dissemination of this information to stakeholders. These agencies should also commit themselves to re-invigorating existing donor, civil society and government child labour coordination bodies.
3. It is recommended that donors develop appropriate emergency interventions for children displaced by the conflict and at risk of involvement in the worst forms of child labour.
4. It is recommended that a dialogue between donors and HMG/N be undertaken on the causes of inaction by the relevant authorities and developing approaches that develop HMG/N ownership of the entire policy process, as well as its capacity for implementation and monitoring, and action research on policy implementation. Donors should commit to the development of reports and recommendations that are resourced for implementation
5. It is recommended that donors commit to ensure that child labour be a factor for consideration when giving macro-economic, agricultural, industrial and labour market policy recommendations to HMG/N. Specifically, to consider what are the short-term impacts on child workers and on children at risk. Should there be short-term negative impacts that the donors commit to supporting or seeking support for programs that mitigate the impact on existing child workers and children at risk of becoming child workers.
6. Donors and the NGO community should commit to develop norms amongst their staff on the employment of children, particularly child domestic workers. The creation of these norms should include a complete ban on the new employment of all children under 14 years of age, and the development of criteria for the responsible and humane completion of employment of children under fourteen. Norms for child domestic employees 14 and over should include: (1) conditions of work, (2) education, (3) minimum wage and payment of wage, (4) hours and days of work, (5) punishment, (6) family visits, and (7) communication of the terms of work to the child and their consent. (Short-Term)
7. Donors and the NGO community should commit itself to develop the above norms into a mandatory code of conduct as quickly as possible. The code of conduct would be completed with sanctions, including dismissal, for violations of the code. (Short-Term)
8. Donors and the NGO community should commit itself to ensure that it employs no child labourers directly or through its contractors, particularly physical infrastructure works. They should also commit to ensure that none of its suppliers directly or indirectly employs child labour. Such commitments are to become terms for contracts let by donors and the NGO community. (Short-Term)
9. **The UCW Nepal Project cooperating agencies and the Time-Bound Programme develop a strategy for the possible application of the World Bank's draft South Asia Regional Social Protection Strategy to ensure synergy with existing efforts and to push for any future programming in areas where child labour determinants require additional support.**

2. INTRODUCTION

8. Child labour is a reality for one in every three Nepalese children, with each child labourer a tangible living symbol of a poor and marginalized family: a reminder of an inadequate education system, a government's inability to act, and above all, a society's acceptance of a social wrong. Child labour destroys children's potential, robbing them of opportunities and perpetuating a cycle of poverty and marginalization. It degrades not only its victims but also those that sanctions or ignores its existence.

9. Child labour, like all forms of social violence², arises from vulnerability, a lack of control and choices, societal indifference and inaction, and a weakness of governance. In the face of such broadly based structural determinants, child labour is an immense problem which cannot be resolved through isolated responses that focus more on the effects than on the causes.

10. Given this situation, the *Developing New Strategies for Understanding Children's Work and its Impact: An Inter-Agency Research Cooperation Project* (UCW Project), sited at the Innocenti Research Centre, and its cooperating agencies: the World Bank, the United Nations Children's Fund (UNICEF), and the International Labour Organisation (ILO), believe that all child labour stakeholders must accept that symptom-based and reactive programming are neither sustainable nor capable of a significant impact. They also believe that the elimination of child labour in Nepal can only be achieved by confronting its major determinants.

11. The UCW Project proposes that the elimination of the child labour can only be achieved through:

- Ongoing support for child labour as a priority of His Majesty's Government of Nepal's (HMG/N) policy agenda;
- Increased collaboration of HMG/N, civil society and donors, in particular the promotion of programming focused on the determinants of child labour, be they poverty, education, health, governance, societal acceptance, or the existing labour market; and
- Donor commitment to action targeted at the elimination of these determinants.

12. It is recognized that developing countries do not have the luxury of the extended and protected childhoods afforded by more affluent countries. Nor is it expected that countries with a strong agricultural base excuse children from contributing to their families' economic well-being.

² There is considerable current debate on the definition of "social violence". For the purpose of this paper, "social violence" refers to all types of violence, both physical and non-physical, that are perpetrated upon individuals by "The macro-level political, economic and social structure, and policy environment, including opinions, beliefs and cultural norms that permeate society." (Moser, C. and Shrader, E., "A Conceptual Framework for Violence Reduction", 1999, Pp. 6). In the context of oppression, social violence is "The systematic oppression of one social group by another for its own benefit; it involves institutional control, ideological domination, and the imposition of the dominant group's culture on the oppressed group." (Piedmont Peace Project, "Sexism and Other Forms of Social Violence.", 2001, Pp. 2)

13. However, Nepal has an obligation to eliminate those forms of child labour that are obstacles to the development of the child, and cause physical, psychological and moral harm. These obligations are enshrined in such international instruments as the United Nations Convention on the Rights of the Child, the ILO Convention on the Minimum Age for Admission to Employment (No.138), and the ILO Convention on the Worst Forms of Child Labour (No.182), which Nepal has ratified. These conventions and the supporting laws of Nepal are premised upon two principal beliefs:

- The long-term economic and social costs of perpetuating the inequities and economic inefficiencies that create and sustain child labour, including the cumulative cost of the destruction of children's potential through the exploitative nature of child labour, and
- The immorality of exploiting children for commercial gain, robbing them of their childhood and their potential.

14. This paper analyzes and summarizes the current understanding of child labour in Nepal, its determinants, and existing donor and civil society policy recommendations submitted to His Majesty's Government. It proposes, as a step towards implementing these recommendations, a series of low cost and shorter-term action recommendations. It is the wish of the cooperating agencies of the UCW Nepal Project, that in beginning a dialogue with His Majesty's Government on these possible actions, that a way can be found to quickly advance the common agenda to eliminate child labour.

Cooperating Agencies Logos and Country Representatives' Signature Blocks

3. BACKGROUND AND METHODOLOGY

3.1 Background

15. In June 2002, the Nepal UCW Project engaged a Nepal-based international consultant to conduct an analysis of the legal and policy framework of not only child labour, but also of education, poverty and health issues. This is a part of the wider international *Developing New Strategies for Understanding Children's Work and its Impact: An Inter-Agency Research Cooperation Project* (UCW Project). This wider project stems from the Agenda for Action adopted at the Oslo International Conference on Child Labour in 1997, and intends to develop and support practical collaboration on child labour at the technical level, to address issues of common concern through joint efforts.

16. The UCW Project is coordinated internationally by the Innocenti Research Centre in Florence, Italy and is being implemented in several developing countries, including Nepal. Its aims are to minimize the duplication of efforts, link existing activities, and enhance knowledge sharing among the three agencies cooperating with the project: the International Labour Organisation (ILO), the United Nations Children's Fund (UNICEF), and the World Bank. The project intends to identify major information gaps in the data on child labour and suggest means of filling them.

17. For more information on the UCW Project and the child labour related activities of its coordinating agencies, please visit <http://www.ucw-project.org>.

18. In Nepal, a UCW Nepal Working Group, comprising of locally based representatives of the three cooperating agencies, coordinates the project. The current work of the UCW Nepal Project includes this report, a review and bivariate analysis of existing child labour data sets, and an annotated bibliography.

19. This report is an analysis of the determinants of child labour in Nepal, the policy environment and response, and is built upon three separate analyses of the wider determinants of child labour, the policy responses, and the recommendations made on these policy responses.

3.2 Methodology

20. In order to complete these analyses, the following work and methodological approach were undertaken by the international consultant in order to develop the document *Child Labour in Nepal: Understanding and Confronting its Determinants*.

1. In addition to 21 current HMG/N statistical and policy documents, 65 secondary documents were reviewed by the international consultant in order to assess:
 - The determinants of child labour, their role in promoting or sustaining child labour, and their inter-relationships;
 - The strength of the current policy framework and its legal and regulatory instruments, as well as its implementation record; and

- The recommendations made by the literature and prioritize those that can be promoted by this analysis.
2. The findings of the analyses were compared with a parallel Bivariate Probit Estimation analysis being conducted by the international UCW Project, using existing data sets on child labour, education, poverty and health, in order to validate the analyses.
 3. Interviews were held between August 22nd and September 24, 2002 with senior staff from government and civil society stakeholders, in order to gain information and to solicit feedback on issues highlighted by the literature. The organizations interviewed were:
 - Ministry of Women, Children and Social Welfare (MoWCSW)
 - Ministry of Education and Sports (MoES)
 - Ministry of Labour and Transport Management (MoLTM)
 - Research Centre for Educational Innovation and Development (CERID)
 - General Federation of Nepalese Trade Unions (GEFONT)
 - Legal Aid and Consultancy Center (LACC)
 - Federation of Nepalese Chambers of Commerce and Industry (FNCCI)
 - Child Workers in Nepal Concerned Centre (CWIN)
 4. An ongoing dialogue with the UCW Nepal Working Group with regard to the analysis, findings and recommendations.
 5. A presentation of the draft document to child labour stakeholders and a workshop on the draft document with a select group of key stakeholders. (TO BE COMPLETED)
21. This document is divided into six parts:
- **Part I** is an **Executive Summary** of the document that focuses on the key findings and the main recommendations.
 - **Part II** is the **Introduction** to the document.
 - **Part III** contains the **Background and Methodology**, including commentary on the Nepal child labour *Body of Knowledge*.
 - **Part IV, Child Labour in Nepal**, provides an overview of (i) the magnitude of child labour, (ii) the worst forms of child labour, and (iii) the wider societal issues impacting upon of child labour; an analysis of (iv) government, civil society and donor response, and concludes with a summary of (v) the findings on child labour and its determinants.
 - **Part V, Child Labour Determinants: Findings and Action Recommendations**, proposes (i) an analytical framework for the determinants of child labour and (ii) guidelines for developing recommendations, (iii) gives findings and recommendations to His Majesty's Government of Nepal

(HMG/N) on the nine determinants of child labour, (iv) briefly discusses the role of trafficking, and (v) provides comments and recommendations for donors and non-governmental stakeholders.

- **Part VI** is the **Conclusion** to the document.

3.3 Child Labour Body of Knowledge

22. Before entering the body of the report, several observations should be made on the literature and the data sets on child labour in Nepal:

- There are a numerous reports on child labour in Nepal, including reports on specific determinants such as household vulnerability and the education system. They offer a range of thoughtful commentary and analysis, and practical recommendations on improving the current policy framework, as well as eliminating the causes of child labour, mitigating its impact, and rehabilitating its victims. Indeed, the primary question that is raised by the existing *Body of Knowledge* is why has it inspired so little action.
- The Understanding Children's Work (UCW) Project has funded the *Bivariate Probit Estimation of the Nepal Living Standard Survey, 1995-96 and the Nepal Labour Force Survey, 1998-99*. This analysis has reached several conclusions on the existing data:
 - The data is old and discrepancies between the two sets have been noted;
 - The data is household-based and does not capture those child labourers who are no longer in the household and exist in a "floating" population of child labourers, often involved in the worst forms of child labour (e.g. porters, rag pickers, etc...);
 - The data is not clear on the distinction between children who study full time, work full time, study and work, or who are idle;
 - The data tends to ignore the economic activities of girls in the household;
 - The data does not capture issues of caste and ethnicity in child labour; and
 - The data does not capture the links between child labour, access to health care and the health of the household's main earner.
- Although there is considerable empirical evidence from Nepal and data from other countries, there appears to be a lack of research from Nepal on the following areas:
 - The links between child labour and macroeconomic, industrial and labour market policies as *supply/push* factors.
 - The links between child labour and other forms of social violence.
 - The role of the security situation as a factor in driving male children and youth from their rural homes and into labour.
 - The correlation between child labour, and ethnicity and caste.

- The correlation between child labour and health of household members, as well as a household's access to health care.
 - The role of adolescent parenthood in child labour and educational participation rates.
 - The role played by the death, disability or loss of a family household earner in pushing children into the labour market.
 - The issues of migration, child trafficking and foreign remittances.
 - The dynamics of household decision making on child labour.
-
- There is a general lack of research of labour market research, in particular the inability of the labour market to absorb the estimated annual 300,000 new entrants, the inability to generate new employment opportunities, and limited labour protection.

4. UNDERSTANDING CHILD LABOUR

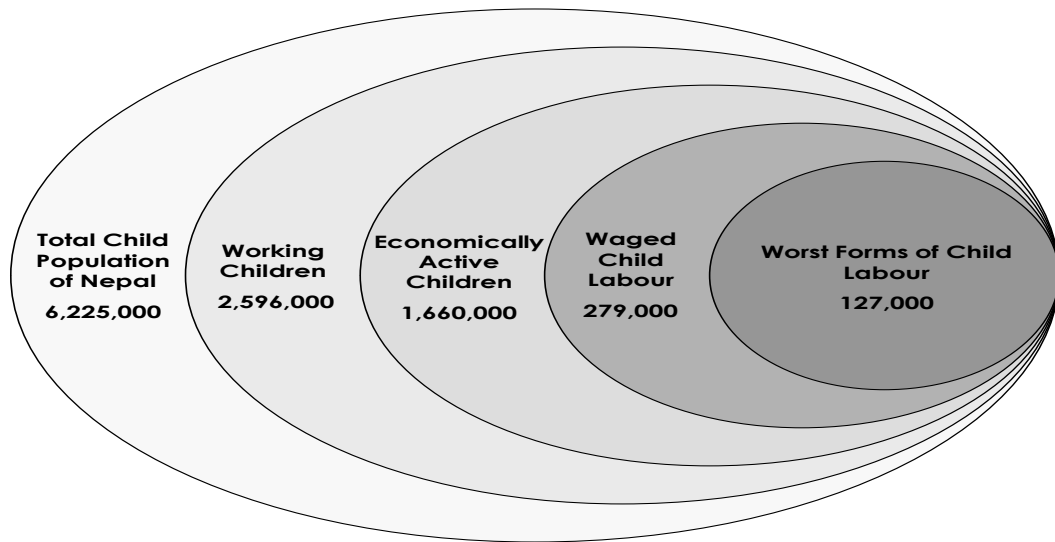
4.1 Introduction to Child Labour in Nepal

23. An understanding of child labour in Nepal requires an ability to make the links between the phenomena and magnitude of child labour, including the worst forms of child labour, and the wider societal factors referred to in this analysis as determinants. It also requires an understanding of the government, non-government, and donor responses.

4.2 Magnitude of Child Labour

24. In 1997, the ILO/IPEC-supported National Child Labour Survey estimated that the number of children between five and fourteen years was 6,225,000, or 29.3% of the total population.³ It was also able to categorize child labourers as “Working Children”, “Economically Active Children”, “Waged Child Labour”, and children in the “Worst Forms of Child Labour”.

Figure 1. - Child Labour Estimates (5-14 years) in Nepal⁴



³ Child labour statistical analysis in Nepal is complicated by the existence of three surveys and three resulting estimates of the child population: National Child Labour Survey (1996-97), National Labour Force Survey (1996), and the Central Department of Population Studies (1996). Though all three surveys differ on the absolute number of Nepali children, they all agree that children (5-14 years) comprise approximately 25-30% of the population. This document uses the National Child Labour Survey as it deals specifically with the issue of child labour.

⁴ MoLTM(HMG/N) and ILO/IPEC, *Project Document on the Time-Bound Programme on the Elimination of the Worst Forms of Child Labour in Nepal*, 2001, Pp.14.

25. In South Asia, Nepal leads in terms of the percentage of children who are economically active. The ILO estimates that while 45.2% of Nepali children are economically active, only 30.1% of Bangladeshi, 14.4% of Indian, and 17.7% of Pakistani children are economically active.

Economic Participation

26. 95% of all Nepali Working Children work in rural areas, engaged in agricultural work. The work participation rate for these rural children (43.4%) is double that of urban children (23.0%), with older and urban children predominating in non-agricultural work. Economically Active Children, ten to fourteen years, dominate those, five to nine years, by a ratio of 3:1. This suggests that Working Children, five to nine years, are mainly contributing to their rural household economies. Child labourers typically contribute between 20-25% of household income, though there is no evidence that this is sufficient to raise a family out of poverty.⁵

27. Six out of every one hundred Working Children are full-time Waged Child Labour, working for an employer outside of their family. Waged Child Labour and its sub-set, the Worst Forms of Child Labour are especially vulnerable to exploitation, and intolerable and inhumane conditions. The approximately 127,000 children in this form of labour include trafficked children, bonded labourers, porters, mine and carpet factory workers, domestic workers, and rag pickers.

28. Positively, data indicates that the economic participation rates of children have dropped substantially over time due mainly to school enrollment (e.g. from 50.5% in 1971 to 28.8% in 2001 for children ten to fourteen years). The larger rate drop for boys (59.2% to 27.3%), compared to girls (40.1% to 30.4%), can be explained by a male bias in school enrollment.

Socio-Economic and Family Backgrounds

29. While the data does not permit a statistical argument that child labourers come from poorer families, empirical evidence does suggest this relationship. Surveys of child labourers indicate that household economic difficulties were a major *push* factor for joining the labour market. Studies of children in the Worst Forms of Child Labour also indicate that these households are more likely to be landless or have landholdings that are less than the national average.

30. 36.5% of all Working Children came from families of five to six people, while 29.5% came from families of seven to eight. The average family size of the approximate 1,000,000 Working Children not in school is 5.6. This is larger than the Nepal average of 5.1. While it is not clear that family size is a cause of child labour, it is certainly can be correlated with child labour.

Working Conditions

31. 84% of Economically Active Children work an average of fourteen hours per week, with older children and girls working more hours. 30% of children aged ten to fourteen years work 42 hours or more a week. 43% of Economically Active girls work more than 28 hours a week.

⁵ Central Bureau of Statistics (HMG/N), *Nepal Labour Force Survey, 1998-99*.

Education

32. The national child labour and Nepal labour force surveys indicated that children who do not attend school have a 50% higher work participation rate. In rural areas only 36% of working children are literate, while this rises to 54% in urban areas. Studies also indicate that labour participation rates decrease with the level of education of the household head.

Health

33. While no studies exist on the health effects of labour on Nepali children, a 1984 World Health Organization (WHO) study of Nigeria, India, Malaysia and Korea on the effects of work on the growth and development of children indicated several outcomes. These included increased muscular and skeletal disorders, higher incidence of respiratory and gastro-intestinal diseases, poorer nutritional status, lower hemoglobin levels, more frequent headaches, fatigue, and vision problems, and lower average height and weight than children in a control group (Malaysia).⁶

Geographic Distribution and Migration

34. Approximately 8% of children between five and fourteen years are migrant workers, while four out of five children in the worst forms of child labour are migrants. This is an indication of both the mobility of Nepali child labour and the relationship between mobility and exploitation.

35. There is also a correlation between the incidence of child labour and district-level poverty, with the highest prevalence of child labour in the poorest districts.⁷ These districts have not only the highest rates of child labour, but are also suppliers of child labourers to more prosperous areas.

Gender

36. The work participation rate of girls (47.6%) is higher than boys (36.1%). This is due to higher participation in non-economic activities, though this varies greatly between regions. Gender analyses have also indicated that girls are more likely to not complete their primary education and to become involved in work in larger numbers and at a younger age. Among Economically Active Children, boys outnumbered girls, indicating both a tendency for girls to work in the home and a bias against reporting and recording household work as an economic activity.

4.3 Worst Forms of Child Labour

37. It is estimated that in Nepal, 127,000 children are trapped in what are referred to as the “worst forms of child labour”, or forms of child labour whose conditions are intolerable and inhumane. The definition of what constitutes a worst form of child labour is contained in the ILO’s Worst Forms of Child Labour Convention (No. 182, Article 3).

⁶ Boyden, Jo., *The Relationship Between Education and Child Labour*, Innocenti Occasional Papers 9, 1994, Pp.36.

⁷ Shrestha, B and Edmonds, C., *Child Labour Situation in Nepal: Status Paper*, ILO, 2002, Pp.13.

The seven worst forms of child labour, identified in the *Time-Bound Programme for the Elimination of the Worst Forms of Child Labour*, were selected during the 2001 National Stakeholders Consultation. These forms include trafficked children, bonded labourers, porters, mine and carpet factory workers, domestic workers, and rag pickers.⁸ Much of the existing data on these labour forms comes from five ILO-supported rapid assessments. The findings include:

- Four out of five children in the worst forms of child labour have migrated from elsewhere to the work site; most work in urban areas. The security situation is increasingly pushing children into urban areas where they are at risk of the worst forms of child labour.
- Parents play a major role in children's entry into the labour force with 61% of child labourers reported that parents or relatives brought them to the work site.
- Surprisingly, literacy rates among children in the worst forms of child labour are similar to the national rate. In addition, 63% of children in the worst forms of child labour have had some education before joining the work force, though only 18% of them are able to attend school. The enrollment rate for child domestic workers in Kathmandu is higher at 43% but still lower than the national average of 72%.
- Approximately 12,000 children, mostly girls are trafficked each year from Nepal.⁹ It is assumed that most become commercial sex workers. 20% of female commercial sex workers in Nepal are between the ages of 12 and 15 years. Girls who were forced into prostitution in brothels reported an average stay of two years, an average of fourteen clients a day, and 60% reported that their clients used condoms "sometimes", "rarely", or "not at all". The risk of contracting a sexually-transmitted disease (STD) is very high.
- 62% of children in the worst forms of child labour entered this labour force between ten and fourteen years, which is consistent with the wider child labour force. 29% of girls in the worst forms of child labour are between five and nine years, compared to 16% of boys in the same age group. However, 71% of children in the seven worst forms of child labour are boys, though findings suggest higher levels of harassment for girls. Some sources believe that the sexual abuse of female child domestic workers by the male members of the employing family is a large hidden issue.
- 84% of children interviewed in the rapid assessments reported working twelve to fourteen hours a day. Girls work longer hours.
- Wages in the worst forms of child labour for the most part range from minimal to non-existent.¹⁰ In many cases, salaries are paid directly to the parents. 69% of children employed in industrial establishments reported wages of less than NR1000 per month.

⁸ The definition of what is a "worst form of child labour" continues to evolve with circumstances. The existing security situation has created child soldiers. It has also ended the employment of child miners through the closing of the employing mines. There have also been an increasing number of voices who define work in brick kilns and restaurants/tea shops as worst forms of child labour.

⁹ This figure is an estimate as exact measurement of criminal activities is difficult. It was developed by Bal Kumar, KC. et al. for the ILO's *Trafficking Girls with Special Reference to Prostitution: A Rapid Assessment*, ILO, 2001.

¹⁰ The known exceptions to this are rag pickers and urban short-haul porters.

Of the 39% of domestic child labourers who were receiving a salary, 59% of all child domestics and 79% of girl domestics had their salaries collected by their parents.

- 27% of child domestic workers and 3% of bonded child labourers reported work place accidents, mostly cuts and burns. 62% of rag pickers and 46% of porters reported illness as a result of the harshness and unhealthy conditions of their work.

4.4 Wider Societal Issues As Determinants of Child Labour

38. Throughout the previous descriptions of child labour, references were made to wider societal determinants of child labour. Indeed, it is suggested that child labour is only one of many social ills rooted in the interplay of these determinants. This is best summarized by the Nepal Development Forum which writes that “*Low incomes, lack of employment opportunities especially in rural areas, a delayed start to development, poor public services, and inefficient use of public resources have all contributed to this low and unequal human development.*”¹¹

39. Nepal is a country of 23,000,000 with a GNP of US\$235 per capita. The National Labour Standard Survey indicates that as of 1995-96, 42% of the population lived in poverty¹². Nepal is classified as one of the world’s least developed and poorest countries, ranking 129 on the UNDP’s Human Development Index. 40% of all children belong to extremely poor families.

40. The life expectancy is 59.7 years and 41% of the population is below 16 years. At the present annual growth rate of 2.27%, the population will double within 35 years. This is exacerbated by high adolescent fertility rates, encouraged by early marriage. By the age of 15, 34% of all girls are married, increasing to 60% by the age of 18. 21% of all girls between the ages of 15 and 19 years are either pregnant or mothers. The median age of first birth is approximately 20 years.

41. 48% of all Nepali children under five years are underweight and 20% of the entire population does not have access to safe water. On the positive side, Nepal has made important health gains in reducing infant and under-five mortality. 90% of all children are now immunized.

42. In 1999, 72% of children (3,800,000) were enrolled in primary school. Dropout and repetition rates are high with only half of those who enroll expected to complete the five-year program. There is also a large gender imbalance with only 78 girls for every 100 boys in primary school, dropping to 71 and 65 girls respectively in lower and higher secondary schools.

43. Since the restoration of democracy, the HMG/N has attempted to improve governance but has been challenged by political instability, over-centralization, and a resistance to reforms. In this context the improvement effectiveness of policy development and implementation has been difficult. Additionally, the current security situation has created 1,500 orphans and displaced 3,000 children who are at risk of becoming child labourers or recruited as child soldiers.

¹¹ World Bank, *Nepal Development Forum – Economic Update, 2002*, 2002, Pp. 1.

¹² Data for 2002 which has not been field tested indicates that this poverty rate has dropped to 38%.

44. The Millennium Development Report: Progress Report 2002 reports that “Exclusionary cultural traditions, principally those based upon gender and caste and, to a certain extent, ethnic identities, have come under considerable challenge within the last decade. Nonetheless, these traditions are widely and deeply entrenched, and are inherently oppressive and discriminatory to the attainment of (Millennium Development Goals) among girl children, women, “low caste” groups and certain ethnic groups. The very poor remain largely excluded from the process of attaining the goals enunciated in the (Millennium Development Goals).¹³

45. The causal links between these wider determinants and child labour have recently been made more evident through a bivariate statistical analysis, conducted by the UCW Project. This study analyzed existing data from the Nepal Living Standard Survey, 1995-96 and the Nepal Labour Force Survey, 1998-99 and generated several statistically significant results that have provided statistical rigor to the weight of empirical evidence. The findings were:

- Girls are more likely to work and to not attend school;
- The presence of an additional small child in a household increases the likelihood that older siblings will work and decreases their likelihood of going to school;
- Parents who are educated are more likely to have children who go to school;
- Households with land have a higher probability that their children will both work and go to school; this probability drops for households that work on land owned by others;
- Children who walk more than 30 minutes to school are more likely to work and less likely to go to school; and
- Mountain children have a higher probability of working than hill or urban children.

46. However, caution should be taken before making any one factor responsible for child labour. The evidence from other countries indicates that the decision for a child to enter the labour market is complex and may involve many different factors and decisions. An important decision is whether the child remains in school, goes to school and works, or only works. Also while it may be difficult to create a direct causal link between any single factor and the decision to enter the labour force, the combination of several factors may provide a better causal relationship, i.e. household poverty and the cost of education or family size and gender of child or social marginalization and parent lack of education.

4.5 Government, Civil Society and Donors’ Response to Child Labour

47. His Majesty’s Government of Nepal (HMG/N) has committed itself to the elimination of child labour through its ratification of the ILO’s Worst Forms of Child Labour Convention (No.182) and Minimum Age Convention (No. 138), the United Nations’ Convention on the Rights of the Child, as well as the declarations of the South Asian Association for Regional Cooperation (SAARC).

48. At the national level, HMG/N’s response to child labour has been improved over through a higher policy profile, improved legislation, and a new Master Plan for the

¹³ HMG/N and UN Country Team, *Progress Report 2002: Millennium Development Goals: 2002, 2002*, Pp. 4-5.

Elimination of Child Labour. Child labour is now included in the Poverty Reduction Strategy Paper (PRSP) in the lead up to the Tenth National Development Plan, and in the current Mid-Term Expenditure Framework. The PRSP confirms that child labour as a priority, and that the Master Plan and the Time Bound Programme will be implemented.”¹⁴ There is also recognition of the need to improve the efficiency and accessibility of the education system, particularly for girls.

49. A response of importance is the recently launched Time Bound Programme that is intended to strengthen the implementation of ILO 182 through the commitment to eliminate seven selected worst forms of child labour within five years and all forms of child labour within ten years. The program is designed in order to carry out specific interventions with the 127,000 children currently in the worst forms of child labour and 31,000 families of child labourers in 35 severely affected districts through direct action area-based programs and support for an improved enabling environment. It is supported by the United States Department of Labor, executed by the ILO, and implemented by a range of Nepali public and civil society organizations. Its strength lies in its contribution to the national Master Plan and its ability to focus not only on the elimination of child labour but also on the remediation of many of the determinants of child labour. The successful implementation of the Time Bound Programme is critical to the elimination of child labour. A list of its ten Intermediate Objectives is placed in the table below.

Table 1. - Intermediate Objectives of the Time-Bound Programme¹⁵

Development Objective: To Contribute to the HMG/N Master Plan for the Elimination of Child Labour	
Component I: Creating an enabling environment for the elimination of the worst forms of child labour	Component II: Reducing the incidence of selected worst forms of child labour
<i>Objective 1:</i> ... child labour related legislation will be coherent and in conformity with international standards, and capacity for enforcement, including its monitoring, will have been strengthened.	<i>Objective 2:</i> ...local capacity to detect and prevent situations of exploitation of children will have been enhanced in targeted sectors/districts.
<i>Objective 3:</i> ...education and training policies reflect the needs of child labourers and children at risk, considering in particular the special situation of the girl child.	<i>Objective 4:</i> ...children at risk and in the worst forms of child labour will have access to primary, non-formal or vocational education in targeted sectors/districts.
<i>Objective 5:</i> ...labour and social policies will target communities prone to child labour, vulnerable families, women and children.	<i>Objective 6:</i> ...community safety nets are established or strengthened to reduce family vulnerability to the worst forms of child labour in targeted sectors/districts.
<i>Objective 7:</i> ...poverty and employment policies will target the poorest of the poor and government programmes, donor and other development programmes will be mobilized to contribute to the elimination of the worst forms of child labour.	<i>Objective 8:</i> ...the economic vulnerability of families with children at risk or engaged in the worst forms of child labour will have been reduced in targeted sectors/districts.
<i>Objective 9:</i> ...public awareness of the negative consequences of child labour will have increased and the IPEC partners will be mobilized against the worst forms of child labour.	<i>Objective 10:</i> ...children, families, communities and local institutions are sensitive towards the needs of children and mobilized against the negative consequences of the worst forms of child labour in targeted sectors/districts.

50. Besides the Time Bound Programme, there is a range of donor-funded programs. In 2001, the ILO sponsored a study of these programs. The main findings are summarized below.

¹⁴ NPC(HMG/N), *Concept Paper on the Poverty Reduction Strategy Paper – Tenth Development Plan*, 2002, Pp. 22.

¹⁵ MoLTM(HMG/N) and ILO/IPEC, *Project Document on the Time-Bound Programme on the Elimination of the Worst Forms of Child Labour in Nepal*, 2002, Pp. 50 and 53.

Table 2. - Summary Findings of an Overview of Child Labour Programs in Nepal (2001)¹⁶

- 18 international organizations were funding 29 child labour-related programs worth US\$62,600,000. Of this, US\$18,300,000 annually spent on child labour programs.
- On average, each program is in 17 districts, though active in only a few VDCs.
- Districts not covered by any of the 29 programs are among the poorest and most remote. Evidence suggests that these are the districts where most children work.
- While each of the 18 organizations carried out their programs according to different missions, they employ similar methods to achieve their missions.
- No set criteria for defining "child labour" and a multiplicity of definitions of target groups: child labourers, children under 18, Dalit children, vulnerable youth, etc...
- Program staff identified the insurgency, political instability and a lack of coordination as the largest day-to-day challenges confronting their work.

51. It is also important to place the determinants of child labour in a broader development context, particularly HMG/N and the United Nations' *Millennium Development Goals: Progress Report 2002*. The table below describes the goals and targets for Nepal.

Table 3. - Millennium Development Goals (MDG) for Nepal¹⁷

Goals	Targets
Goal 1: Eradicate Extreme Poverty and Hunger	Target 1: Halve, between 1990 and 2015, the proportion of people whose income is less than one dollar a day.
	Target 2: Halve, between 1990 and 2015, the proportion of people who suffer from hunger.
Goal 2: Achieve Universal Primary Education	Target 3: Ensure that, by 2015, children everywhere, boys and girls alike, will be able to complete a full course of primary schooling.
Goal 3: Promote Gender Equality and Empower Women	Target 4: Eliminate gender disparity in primary and secondary education preferably by 2005 and to all levels of education no later than 2015.
Goal 4: Reduce Child Mortality	Target 5: Reduce by two-thirds, between 1990 and 2015, the under-5 mortality rate.
Goal 5: Improve Maternal Health	Target 6: Reduce by two-thirds, between 1990 and 2015, the maternal mortality ratio.
Goal 6: Combat HIV/AIDS, Malaria and Other Diseases	Target 7: Have halted by 2015 and begun to reverse the spread of HIV/AIDS.
	Target 8: Have halted by 2015, and begun to reverse, the incidence of malaria and other major diseases.
Goal 7: Ensure Environmental Sustainability	Target 9: Integrate the principles of sustainable development into country policies and programmes and reverse the loss of environmental resources.
	Target 10: Halve, by 2015, the proportion of people without sustainable access to safe drinking water

¹⁶ ILO, *Working for Nepalese Children: An Overview of Child Labour Related Programmes in Nepal*, 2001, Pp.4-7.

¹⁷ HMG/N and United Nations Country Team, *Progress Report 2002: Millennium Development Goals: 2002*, 2002, Pp. 7-41.

52. Unfortunately, it the report's assessment that Nepal will not achieve seven of the ten MDG targets by 2015, including **Targets 1-4**. Given the relationship between these targets and the determinants of child labour, there is a need to review the Time Bound Programme's objectives and other child labour initiatives. It is unlikely that significant progress in the elimination of child labour will be achieved in the absence of poverty and hunger reduction, accessible education, and improved gender equality, to name but a few wider issues.

4.6 Comparative Advantages and Expertise of the UCW Project Team Members

53. The three cooperating agencies of the UCW Nepal Project: ILO, UNICEF and the World Bank each contribute to the elimination of child labour from their own areas of expertise.

- The International Labour Organization (ILO) continues to undertake child labour specific programming in order to build institutional capacity in government and civil society and to develop the policy and regulatory framework. The role of ILO/IPEC in the execution of the new Time-Bound Programme, will allow it to continue its work.
- The United Nations Children's Fund (UNICEF), through its support for the *Basic and Primary Education Programme (BPEP)*, as well as other programs, and through its newly released *Master Plan of Operations (2002-2006)* will continue its work to improve the quality of education and increase access to it. In addition, its *Decentralized Action for Children and Women (DACAW) Programme, Education and Child Protection Programme, and Communication, Advocacy and Life Skills Programme* all have the potential to control or eliminate the determinant of child labour.
- The World Bank, while having no specific child labour programming focus, has played a leading role in the development of the *Poverty Reduction Strategy Paper*. The World Bank's *Country Assistance Strategy* outlines sectoral foci that offer the opportunity for improved household economic and physical security. Finally, the World Bank has integrated child labour as a factor for the social analyses of all its projects and has committed to ensure that no child labour is involved in its projects.

54. It is recognized by the Committee that there is a considerable need to integrate existing and future programs on child labour within the context of the National Master Plan on Child Labour and the Time Bound Programme, and to advocate for poverty reduction programs, as an integral part of the elimination of child labour.

4.7 Summary of Findings: Child Labour and its Determinants

55. To emphasize the need for attention to the determinants of child labour, it is useful to restate the most significant findings of the Body of Knowledge on child labour in Nepal. These findings make it clear that the elimination of child labour lies in the resolution of

several wider societal issues, rather than in a focus on the most egregious and discrete symptoms.

1. Child labour primarily results from household vulnerability. Households that supply child labour are those with low and insecure incomes; and limited access to land, education and social protection. They tend to be marginalized by geography, ethnicity and caste.
2. The education system is inaccessible, exclusionary, poor quality, impractical and inflexible, or perceived as such and can neither prevent child labour, nor engage with current child labourers. Non-educated parents are more likely to produce children who will become child labourers.
3. There would appear to be wide societal acceptance of child labour from the perspectives of (1) poor children, families and communities, (2) those who employ children and benefit from their exploitation, and (3) the wider Nepali public.
4. Gender discrimination plays a role in the creation of child labourers as girls are more likely than boys to not complete their primary education and to become both involved in child labour, and involved at a significantly younger age. Female child domestic workers are vulnerable to sexual abuse by the male members of their employers' families.
5. Given the state of macro-economic and sectoral policy in Nepal and the lack of either a significant export sector or foreign investment, it cannot be claimed at this point, that these issues affect the scope of child labour in Nepal, for better or worse.
6. While there are benefits to the employers of children, cost-benefit analysis shows that there are large long-term costs to the national economy in terms of the destruction of potential and the creation of uneducated and unproductive adults. There are significant long-term benefits to Nepal from a more educated and thus, more productive population.
7. The decision by HMG/N in July 2002 to annul local governments, as well as the ongoing security situation, has compromised decentralization efforts, including the devolution of education and child welfare responsibilities to communities and local bodies.
8. The current security situation is creating a supply of child labourers through internal refugees, loss of parents or household income, and the closure of schools.
9. While implementation of Nepal's international commitments through its child labour policy framework can be improved, what policy shortcomings do exist is not sufficient to explain the current lack of progress. Similarly, while there are enforcement obstacles, these obstacles are similarly not sufficient to justify the current level of inaction.
10. Current international and national policy commitments present a dilemma. Their rigorous implementation, without the provision of adequate alternatives to child labour will result in harm to existing child labourers, driving them further in destitution, marginalization and vulnerability. Without alternatives for child labourers and their families in the form of rehabilitation, social support and education programs, a rigorous application of the policy framework is morally indefensible.

11. Programming approaches to child labour that have not dealt in an integrated manner with the broader determinants and their interplay have had a limited impact. In addition, there seems to be little linkage between the extent of policy research conducted and recommendations made by donors and the level of policy action on child labour by HMG/N.

5. CONFRONTING CHILD LABOUR

5.1 Analytical Framework for Confronting Child Labour

56. As already discussed in this document, child labour is an outcome of a range of determinants and their interplay. This framework proposes nine determinants of child labour in Nepal.

- Ineffectiveness or Non-Integrated Poverty, Macro-Economic and Sectoral Policies
- Inability of Education to Provide an Alternative to Child Labour
- Lack of Social Protection (Health, Social and Community Services)
- Weakness in the Child Labour Policy Framework
- Weakness of Regulatory Enforcement
- Societal Acceptance of Child Labour
- Household Economic, Physical and Social Vulnerability
- Demand for Child Labour
- Gender-Based Discrimination

57. These determinants can be organized according to two dichotomies (See **Figure 2**).

Dichotomy 1: Supply/Push and Demand/Pull Determinants:

58. There are factors that create a *supply* of child labourers or *push* children into the labour markets and there are factors that create a *demand* for child labourers or *pull* children into the labour market. For example, **Household Economic, Physical and Social Vulnerability** may limit the income opportunities of families and *supply/push* children into the labour market, while the **Demand for Child Labour** in a labour market, unhindered by regulations, will *demand/pull* them into the labour market. An example of a determinant which is both is **Societal Acceptance of Child Labour**: a family's acceptance of child labour as an income diversification strategy may *supply/push* children into the labour market, while a lack of societal censure will support through inaction, those who *demand/pull* child labourers into the labour market.

Dichotomy 2: Micro and Meso/Macro Determinants:

59. It is also important to recognize that some factors occur at the level of the individual child, family and community or individual enterprise, such as those that encourage an individual child's decision to enter into labour or an individual enterprise's decision to engage a child labourer. Other factors occur at the level of the national government, such as the decision involved in policy creation and implementation or at the level of the national economy such as labour market issues. At the micro level there is a clearer distinction between *supply/push* and *demand/pull* factors, as they tend to deal with the individual decisions to provide (supply) or utilize (demand) child labour. At the *meso/macro* level, this distinction is less clear, as it is not directly involved in the direct supply-demand relationship between a child or parent, and the employer of that child. For example, **Ineffectiveness or Non-Integrated Poverty, Macro-Economic and**

Sectoral Policies may create the wider economic conditions that force poor rural households into supplying children to the labour market or permit wider labour market conditions that encourage enterprises to employ no-skill, low wage children.

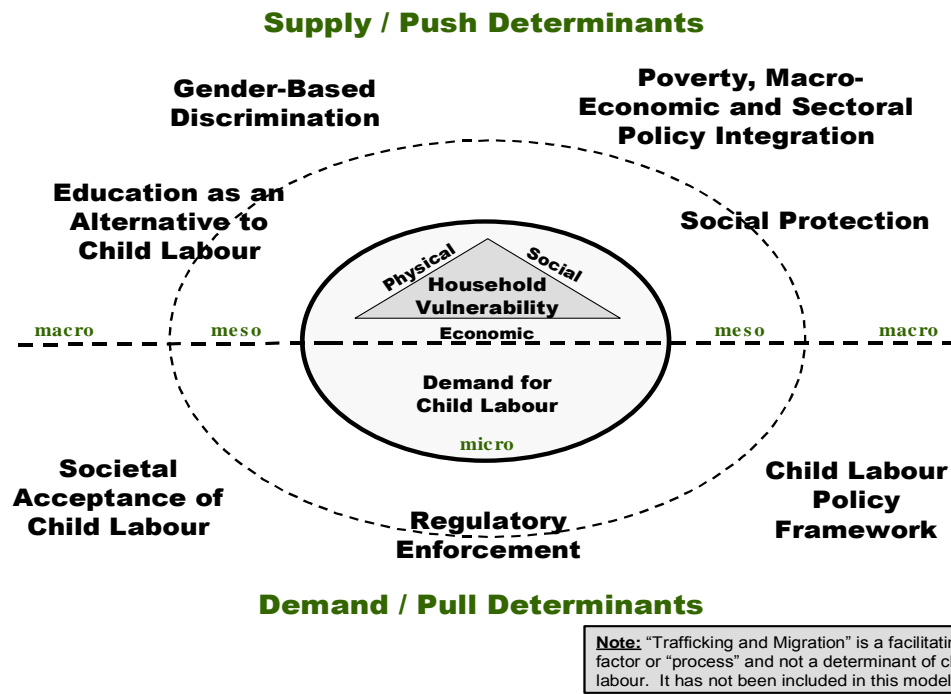
Facilitating Factor:

60. A facilitating factor assists in the employment of children without being a determinant. In the case of Nepal, the main facilitating factor is **Migration and Trafficking of Child Labour**. As a process, it moves children from their families and communities to employment in the worst forms of child labour. It will be briefly discussed in **Section 5.4**.

61. In reviewing the literature and data, it is clear that few determinants are either exclusively *supply/push* or *demand/pull*; *micro* or *meso/macro*. Many determinants not only fit comfortably into both dichotomies but also into different ends of the same dichotomy. Because of this interplay, and the inability to absolutely categorize any one determinant, the framework should be viewed as an analytical tool for understanding the integrated nature of the determinants and the causal role of wider societal factors. It is not a discrete and absolute typology of factors.

62. The chart below is a simple model of the two dichotomies of *supply/push* - *demand/pull* and *micro* - *meso/macro* and the nine determinants of child labour. It places each determinant in its most relevant, but not its only position in the model.

Figure 2. - Analytical Framework Model – Determinants of Child Labour in Nepal



5.2 Development of Recommendations

63. As a part of the process of developing recommendations, the secondary literature on child labour in Nepal was reviewed. This review revealed a range of recommendations, many of which were well considered and useful. It also revealed recommendations with the following weaknesses:

- Made without consideration for their potential negative impact on current child labourers,
- Extremely general in nature, listing neither a timeframe nor a responsible party, and proposing nothing which could be considered a "task", and
- Limited consideration that a government was being asked to adopt the recommendations and that national policy processes are complex, and
- Made without acknowledgement that the implementation record of previous donor-funded policy recommendations is poor.

64. Based upon this review of existing recommendations, it was decided by the UCW Nepal Project that any recommendations made in this document should be limited to a manageable number, made with implementation in mind, and based upon the following three principles:

- a. “Do No Harm”: Any action taken by HMG/N, civil society, and donors against child labour should not further marginalize, disempower, “put at risk” or victimize children who are currently working (e.g. increase destitution or vulnerability, push into less visible and legal forms of work). All policy actions must be assessed for impact and risk. Programs that minimize possible negative impacts on child labourers and provide meaningful alternatives to child labour, must be implemented in parallel with actions to remove children from work or to enforce child labour legal provisions.¹⁸
- b. Practical and Specific: All recommendations should be practical and specific, as well as propose responsibility for implementation and a general timeframe. For the purposes of this paper, immediate means one to three months, short-term means three to six months, and medium-term means six to twelve months.
- c. Policy Ownership: All recommendations for policy issues must be relevant in terms of the policy development process and its constraints. All recommendations can be situated within the existing development framework.

65. The recommendations in **Section 5.3** are intended for HMG/N and are divided between the existing key recommendations made by the *Body of Knowledge* and more immediate action recommendations made by this report. These “action recommendations”, while requiring leadership, political will and effort, are for the most part low cost or no cost. They should be understood as interim measures and bridges to the larger existing key recommendations.

66. Recommendations for donors and civil society stakeholders are contained on **Section 5.5**.

67. The action recommendations should be considered as a starting pointing for a dialogue between HMG/N, donors and stakeholders. Such a dialogue should validate the “action recommendations” in the context of the larger, pre-existing recommendations, identify the responsible parties, set deadlines for implementation, and establish follow-up actions.

68. The discussion and the development of recommendations on how to confront child labour is structured according to the framework described above. Each of the nine determinants of child labour will be presented in turn, according to the following outline:

- Introduction,
- Key Factors Affecting Child Labour,
- Analysis and Findings, and
- Action Recommendations.

¹⁸ The need for such a principle was recently highlighted by the destitution of the *Kamaiyas* that was a direct result of the well-intentioned but poorly conceived legislation removing them from bonded servitude.

5.3 Specific Determinants: Findings and Action Recommendations:

5.3.1 Poverty, Macro-Economic and Sectoral Policy Effectiveness and Integration

Introduction:

69. Effective poverty and macroeconomic policies can limit both the supply and demand for child labour, while ineffective policies can create an environment conducive to child labour. Unfortunately, child labour is not yet a major consideration for Nepal's economic decision-makers, nor is economic decision-making a focus for child labour involved agencies.

Key Factors Affecting Child Labour:

- Low agricultural productivity
- Lack of land reform
- Low worker productivity; non-competitive manufacturing and industrial sectors
- Regional disparities and a lack of income opportunities in communities

Analysis and Findings:

- As discussed, Nepal is one of the world's least developed and poorest countries. Furthermore, the recent *Poverty Reduction Strategy Paper* has highlighted that poverty rates have been stagnant since the mid-1980s despite some promising improvements in the early 1990s, and that this stagnation can be attributed to a low per capita income growth, stagnant agricultural growth, poor rural infrastructure and ineffective public expenditures. The World Bank sponsored *Nepal Development Forum: Economic Update 2002* concludes that Nepal is currently facing a downturn that "...will constrain Nepal's ability to attack poverty and accelerate human development."¹⁹
- Nepal's Millennium Development Goals 2002 report says that there is also evidence of:
 - Continuing existence of wide equality in household land ownership with two-thirds of households operating less than one hectare of land.
 - High levels of unemployment and underemployment.
 - Resources generated by economic growth have been centred in urban areas amongst middle and upper-class households.
 - Redistributive policies such as health and education are weak and where they have been implemented they have been concentrated in urban areas. Such policies have not led to the expansion of the household incomes of the rural poor.²⁰

¹⁹ World Bank, *Nepal Development Forum: Economic Update 2002*, Pp. 11.

²⁰ HMG/N and United Nations Country Team, *Progress Report 2002: Millennium Development Goals: Nepal, 2002*, Pp. 4.

- Given Nepal's current economic, political and security uncertainties, it is likely that the formal economy will continue to shrink, pushing more of the labour market, including child labourers into the informal sector. It is uncertain what the impact will be upon child labourers of increasing numbers of adults looking for work in the informal sector.
- The growth rate of the agricultural sector over the last decade has been approximately 3%.²¹, with production and productivity stagnating. The National Planning Commission (NPC) cites that low returns to poor farmers are due to "...smaller size of landholdings, lower share of good quality land, poor share of irrigated land, virtually zero access to technology and insufficient access to rural roads and formal-sector credit."²² In Nepal, agriculture employs 83% of the labour force and provides two-thirds of all household income, with poorer households most dependent upon agriculture for income. Land ownership, productivity and land quality are the major determinants of rural poverty.²³
- Approximately 300,000 Nepali join the labour market annually. A lack of land, paid work, and regional disparities result in unemployment/underemployment and internal/external migration. Trafficking of child labourers follow the routes established by adults.
- The extensive use of child labour in Nepal is an indicator of the lack of productivity and investment in production and labour. Child labour can also be seen as an impediment to productivity improvements, innovation and investment. In the formal economy, child labour is particularly high in "sunset industries" and non-competitive industries.
- The World Bank, in its report on Nepali child labour, writes "...the structure of the labour market determines the level of wages and conditions of work, which in turn determines the contribution of child labour to household income."²⁴ It goes on to explain that a key factor in the demand for child labour is the flexibility of the wage rate, which can have the effect of making children attractive substitutes for adults because of their inability to bargain. When regulations fix wages based upon the nature of the work as opposed to who is hired to do it, employers will prefer adults. The degree of technology in a work place will also determine the ability of employers to readily substitute children for adults. However, the capacity of "fixed wages" to reduce child labour is limited in an informal and unregulated economy with low technological inputs. The majority of child labourers, including waged child labourers and children in the worst forms of child labour, work in the informal sector. Additionally, HMG/N policies on productivity, innovation and labour market improvement (with the exception of overseas workers) are limited.
- HMG/N has included the need to coordinate their work on the elimination of child labour in the planning for the Tenth National Development Plan. Additionally, poverty reduction is now an explicit goal of HMG/N, as are economic reform and growth, and macro economic stability. However; as the 9th Plan states, economic growth alone will not reduce poverty, "*It has to be 'growth*

²¹ NPC(HMG/N), *Concept Paper on PRSP/10th Plan*, 2002, Pp.5.

²² NPC(HMG/N), *Concept Paper on PRSP/10th Plan*, 2002, Pp.5.

²³ Shrestha, B. and Edmonds, C., *Child Labour Situation in Nepal: Status Paper*, 2002, Pp.26.

²⁴ World Bank, *Child Labour in Nepal: Situation Analysis*, 2000, Pp.24.

with equity' or 'pro-poor growth' to ensure an active participation of the poor in the country's development process."²⁵ Governance and capacity issues also continue to challenge HMG/N's poverty reduction efforts. An evaluation of programs targeted at disadvantaged groups indicated that two fifths of the budgets do not go to the targeted population.²⁶

- Given the limited levels of industrialization and global capital in Nepal, no conclusion can be made on "globalization", free trade and an export economy as determinants of child labour. However, advice given by the donor community on the development of the agricultural sector, structural adjustment, and trade liberalization should be carefully considered. Previous advice in these areas, in other developing countries have resulted in the types of dislocation and increased inequities that increase the supply of child labourers.²⁷ The *National Master Plan on Child Labour* has also expressed concerns that increased global trade can lead to child labour.²⁸

Action Recommendations:

70. There are currently a number of long-term and "macro" recommendations that have been made to HMG/N, specifically the National Planning Commission (NPC). The ongoing work of the World Bank to support macroeconomic decision-making is evident in the *Poverty Reduction Strategy Paper*. It should also be recognized that HMG/N and the donor community have worked together, through the development of the *Poverty Reduction Strategy Paper*, to increase the child labour profile in future macro-policy development.

71. The World Bank's *Country Assistance Strategy* works to improve effectiveness in four areas, which are of interest to poverty, macroeconomic and sectoral policy development:

- Improving land productivity through irrigation and rural transportation investment,
- Increasing the productivity of rural labour through decentralized management of education, rural power and distribution, rural water supply, forest user groups and land resource management initiatives,
- Raising returns on public investments to increase the efficiency of public investments with a special emphasis on decentralization, and
- Improving government services.²⁹

²⁵ NPC(HMG/N), *Concept Paper on PRSP/10th Plan*, 2002, Pp.9.

²⁶ Idem. Pp.7.

²⁷ An example of this advice comes from an ILO-funded study entitled *Child Labour in the Light of Recent Economic Development Trends*, which appears to promote structural adjustment and trade liberalization as responses to the determinants of child labour. In the study: "Adjustment policies often lead to an increase in unemployment and poverty in the short-run. However, though imposing considerable adjustment costs, stabilization and structural changes are still necessary in many developing countries to flexibilize the economy and to increase income and growth. This will reduce child labour in the long run (Pp.60). The questions that arise from such advice are who decides and who pays the price, as well as what do short-run and long-run costs mean and for whom. Additionally, are international bodies proposing that current child labourers shoulder a share of the burden for the restructuring of an economy, and suffer the consequences of any "externalities" that result from such a restructuring?"

²⁸ MoLTM(HMG/N), *National Master Plan on Child Labour, 2001-2010*, 2001, Pp.4.

²⁹ World Bank, *Country Assistance Strategy: 1999-2001*, 2001, Pp.12-14.

72. The ILO's Decent Work for Poverty Reduction: An ILO Contribution to the Poverty Reduction Strategy Paper in Nepal proposed ten recommendations of relevance to this section. The recommendations that are most relevant to child labour are:

Policy Recommendation 1: Make employment impact analysis an explicit criterion of macro-economic policy decision-making, and make employment intensive growth objectives an explicit criterion of public expenditure programmes.³⁰

Policy Recommendation 3: Training for emigration of Nepalese workers, systematic and streamline public support for outward bound and returning migrants, render transparency and expand the productive uses of remittances.

Policy Recommendation 4: Begin the reform of Nepal's system of vocational training, linking it more closely to employment policy objectives and labour demand based on an effective labour market information services, and expending it to workers in the information sector.

Policy Recommendation 5: Strengthen the implementation of measures already agreed, ensuring the enforcement of relevant legislation, ensuring land distribution to former Kamaiya families, laws on minimum wage and child labour, and the extension of targeted labour inspection services to informal/unorganized sectors.

Policy Recommendation 9: Promote the organization of workers and employers in those sectors, industries and forms of work that are currently unorganized.

Policy Recommendation 10: Review and prepare recommendations for an integrated set of reforms to labour legislation, the institutions for social dialogue, labour administration, and possibly other related policy fields, such as wage policy, social security, training, and patterns of employment.³¹

- The ILO's *Eliminating the Worst Forms of Child Labour: An Integrated and Time-Bound Approach – A Guide*, stresses that national time-bound programs against child labour must develop macroeconomic strategies and poverty reduction interventions in order to:
 - Promote economic growth with equitable income distribution.
 - Avoid policies that contribute to fiscal and macro-economic imbalances or deficits that could lead to inflation, unemployment and worsening poverty.
 - Ensure that economic reforms do not further impoverish poor households.³²

³⁰ The World Bank office in Kathmandu noted that this recommendation could be significantly strengthened if it was more explicit: "...make employment impact analysis an explicit criterion of *investment* decision-making"

³¹ ILO, *Decent Work for Poverty Reduction: An ILO Contribution to the Poverty Reduction Strategy Paper in Nepal*, 2001, Pp.14-29.

³² ILO, *Eliminating the Worst Forms of Child Labour: An Integrated and Time-Bound Approach – A Guide*, 2001, Pp. 57.

73. The above recommendations and interventions could significantly reduce the supply of and demand for child labourers, though they are mostly long-term and costly. In order to support their implementation, this paper suggests three following action recommendations:

1. The commitment of child labour involved HMG/N agencies to mainstream child labour through the development of a social analysis process to measure the impact of HMG/N decisions on child labour. This process would be used by the NPC to analyze the likely short-term impacts of proposed macro-economic, trade, agricultural, industrial, labour and other policies and actions of HMG/N upon current child labourers and those at risk of becoming child labourers. This process would not only include a risk analysis but also develop risk management measures to mitigate the impact of any HMG/N decision that may negatively affect child labourers or those at risk. (short-term)
2. The commitment of “child labour” involved ministries to develop formal positions on the determinants of child labour, including macroeconomic and sectoral policy issues and to present and lobby on behalf of these positions within HMG/N. To build the broadly-based partnerships required to develop these positions, and the internal capacity to create formal positions on the wider determinants of child labour. (medium-term)
3. The commitment of “child labour” involved ministries to request that the NPC to develop the research methodologies required to understand the:
 - Economic and productivity costs to Nepal for its dependence on child labour,
 - Role of child labour in depressing adult wages in Nepal, and
 - Impact of macroeconomic and labour market actions on child labour. (short-term)

5.3.2 Education as an Alternative to Child Labour

Introduction:

74. It is a truism that a child in school is a child who is not working (or working full time). It is also true to say that the educational participation of children and their families is created through supplying something that is high quality, accessible and practical. This, in concert with community ownership, will create a demand for education.

75. Education is both a macro and a supply issue because of the role of HMG/N as a supplier. It is also both a demand and a micro/meso issue owing to the necessity of perceived value and resulting demand and support at the household and community levels.

Key Factors Affecting Child Labour:

- Education supply is poor: costly, impractical, inaccessible, exclusionary and unpleasant (reality and perception)
- Low demand for education:
- Lack of child/household/community appreciation of education

- Lack of community ownership and responsibility for education
- Inability to engage current child labourers or reintegrate former labourers

Analysis and Findings:

- Nepal has undergone a tremendous expansion of its education system since it was first formed 50 years ago. It is instructive to note that while in 1976 there were only approximately 32,000 teachers; by 1999 this had increased to over 132,000 teachers. The total number of students has grown five times during this same period. Between 1991 and 2000, the adult literacy rate increased from 39.6% to 57.5%, though women continue to trail men. The literacy rate for children eleven to thirteen years is now 83.9%.³³ However, with the population doubling within 35 years, this will lead to increasing supply pressures on the education system.

- In 1999, there were 3,800,000 children (72%) enrolled in primary school, although dropout and repetition rates are high. Only half of those who enroll in primary school are expected to complete the five-year program. Of all children enrolled in grade one, only 42% will advance, 37% will repeat, and 21% will drop out. Only 10% of primary school children are expected to complete the program without having to repeat one grade. Average daily attendance for grades one and two are 55% and 70% respectively.³⁴ As mentioned earlier, girl participation rates are significantly lower than those of boys.

76. Although primary education is free by law, there are real and opportunity costs to school attendance.³⁵, including the charging of unauthorized “fees”. Educational access and successful educational outcomes are unevenly distributed between income groups, castes, ethnicity, gender and urban and rural settings.

- HMG/N has clearly made the link between accessible and relevant education and the elimination of child labour. This is noted in the Ninth National Development Plan, the Poverty Reduction Strategy Paper (PSRP) leading to the Tenth National Development Plan, and the National Master Plan on Child Labour (2000-2010).

- The relationship between education and child labour is complicated and interplays with other factors. Poverty, level of parents’ education, gender and ethnic discrimination, geographic setting, land ownership, family size and composition, and schooling costs can all play a role in the decision to send or

³³ Shrestha, B and Edmonds, Casper, *Child Labour Situation in Nepal: Status Paper*, 2002, Pp.28-29.

³⁴ *Idem*, Pp.29.

³⁵ “A year of public schooling costs on average more than three months’ per capita consumption for the very poor.”, World Bank, *Country Assistance Strategy: 1999-2001*, 2001, Pp.3.

not send an individual child to school. Many of these findings are confirmed through the UCW Project's *Bivariate Probit Estimation* described earlier.³⁶

77. In Nepal, much of the literature exposes the shortcomings of the education system (inaccessible, impractical, expensive, exclusionary, unpleasant), all of which have contributed to a low demand by poor parents and their children for education. There is also a perception that while schooling incurs opportunity costs through lost child labour, it provides no tangible benefits such as increased earning power or useful knowledge.

- A cost-benefit analysis funded by the ILO indicated that the economic benefits to Nepal of 100% school enrolment would be double the costs of lost child labour wages when calculated over a twenty-year period starting in 2001.³⁷ The study is based upon the assumption that universal, accessible and free education would be made available, that the system would be suitably resourced and of improved quality that support programs for lost wages would be developed, and that communities would be active participants. The study concluded that the elimination of "... child labour is an expensive business, but if all children are able to go to school, the rewards to the children over their lifetime, to the parents of such children and to the nation as a whole, may be substantial."³⁸
- The current education system does not accommodate the many school children whose mother tongue is not Nepali. While no data exists for Nepal, evidence from other countries indicates that access to learning in a mother tongue increases the probability of educational success.³⁹ Several reports discuss widespread discrimination by school management committees, teachers and students against school children from socially disadvantaged groups.⁴⁰ The recent BPEP II - Report of the Technical Panel concluded that "...Grade 1 children, particularly those from disadvantaged groups with mother tongues other than Nepali, deserve most immediate attention and urgent action in improving Grade 1 teaching and learning."⁴¹

78. Evidence indicates that the system serves least, those most at risk of becoming child labourers: low castes, marginalized ethnic and language groups, and mountain people. There is also evidence that what support programmes do exist are not used to help

³⁶ Understanding Children's Work Project, *Bivariate Probit Estimation*, 2002, Pp.3-4.

³⁷ "Using the methodology provided by IPEC/ILO, the benefits associated with a 100 percent net enrollment rate at the primary level of children aged 6-10 by 2015 and 100 percent enrollment rate of children aged 11-13 by 2020, yields benefits discounted to present value (2001) that is over two times higher than the related costs." Banskota, K., et al, B., *Study of the Costs and Benefits of the Elimination of Child Labour in Nepal*, 2002, Pp.1.

³⁸ Idem, Pp.1.

³⁹ A recent review mission of BPEP found that "...language of instruction and of textbooks had not been given adequate attention in relation to access to education.". (Ministry of Education and Sports (HMG/N), *Nepal – BPEP II: Joint Government – Donor Mid-Term Review*, 2002, Pp.7)

⁴⁰ Rai, M., *Study of Girls and Children from Disadvantaged Groups and Their Access to Education*, 2002, Pp.15.

⁴¹ MoES(HMG/N), *BPEP II: Report of the Technical Panel*, 2001, Pp. 65.

children most at risk.⁴² The education system is also unable to provide the flexible and non-formal pedagogical models that could attract child labourers.

- The literature seems to indicate the education system has a strong focus on creating or improving supply but not on creating demand for schooling. Delays in giving communities ownership over local schools, as envisaged in the decentralization efforts of HMG/N, will delay the creation of this demand from parents and children.

Action Recommendations:

79. There are currently a number of long-term and “macro” recommendations that have been made to HMG/N by the donor and Nepali stakeholder communities on improvements to the supply of education and the development of demand. These recommendations have mostly revolved around the existing Basic and Primary Education Programme (BPEP II) and the *Education for All by 2015* initiatives. The recommendations that have the potential of supporting the elimination of child labour include:

- Continued support for BPEP II to develop a system that is accessible, inclusive and of good quality. This includes improved facilities, curricula, teaching and student materials, and standards. Monitoring of progress on these objectives. In particular, support for three of the specific recommendations of the *BPEP II – Report of the Technical Panel* would have a significant impact upon the supply of children to labour markets:
 - *Adopt community empowerment, visible transformation of schools, and direct allocation of resources to schools as means of making schools functional and effective.*
 - *Empower and enable VDC/VEC to support and sustain school improvement efforts.*
 - *Consolidate and strengthen Resource Centres ... and Resource Professionals as mobilizer, facilitator and supporter of school improvement efforts.*⁴³
- Continued support for decentralization of education decision-making power to the local and community levels. Local bodies should be encouraged to enforce free compulsory primary education and create incentives for girls and students from marginalized groups.

⁴² An ILO study indicated that programmes to assist with the education costs of disadvantaged groups are often misused. For example, in a girls scholarship programme, 84% of the scholarship recipients came from high caste families. (Bajracharya, H. and Manandhar, R., *The Education System in Nepal: Developing a Time-Bound Programme on the Elimination of the Worst Forms of Child Labour*, 2001, Pp.28)

⁴³ MoES(HMG/N), *BPEP II – Report of the Technical Panel*, 2001, Pp. 25.

- Continued development and implementation of flexible and relevant non-formal education options for child labourers, including apprenticeship programs.
 - The development of a human rights curriculum for primary schools, in order that children of all genders, castes, ethnicities and languages better understand their rights and responsibilities as Nepali citizens.

80. The above recommendations are currently being developed and implemented. Their successful implementation will support the elimination of child labour through the improved supply of education that should increase household demand for education and the successful reintegration of child labourers back into system. Given the efforts already underway, this paper would like to focus its action recommendations on the education to girls and marginalized groups. These recommendations include:

1. The commitment of the Ministry of Education and Sport (MoES) to require local school authorities to be accountable for creating a demand for schooling that is representative of the demographic profile of their areas. Such an accountability structure would involve the comparison of the demographics of school catchments with enrollment (taking into account private school enrolment), and regular progress reporting. (Short-Term)
2. The commitment of the MoES to develop incentives for schools and local government to recruit and retain poor children and children (especially girls) from marginalized ethnic and language groups and castes. This could include support for criteria for targeting the improvement of school facilities based upon a weighed index which accords points based upon the following suggested criteria:
 - 30% for ratio of girls to total students
 - 40% for ratio of children from socially disadvantaged groups to total students
 - 30% for ratio of enrolment of Grade 5 to Grade 1.⁴⁴ (Short-Term)
3. The commitment of the MoES, working with the revenue ministry and other relevant agencies, to investigate incentives and regulatory requirements for private schools to offer a limited number of scholarships to qualified but marginalized students who otherwise could not consider enrolling. (Medium-Term).

5.3.3 *Social Protection (Health, Social and Community Services)*

Introduction:

⁴⁴ Idem, Pp.6.

81. Access to health, social and community services can play a role in eliminating child labour through reducing household vulnerability. Social protection is both a preventative tool and a risk management strategy that can minimize the forces that push children from the household into labour. Social protection is defined as “...*public interventions to (i) assist individuals, households, and communities better manage risk, and (ii) provide support to the critically poor...*”⁴⁵. As 42% of Nepal’s population lives below the poverty line⁴⁶, it can be assumed that many Nepali live lives of great vulnerability with little in the way of personal savings or reserves. Catastrophes such as natural disasters, insurgency, and the loss of an income earner can drive a near subsistence household to destitution.

82. Social protection measures such as accessible health care, insurance schemes, emergency loans and support, and community monitoring of child labour and trafficking can work to eliminate child labour. As such, social protection can operate at the community or meso level and minimize both the community and household level forces of supply and demand.

Key Factors Affecting Child Labour:

- Lack of health and social support services:
 - Health emergencies and chronic health issues (e.g. disabilities)
 - Natural disasters
 - Loss of a wage earner
- Lack of protection for child labourers, including occupational health
- Long-term chronic and acute health implications for individual child labourers, including sexual health of sexually exploited children
- Reproductive health conditions which contribute to child labour:
 - 41% of population is below 16 years
 - Families with a broad spread of children’s ages
 - Young age of mothers at the birth of their first child

Analysis and Findings:

- 90% of the working population of Nepal is excluded from any formal type of social protection. What systems do exist are for those few working in the formal sector.
- The death or injury, or loss of work by a household earner is believed to be a major supply or push factor for child labour.⁴⁷ The very poor seek health treatment less frequently when they are sick and that the average cost of

⁴⁵ Holzmann, R. and Jorgensen, S., *Social Risk Management: A new conceptual framework for Social Protection, and beyond*, 2000, Pp. 3.

⁴⁶ This figure is provided by HMG/N’s National Planning Commission and is for the year 2001. The 1995 World Bank’s World Development Indicators says that 37.7% of Nepal’s population lives below US\$1 a day.

⁴⁷ “*Family vulnerability is often cited by observers as a root cause of child labour, and frequent attempts have been made to gauge family vulnerability in light of such indicators as a fragile family situation (alcoholism, unemployment, abuse, domestic violence), poverty, illness, literacy, level of parents and family size, etc...*”(Sharma, S. et al, *Situation of Domestic Child Labourers in Kathmandu: A Rapid Assessment*, No. 3, 2001, Pp.14.) The exact determinants of child labour for any single child are often multiple and inter-connected, though the literature points out the inability to exactly determine whether any one child is being pushed by negative factors (e.g. hunger, poor schooling, neglect) or pulled by the perception of positive factors (e.g. urban life, peer group, earning a wage).

treatment for a single episode of illness was equal to one and half months of per capita consumption for the very poor.⁴⁸ This point is also made by the ADB report on child labour: “By not having access to social security schemes and in particular to health protection, children and their families become extremely vulnerable to child labour when confronted with sickness and poor health that demands medical treatment.”⁴⁹

83. This loss is magnified if the household earner lost is male. The National Living Standards Survey indicates, “...female-headed households and widow-headed households in particular, are more likely to be poor if there is no adult male present.”⁵⁰

- Research into why children join the labour force has uncovered a range of reasons open to the intervention of social protection measures. In *Situation Analysis of Child Labour in Nepal*, the ranked top three reasons for working outside of the home by rural, urban and bonded family children were (1) economic, (2) parental enforcement, and (3) the child’s decision.⁵¹ Another perspective says that children leave home for reasons of *dukha* (physical, emotional or economic suffering) and *hela* (neglect and abuse): “Failure of a crop results in *dukha*, or death in a family results in *dukha*, or indebtedness results in *dukha*, or certain violent experience of injustice can result in *dukha*.”⁵²
- A quick review of health data in Nepal indicates that family and reproductive health face enormous challenges, compounded by a struggling health care system based upon a public expenditure of US\$2 per person per year. The Ministry of Health, HMG/N states in its recent *Mid-Term Expenditure Programme (MTEP)* that the “The health system is not adequately meeting the needs of the most vulnerable groups, women and children, the rural population, the poor, the disadvantaged and the marginalized.”⁵³
- Reproductive health appears to have a role in child labour in so much as it reduces the vulnerability of families. Large family size⁵⁴ and the presence of an additional small child in a household seems to result in high child labour and lower educational participation rates⁵⁵. The victimization of children, mostly girls, by the sex trade exposes them to the risk of HIV/AIDS and other sexually transmitted diseases (STD).

⁴⁸ World Bank, *Country Assistance Strategy: 1999-2001*, 1999, Pp.3.

⁴⁹ Shrestha, B., *Strengthening the Role of International Labour Standards in Selected Developing Member Countries of the Asian Development Bank: Country Report on Child Labour in Nepal*, 2002, Pp.49.

⁵⁰ NPC(HMG/N), *Concept Paper on PRSP/10th Plan*, 2002, Pp.4.

⁵¹ Centre for Women/Children and Community Development, *Situation Analysis of Child Labour*, 1997, Pp.39-40.

⁵² ILO, *Lessons Learned for the Time Bound Programme*, 2001, Pp.45.

⁵³ Ministry of Health HMG/N, *Medium Term Expenditure Programme (MTEP) to Operationalize 1st Three Years of the 10th Five Year Plan’s Health Programmes*, 2002, Pp.9.

⁵⁴ Shrestha, B., *Strengthening the Role of International Labour Standards in Selected Developing Member Countries of the Asian Development Bank: Country Report on Child Labour in Nepal*, 2002, Pp.32.

⁵⁵ Understanding Children’s Work Project, *Bivariate Probit Estimation*, 2002, Pp.3-4.

- There are several reports that working children are often refused access to public health facilities or discharged early. The anecdotal evidence suggests that medical staff fear of infectious diseases and a lack of a guardian for the children were contributing factors to the refusal to provide treatment.
- Occupational Safety and Health (OSH) is not a current priority for HMG/N for either adult or child labourers⁵⁶ due to more pressing health care needs.⁵⁷ Data on occupational deaths, injuries and disabilities are limited, though it is estimated that accidents and falls are the 4th largest contributor to work days lost for men and 8th for women. The high incidence of cuts, fractures/sprains, and burns reported by domestic child labourers indicates both a high accident rate and the use of children in work, which is inappropriate to their maturity, size or strength.⁵⁸ The ILO's rapid assessments on the worst forms of child labour indicated that 27% of child domestic workers and 3% of bonded child labourers reported work accidents, mostly cuts and burns. 62% of rag pickers and 46% of porters reported illnesses resulting from harsh and unhealthy work conditions.⁵⁹

84. There is evidence from other countries that occupational health can be an effective entry point to improve working conditions in the informal sector. It is also known that the removal of children from the worst forms of child labour is a component of OSH programs⁶⁰, as are reducing occupational hazards, nutrition and health programs, organization of the community provision of health services, economic incentives for families, and the training of older children in non-hazardous occupations.

- Social protection and risk management are well suited to deal with the vulnerabilities of poor households, particularly their economic and physical vulnerabilities. It is also capable of storing and transferring income to the future in order to “smooth” consumption, and improving equity through distribution of wealth. Social protection measures are also an important component of any poverty reduction strategy through a reduction in transitory or temporary poverty, preventing the vulnerable poor from becoming more destitute, and by providing an avenue to escape poverty. Data from other developing countries suggests that “...between one-fifth and one-half the people below the “poverty line” ... are not usually poor but have been pushed into consumption poverty by life-cycle events (such as family formation) or more often by income losses (such as unemployment

⁵⁶ MoH(HMG/N), *Medium Term Expenditure Programme (MTEP) to Operationalize 1st Three Years of the 10th Five Year Plan's Health Programmes*, 2002, Pp.24-25.

⁵⁷ Communicable diseases, malnutrition, and conditions related to maternal and perinatal disorders account for 50% of all deaths, 80% of all deaths under five years, and 69% of the total disease burden (World Bank, *Nepal – Operational Issues and Prioritization of Resources in the Health Sector*, 2000, Pp. vii)

⁵⁸ Centre for Women/Children and Community Development, *Situation Analysis of Child Labour in Nepal*, 1997, Pp.44-8.

⁵⁹ Shrestha, B. and Edmonds, C., *Child Labour Situation in Nepal: Status Paper*, ILO, 2002, Pp.24.

⁶⁰ Forastieri, V., *Children at Work: Health and Safety Risks*, ILO, 1997, Pp.37 and 54.

or sickness), special need, (such as medical treatment), and the lack of income transfer over time...”⁶¹. Risk management strategies include:

- Prevention Strategies: sound macro-economic, health, education and environmental policies; reducing risks to the labour market of low wages and underemployment;
 - Mitigation Strategies: diversification of income sources, insurance; and
 - Coping Strategies: borrowing, selling of assets, migration, reducing food, **child labour**.⁶²
- The World Bank is proposing a Social Protection Strategy for South Asia, which recognizes child labour as a response to household vulnerability. This strategy is still in draft form. A synopsis of this strategy can be found in the global strategy paper.⁶³

Action Recommendations:

85. There are currently only a few long-term and “macro” recommendations that have been made to HMG/N by the donor and Nepali stakeholder communities. This is due in large part to the lack of social protection programs and an acknowledged link between social protection and child labour. It should be noted that the World Bank is expected to soon propose a social protection strategy for South Asia. The existing global strategy has already identified child labour and its determinants as problems to be addressed through a regional strategy.⁶⁴ These recommendations include:

- A commitment from HMG/N to enforce occupational safety standards, particularly where child labourers are concerned, and to prosecute violators.
- A commitment from HMG/N to develop community support and involvement in the prevention of child labour and the enforcement of child labour norms and standards, as well as child labour health issues.
- The continued development and implementation of the Poverty Alleviation Fund (PAF) as a part of HMG/N’s decentralization efforts: “*Mobilization of a Poverty Alleviation Fund (PAF) and micro-credit schemes will be initiated at the district level to sustain a continuous supply of drugs through the community drug program, health insurance schemes and health cooperatives...*”⁶⁵

86. The action recommendations of this paper are focused on coordination and advocacy actions and include:

⁶¹ Holzmann, R. and Jorgensen, S., *Social Risk Management: A new conceptual framework for Social Protection, and beyond*, 2000, Pp. 8.

⁶² Idem, Pp.14-15.

⁶³ World Bank, *Social Protection Strategy: From Safety Net to Spring Board*, 2001, Pp.71.

⁶⁴ World Bank, *Social Protection Sector Strategy: From Safety Net to Spring Board*, 2001, Pp. 71

⁶⁵ Idem, Pp.16.

1. The commitment of “child labour” involved ministries to develop data to monitor those reproductive health indicators that have an impact on child labour and to develop policy positions on reproductive health issues relevant to the determinants of child labour. This should be done with the specific goal of promoting two reproductive outcomes: (1) compressing the years in which families produce children, and (2) delaying the age of a mother’s first pregnancy. (Medium-Term)
2. A commitment of “child labour” involved ministries to include child labour as a factor to be measured in all pilot social protection programs under their jurisdiction and to develop policy positions on programs under the jurisdictions of other ministries, which are relevant to child labour. All social protection programs of HMG/N, such as micro-health schemes, disability insurance, and emergency micro-credit should be monitored in order to test their ability to reduce the number of children “pushed” in to the labour markets by household health issues or emergencies. Inclusion of “reduction of child labour” as an indicator should be required in all relevant community health and social services programs and schemes. (Medium-Term)
3. A commitment of “child labour” involved ministries to develop their knowledge of the impending World Bank’s *South Asia Regional Social Protection Strategy* and develop a strategy of how to access and use this strategy for social protection initiatives that include child labour. (Short-Term)
4. An immediate public commitment from HMG/N to guarantee health services, including sexual health services, are available and accessible to child workers, particularly those without an adult guardian and those with infectious diseases. (Immediate)

5.3.4 *Child Labour Policy Framework*

Introduction:

87. A policy framework that is coordinated, complete, and consistent, with clear authorities and appropriate resources, will regulate demand for child labour through creating clear rules on who can be employed, in what types of jobs, and under what conditions, and establishing penalties in law for violation of these rules.

88. It should be noted that a policy framework is an expression of the coercive power of the state to punish. The success of any societal action against a social wrong such as child labour is based upon three components: shared norms, broadly based enlightened self-interest, and state coercion. Of these three components, coercion is the weakest. Simply said, if Nepali society does not accept that child labour is wrong (shared norms) or that it is not in the majority of the population’s interest to oppose child labour (enlightened self-interest), even the best policy framework and regulatory enforcement (coercion) will fail to eliminate child labour. As such, the current child labour policy framework is more an expression of an ideal, than a framework for action.

89. However, the elimination of child labour, particular its worst forms, cannot wait for society to change, and HMG/N has a leadership duty, confirmed by its international commitments, to develop a strong policy framework.⁶⁶ Indeed, the development of such a framework, in parallel with the creation of a wider societal awareness, can create positive societal change.

Key Factors Affecting Child Labour:

- Lack of policy coordination and clarity; weak coverage
- Lack of clear authorities and well understood responsibilities
- Lack of resources for implementation, including mitigation programs.

Analysis and Findings:

- A summary of Nepal's international and SAARC regional commitments includes:
 - Ratification of the United Nations' Convention on the Rights of the Child (CRC).
 - Ratification of the International Labour Organization's Forced Labour Convention (No. 29), Convention on the Minimum Age for Admission to Employment (No. 138) and Recommendations (No. 146), and the Convention on the Worst Forms of Child Labour (No. 182) and Recommendations (No. 190).
 - In 1995, adoption of the ILO *International Programme for the Elimination of Child Labour (IPEC)* which in 2002 evolved into the *Time-Bound Programme for the Elimination of the Worst Forms of Child Labour in Nepal*.
 - Signing of the SAARC's Colombo Resolution on Children, the Declaration of the Rawalpindi Ministerial Meeting on Children (Abolition of child labour), Male Summit (SAARC Decade of the Rights of the Child), Convention on Preventing and Combating Trafficking in Women and Children for Prostitution, and the Convention on Regional Arrangements for the Promotion of Child Welfare in South Asia.

⁶⁶ "...the problem of child labour was complex and deep rooted and could not be solved within a short period considering the prevailing socio-economic conditions of the country. The elimination of child labour could not, however, wait for the elimination of poverty. A pragmatic policy should, therefore be adopted to deal with this urgent problem in a phased manner. (ILO, *Eliminating the Worst Forms of Child Labour: An Integrated and Time-Bound Approach – A Guide*, 2001, Pp.48.)

Worst Forms of Child Labour	
Highlights of Convention No. 182 and Recommendations No. 190⁶⁷	
<p style="text-align: center;">The Convention:</p> <ul style="list-style-type: none"> • Covers children under 18; • Requires immediate and effective measures for the prohibition and elimination of the worst forms of child labour as a matter of urgency; • Includes as worst forms of child labour <ul style="list-style-type: none"> - Slavery, forced labour, sale and trafficking of children; forced recruitment of children for use in armed conflict; - Use of children in prostitution, pornography, illicit activities; and, - Hazardous work • Requires effective enforcement measures, including penal and other sanctions; • Requires measures for prevention, removal, rehabilitation and social integration, and access to free basic education; • Requires taking account of the special situation of girls and other children at special risk; • Requires monitoring mechanisms and programmes of action; and • Provides for international cooperation and/or assistance 	<p style="text-align: center;">The Recommendation encourages member states to:</p> <ul style="list-style-type: none"> • Adopt national programmes of action which: <ul style="list-style-type: none"> - Identify and denounce the worst forms of child labour; - Protect the very young, girls, children in hidden work situations and other especially vulnerable children; - Include measures for prevention, removal, rehabilitation and social integration; and - Raise awareness and mobilize society; - Consider given criteria in determining hazardous work; - Establish monitoring mechanisms to ensure effective implementation; - Compile data; - Provide appropriate penalties and remedies; - Designate certain activities as criminal offences; - Consider a wide range of measures aimed at the worst forms of child labour; and - Cooperate with international efforts and enhance cooperation and/or assistance among members.

- A summary of Nepal's legal framework to regulate and eliminate child labour includes:
 - The Constitution of Nepal (1990) allows through Article 11 for the provision of laws to advance the interest of women and children, while Article 20 expressly forbids the trafficking in human beings, slavery, serfdom or forced labour, as well as minors from working in mines, factories and in other hazardous work. Article 26 obliges the state to protect the rights and interests of children, and to protect them from exploitation.
 - The Labour Act (1992) and Labour Regulations (1993) prohibits the employment of a "child" under 14 years and sets terms on the types and conditions of employment of "minors between 14 and 18 years.
 - The Children's Act (1992) and the Children's Rules (1995) are intended to protect children's rights and interests. A "child" is defined as being under the age of 16 years. A child is banned from hazardous work and cannot work at night. Children under 14 years cannot be employed. The Act also established conditions of employment and provides for the establishment of a Central Child Welfare Board and 75 District Child Welfare Boards. Businesses employing children 14 years and over must register the child with the District Child Welfare Board.
 - The Child Labour Prohibition and Regularization Act (1999), which revises certain sections of the Labour Act and Children's Act, gazettes certain occupations and working environments as hazardous and forbids children below the age of 16 from being employed in them. The Act provides heavier penalties for violations.

⁶⁷ Shrestha, B., *Strengthening the Role of International Labour Standards in Selected Developing Member Countries of the Asian Development Bank: Country Report on Child Labour in Nepal*, 2002, Pp.59.

- The Municipality Act (1992), District Development Committee Act (1992), and the Village Development Committee Act (1992) were combined into the Local Self Governance Act in 1997 and devolve a number of child development responsibilities.
- In recent years, there have been several successes in raising the profile of child labour through several key HMG/N policy documents.
 - Ninth National Development Plan makes the elimination of child labour a national priority, as well as targets the determinants of child labour. Several statements are made about the need to eliminate child labour in the context of access to education and labour force skills development. It also commented upon the need to enforce existing laws, improve local labour administration, include the informal sector within the Labour Act, and enforce labour inspection.⁶⁸ It announced the development of a national plan on child labour in order to adopt “...multipurpose strategies of awareness, enhancement, identification of the income growth of parents, direct interference, rehabilitation programme, educational and vocational training...”⁶⁹
 - National Master Plan on Child Labour (2001-2010) comes from the Ninth National Development Plan and is based upon the acceptance that “Among many other aspects, lack of a comprehensive, well coordinated and concerted plan to address the problem of child labour is one of the reasons why the issues have remained ever expanding.”⁷⁰ It commits Nepal to improving existing rules and regulations on child labour and links the elimination of child labour to improved accessibility and relevance of education.⁷¹ Among its strategic themes, these three are particularly relevant to the development of a sound policy framework:
 - *Strengthening the existing law enforcement system such as labour inspection system by linking it to child labour trafficking and inspection.*
 - *Establishing the Ministry of Labour and Transport Management as the nodal ministry for all child labour issues and strengthening the Child Labour Section as the coordinating unit.*
 - *Effective linking of programmes on child labour with other national thrusts such as poverty reduction and child development programmes.*⁷²
 - Poverty Reduction Strategy Paper (PRSP) also places a heavy emphasis on education accessibility. Mentioning the need to implement the Master Plan, it commits itself to three “activities/programs”:

⁶⁸ NPC(HMG/N), *Ninth National Development Plan*, 1998, Pp.477.

⁶⁹ Idem, Pp.481-2.

⁷⁰ MoLTM(HMG/N), *National Master Plan on Child Labour (2001-2010)*, 2001, Part I Pp1.

⁷¹ Idem, Part I Pp.7.

⁷² Idem, Part II Pp.1.

- Develop and implement the Time-Bound Programme, as identified by the 2001 National Stakeholder Consultations.
 - Revise child labour related legislation to ensure conformity with international standards and improve capacity for enforcement.
 - Mobilize district and village governance institutions in the protection of children.⁷³
- A summary of the significant weaknesses of the current policy framework includes:
 - The Labour Act with its focus on the registered enterprise, has no jurisdiction on all unregistered enterprises and business entities of less than ten employees, where most child labourers are situated. This creates a conclusion that children hired outside formal establishments are not covered by the Act. The Labour Act also does not cover children who are “self-employed” and appears to provide for legal child labour for children less than 14 years.
 - A contradiction between the Children’s Act and the Labour Act on the definition of a “child” and the minimum age for entry to hazardous work.
 - Hazardous work is not defined nor is there a mechanism for having a form of work declared hazardous. Also the current laws regarding the age of legal hazardous work are not in line with international commitments in ILO No.182.
 - The penalties for illegal employment of children are small and seldom applied.
 - The Child Labour Prohibition and Regularization Act requirements for a manager to make arrangements for the health and safety of working children are weak.
 - No law requires the provision of education, recreation or nutrition to child workers. No law states that the employment of children brings additional responsibilities to an employer for their well being (e.g. guardianship, educations, nutrition, sleep, etc...).
 - District Child Welfare Boards have no inspection powers and most do not yet exist.
 - Complaints relating to offences under the Labour Act must be filed within 3 months; 12 months for the Children’s Act. This has been shown to be insufficient.
 - The lack of a comprehensive birth and/or citizenship registration system seriously impedes enforcement of the policy framework.⁷⁴ It is also an act of non-compliance with Nepal’s international obligations under Article 7 of the United Nations Convention on the Rights of the Child (i.e. right to be registered, right to a name, and right to a nationality) The current registration rate is approximately 40%.

⁷³ NPC(HMG/N), Concept Paper on PRSP/10th Plan, 2002, Pp.46.

⁷⁴ Lack of a comprehensive birth or citizenship registration system also impedes school registration, particularly for people from marginalized social groups. (Rai, M., *Study of Girls and Children from Disadvantaged Groups and Their Access to Education*, 2002, Pp. 17.)

- There is no consensus on the definition of either child labour or exploitation. The *Report of the Regional Consultative Meeting to Design the Time-Bound Programme to Eliminate the Worst Forms of Child Labour* stated there is a “...need to categorize child labour, since if a child does some work in return for food and education and is not mentally, physically or sexually exploited then it could not be considered child labour. They also emphasized that the intention of employers should be closely examined.”⁷⁵
- Ironically, implementation of the framework could pose a significant dilemma in the absence of social protection and rehabilitation programs for current child labourers. Indeed, should the current framework be applied, current child labourers would be subject to increased hardship and marginalization, resulting in even more vulnerable and exploitative working conditions. Without the capacity to absorb existing child labourers into rehabilitation programs and alternatives, “rescued” child labourers will find themselves, as did the Kamaiyas, vulnerable to further and perhaps worse exploitation.

90. In addition, a lack of attention to programs which mitigate the damaging effects of labour (e.g. nutrition, education, conditions of work, occupational safety) for those children who are now and will likely continue to be child labourers, will also put them at risk.

- The overall policy framework is improving. The relevant international conventions have been ratified and the national policy framework continues to move towards compliance, though there continues to be a need for increased coordination and consistency, and clearer mandates, authorities and accountabilities. Such mandates, authorities and accountabilities also need to be appropriately resourced and publicly supported at a political and senior bureaucratic level. Despite these weaknesses, the development and support of the policy framework is important as “...child labour legislation can be said to clarify society’s value and commitments towards children. Legislation also places the authority of the state behind the protection of children.”⁷⁶

Action Recommendations:

91. There are currently several good analyses of the child labour policy framework. These include the *Strengthening the Role of International Labour Standards in Selected Developing Member Countries of the Asian Development Bank: Country Report on Child Labour in Nepal* (2002), *Review of the Legal Regime and Law Enforcement Measures for the Prevention and Control of the Worst Forms of Child Labour* (2001) and *Child Labour Situation in Nepal: Status Paper* (2002). These documents and others have provided a range of sound recommendations to improve the existing policy framework.

⁷⁵ ILO/IPEC, *Report of the Regional Consultative Meeting to Design the Time-Bound Programme to Eliminate the Worst Forms of Child Labour*, 2001.

⁷⁶ ILO/IPEC, *Review of the Legal Regime and Law Enforcement Measures for the Prevention and Control of the Worst Forms of Child Labour in Nepal*, 2001, Pp.31.

Unfortunately, at this time, HMG/N is not planning to amend any labour legislation relevant to child labour, despite commitments made in the National Master Plan and in the PRSP.

92. The main recommendations from the literature include:

- The need for HMG/N leadership and immediate action on child labour, as well as the development of medium- and long-term programs such as the *Time-Bound Programme*.
- Continued legislative reform and development of the child labour policy framework/action plan. This would include reform and development in the following areas:
 - Consistency of international obligations and national legislation
 - Child trafficking
 - Definition of child labour
 - Minimum age for admission to work
 - Minimum age for admission to hazardous work and definition of hazardous work
 - Legal coverage of child labourers in the informal sector, including the “self-employed”
 - Increased penalties for those found illegally employing child labourers
 - Removal of children from illegal child labour situations
 - Effective complaints system
 - Effective monitoring mechanisms
- The need to publicize child labour laws and work to develop the “legal literacy” of affected communities through (1) publicizing the law, (2) training relevant professional groups, and (3) legal education for children, and communities.⁷⁷
- The need to re-energize District Child Welfare Boards, where the security situation permits.

93. The action recommendations of this paper are listed below:

1. A renewed commitment by “child labour” involved ministries to inter-departmental coordination bodies and the creation of policy review mechanisms that involve civil society stakeholders; the creation of goals for these bodies and the monitoring of these goals. (Short-Term)
2. A commitment by HMG/N to reform of the birth registration system to bring it in compliance with Nepal’s international obligations under Article 7 of the United

⁷⁷ ILO, *Eliminating the Worst Forms of Child Labour: An Integrated and Time-Bound Approach – A Guide*, 2001, Pp.48.

Nations Convention on the Rights of the Child. Specifically, that the birth registration system be simplified and tasked to the Ministry of Health, given the high rate of post-natal examinations and first year inoculations. (Medium-Term)

3. A commitment by the Ministry of Labour and Transport Management to increase the criminal penalties for employers who repeatedly violate child labour laws, including the temporary closing of the enterprises that are repeat offenders. (Medium-Term)
4. A commitment by “child labour” involved ministries to develop, within the policy framework, the special responsibilities of employers of youth, including food/nutrition, sleep, occupational safety, and education. (Medium-Term)
5. A commitment by the Ministry of Labour and Transport Management to regulate labour contractors and criminalize predatory contracting practices, and those contracting practices that engage children. (Medium-Term)

5.3.5 Regulatory Enforcement

Introduction:

94. Successful regulatory enforcement is based upon the strength of the policy and its legal instruments, clarity of authorities, availability of resources, and, most importantly, societal acceptance. Enforcing regulations that criminalize large numbers of people who do not accept the moral authority of a policy will lead to its failure. Enforcement must be coordinated with awareness building and behaviour change.

95. Regulatory enforcement acts at the meso level to regulate the demand for child labour.

Key Factors Affecting Child Labour:

- Non-enforcement of laws and insignificant penalties
- Regulatory enforcement responsibilities not well understood
- Lack of regulatory capacity
- Local/community social service bodies have limited understanding of responsibilities and limited capacity
- Lack of community censure of child labour

Analysis and Findings:

- The largest challenge to the implementation and enforcement of the policy framework is neither the legislation nor the legal apparatus, but the fact that child labour is acceptable to government officials, employers and parents. In addition, the absence of functioning community/meso level organizations such as the District Child Welfare Boards further complicates prevention and enforcement.

“...effective implementation and enforcement should take priority over new legislation and amendments. Clear division of responsibilities, culture of accountability, end of impunity, hassle free and efficient justice systems are

*fundamental prerequisite for effective legal enforcement. There is also a need to utilize the existing law enforcement provision such as labour inspection systems to check/inspect child labour and take necessary action.*⁷⁸

*“...legislation must provide all the necessary mechanisms needed to implement the provisions. As such, it is important that the law clearly states who is responsible for its implementation. ...there are several government ministries who have responsibility for child labour related issues, so it is imperative that it is made clear which one of them must implement which provisions. Implementation includes awareness raising and sensitization. Experience has shown that sensitization of government agencies, courts, law enforcement agencies, etc..., can be extremely effective.”*⁷⁹

- The lack of enforcement staff and resources impedes the enforcement of legislation, as does the absence of rules, investigation procedures and clear legislative authorities.
- There is a need to improve coordination between HNG/N agencies with child labour responsibilities and to develop an understanding of the range of existing legal instruments. There is also a need to improve awareness and competence in the use of the existing child labour laws among law enforcement and judicial bodies.
- Currently, there are no Children’s Courts or special procedures for court cases involving children such as *in camera* sessions. The legislation has only been tested in court on a few occasions with varying results. The average length of a legal decision is 16 months, with child labour cases taking even longer.
- There is a need to develop and integrate protection, removal and rehabilitation activities into enforcement activities. This will require coordination with social protection bodies such as District Child Welfare Committees, which are not currently active.
- Given the problems within the existing policy framework, there still remain opportunities to enforce child labour laws. One method is to be both targeted and public about who will be prosecuted for what crimes, and to use the targeted enforcement as an opportunity for an awareness campaign amongst both employers and the wider public. A second method is to engage in multi-agency harassment of enterprises that are judged violators of child labour laws, to encourage compliance with the law. A third method is the development of a

⁷⁸ MoLTM(HMG/N), *National Master Plan on Child Labour, 2001-2010*, 2001, Part II Pp.4.

⁷⁹ ILO/IPEC, *Review of the Legal Regime and Law Enforcement Measures for the Prevention and Control of the Worst Forms of Child Labour in Nepal*, 2001, Pp.36.

compliance regime to assist violators to enter into compliance with the law through education, advice, and an escalating scale of interventions starting with a warning and ending with criminal charges.

Action Recommendations:

96. There are currently several recommendations that have been made to HMG/N by the donor and Nepali stakeholder communities. These recommendations are extensions of those made on the policy framework and tend to focus on the clarity of the legislation and authorities, as well as the staff and resources needs of enforcement bodies. They include:

- Increased staff and resources for regulatory agencies, including the possible establishment of child labour enforcement officers.
- Development of awareness and knowledge of the policy framework among regulatory bodies, the judiciary and lawyers. This should include work with the various regulatory enforcement bodies to find ways to increase the awareness and acceptance of child labour laws by employers.
- Development of a separate court system for children (including child labourers) with specially trained judges and appropriate procedures.
- Clarification of investigative procedures and regulatory authorities.
- Development of community capacity to prevent and respond to child labour.

97. The action recommendations of this paper are listed below:

1. A commitment of “child labour” involved ministries to work with the various regulatory enforcement bodies to develop short- and medium-term enforcement strategies such as:
 - Enforcement and prosecution targets and targeted enforcement,
 - Compliance regimes,
 - Regulatory harassment, and
 - Supporting public awareness campaigns. (Short- and Medium Term)
2. A commitment of “child labour” involved ministries to work with the various regulatory enforcement bodies to develop innovative ways to extend the existing regulations to cover unregulated enterprises, and other gaps in the legislation. (Short-Term)
3. A commitment of “child labour” involved ministries to extend inspection and/or investigation powers to District Child Welfare Committees, and/or the authority to order regulatory bodies to undertake inspections and investigations. (Medium-Term)

4. A commitment of “child labour” involved ministries to test the efficacy and application of legislation in the courts through the formal sponsoring of test prosecutions. (Short-Term)
5. A commitment by the Ministry of Labour and Transport Management to investigate the possibility of moving the burden of proof and responsibility for child labour from government to employer. As already provided by law through the requirement to register youth employee, force employers to certify that a labourer is not a child. (Medium-Term)
6. A commitment of “child labour” involved ministries to develop the appropriate monitoring systems for the existing child labour laws and their application (e.g. administrative penalties and criminal charges laid, cases prosecuted, and convictions obtained). (Medium-Term).

5.3.6 Societal Acceptance of Child Labour

Introduction:

98. Societal acceptance of child labour undermines all elimination efforts, whether it comes from the vulnerable households supplying child labourers, employers exploiting this vulnerability, or from a society that accepts child labour as necessary or unavoidable, or are deluded into the belief that it is beneficial or charitable. This lack of social censure permits the supply to exist and justifies the demand. It operates at the level of the individual decision to supply and employ a child labourer, and at the level of the broader society.

Key Factors Affecting Child Labour:

- Wide social acceptance of child labour as benevolent or unavoidable
- Lack of leadership from Nepali elites
- Economic and social realities of Nepal
- Child Labour an established and successful strategy for income generation and diversification and vulnerability reduction
- Education is not an actual or perceived alternative to child labour
- Culturally acceptable “rites of passage” to adulthood
- Lack of appreciation of the rights of the child and the duties of parents
- Lack of community censure

Analysis and Findings:

- Social acceptance of child labour is a macro level determinant, which creates an enabling environment, allowing the micro level relationships between suppliers and employers to occur, unobstructed by social norms or community censure. As discussed earlier, the elimination of child labour is based upon three components: shared norms, enlightened self-interest, and state coercion. If a society accepts

child labour, no legal system will be effective as whatever laws do exist, will be neither applied nor obeyed.

- There is considerable empirical evidence that many political, bureaucratic and non-governmental elites employ domestic child labourers (or have employed bonded child labourers). Some of the literature reports accusations of political and bureaucratic interference with the implementation of child labour laws, including trafficking.

99. The existence or the perception of the existence of domestic child labourers in the homes of political and bureaucratic elites will undermine efforts to both enforce the existing laws and develop a social movement against child labour.

- There is also empirical evidence that the employers of child labourers often view the employment of a child as a selfless act that brings benefits to the child. The ILO rapid assessment on domestic child labourers in Kathmandu reported that there was “...a widespread perception among the employers that they are benefactors, securing a better future for the (domestic child labourer). On all (domestic child labourer) households researched, the employers would tell the same story of how a child, lost and found, has now obtained a better life.”⁸⁰ In a recent *Himal South Asia*, this inability of the South Asian middle class to accept the reality and “moral paradox” of their employment relationships with children was described in the following way “*Child labour... is not the consumption of labour by the affluent but an act of magnanimity to the poor for which they ought to be grateful.*”⁸¹ This perception is in marked contrast to survey data gathered from domestic child labourers in Kathmandu. When asked what reasons they would give to other children for not becoming domestic workers, 68% identified loneliness, 55% identified high workload, and 35% identified bad treatment.⁸²
- A facet of societal acceptance is the acceptance of child labour by child labourers and their families. This is an acceptance of the economic realities of a vulnerable household and a lack of awareness of their rights, as enshrined in Nepali law, and is evident by the role that parents play in delivering children to work sites.⁸³
- At the 1997 International Conference on Child Labour in Oslo, “social mobilization” was proposed as a strategy for the building of a social awareness to combat child labour. Components of an effective social mobilization strategy include:
 - Creating a social alliance of institutional actors.
 - Awareness raising among the public.

⁸⁰ Sharma, S. et al., *Situation of Domestic Child Labourers in Kathmandu: A Rapid Assessment*, No.3, 2001, Pp.9.

⁸¹ Mathew, T., *Liberation of the Child Domestic*, *South Asia Himal*, November 2002, Pp.31.

⁸² Idem, Pp. 25.

⁸³ Shrestha, B., *Strengthening the Role of International Labour Standards in Selected Developing Member Countries of the Asian Development Bank: Country Report on Child Labour in Nepal*, 2002, Pp.39.

- Obtaining commitments of policy makers and opinion leaders.
- Empowerment of communities at risk and those directly affected by child labour.⁸⁴

Action Recommendations:

100. There are currently several recommendations that have been made to HMG/N by donors and Nepali stakeholders, focusing mostly on social mobilization activities and including:

- The development and support of an effective social mobilization program on child labour that would (1) build alliances of institutional actors, (2) raise awareness in the general public and those affected by child labour, (3) obtain commitments of support from policy makers and opinion leaders, and (4) empower those affected by child labour.
- A review of the existing Information, Education and Communication (IEC) programs on child labour, to understand the successes, failures and lessons learned. Consideration should be given to narrower targeting of the programs.
- Development of IEC programs for communities on child labour and the benefits of education. The programs should be developed in coordination with the improvement of the “supply” of education to communities. Consideration should be given to IEC programs that can reach out to “easy to reach” (urban) child labourers.
- Development of “legal literacy”⁸⁵ among current and potential child labourer, their families and communities. This should be developed in coordination with current education initiatives and should focus on the development of a citizenship curriculum that develops an understanding of the rights and responsibilities of Nepali citizenship.

101. The action recommendations of this paper are listed below:

1. A commitment by HMG/N to develop norms for public service staff on the employment of children, particularly child domestic workers. The creation of these norms should include a complete ban on the new employment of all children under 14 years of age, and the development of criteria for the responsible and humane completion of employment of children under fourteen. Norms for child labourers 14 and over should include:

⁸⁴ In a survey of children in the worst forms of child labour, 61.4% of children were delivered to the work site by parents or relatives. (ILO, *Eliminating the Worst Forms of Child Labour: An Integrated Time-Bound Approach – A Guide*, 2001, Pp.61.)

⁸⁵ ILO, *Eliminating the Worst Forms of Child Labour: An Integrated and Time-Bound Approach – A Guide*, 2001, Pp.48.

- Conditions of work
 - Education
 - Minimum wage and payment of wage
 - Hours and days of work
 - Punishment
 - Family visits
 - Communication of the terms of work to the child and their consent (Short-Term)
2. A commitment by HMG/N to develop the above norms into a mandatory code of conduct for HMG/N public service staff and politicians. The code of conduct would be completed with sanctions, including dismissal, for violations of the code. (Medium-Term)
 3. A commitment by HMG/N, through the Time-Bound Programme to the recruitment of prominent political and civil society “champions” to communicate the need to eliminate the worst forms of child labour; commit resources to this IEC campaign. (Medium-Term)
 4. A combined commitment by HMG/N and civil society organizations to sponsor a wider societal discussion on child labour in order to articulate the minimum responsibilities of adults to the children they employ. (Medium-Term)
 5. A commitment by HMG/N to ensure that it employs no child labourers directly or through its contractors, particularly physical infrastructure works. The HMG/N also commits to ensure that none of its suppliers employ directly or indirectly child labour. Such commitments are to become terms of all HMG/N contracts. (Short-Term)

5.3.7 Household Economic, Physical and Social Vulnerability

Introduction:

102. Economic, physical and social vulnerability makes and keeps households poor, deprived of opportunities and marginalized, and is a supplier of children to the market. The civil conflict is also creating increasing levels of household vulnerability and reversing earlier rural development gains.

Key Factors Affecting Child Labour:

- Economic Vulnerability: landlessness; limited access to resources, capital, and markets; few income options
- Physical Vulnerability: physical and climatic disasters; civil conflict; limited access to social and health services, injury and disability; hunger and cold
- Social Vulnerability: exclusion, discrimination and a lack of access due to ethnicity, caste, language and gender; family dysfunction and child abuse

Analysis and Findings:

103. The evidence presented in **Section 4.4: Wider Societal Issues As Determinants of Child Labour**, indicates widespread poverty and vulnerability, including:

- Gross National Product of US\$235 per capita.
 - 42% of the population now lives below the poverty line, increasing from 33% in 1977.
 - Ranking of 129 on the UNDP's Human Development Index.
 - 40% of all Nepali children belong to extremely poor families.
 - Life expectancy of 59.7 years.
 - 41% of the population below 16 years.
 - The population expected to double within 35 years.
 - 48% of all Nepali children under five years underweight.
 - 20% of the entire population does not have access to safe water.
- There is a statistical correlation between household vulnerability and child labour as indicated in the *Bivariate Probit Estimation*:⁸⁶:
 - The probability that a child works and studies increases by 11.5% and the probability that the child does nothing decreases by 10.2% if the household owns land. Similarly, the probability that a child works and studies increases by only 5.6% and the probability that the child does nothing decreases by only 3.5% if the household cultivates land owned by someone else. 50% of the children interviewed in the ILO's rapid assessments on child labour reported that their families were landless and only 5.1% reported that their families owned more than 0.5 hectares. The average national land holding size is 1.09 hectares.⁸⁷ These figures are probably skewed by the inclusion the children of landless bonded labourers.⁸⁸
 - Children from poorer mountainous areas are 21% more likely to work than children from urban or hill areas.
 - Estimates have been made that approximately 30% of child labourers from rural areas have been pushed into the labour market by an immediate household need for income, though it is difficult to establish a direct statistical correlation. Studies also indicate that a lack of money and food were major factors in the decision of children to join the labour force, though work outside the family and community is a recent phenomenon. In addition, the current conflict is

⁸⁶Understanding Children's Work Project, *Bivariate Probit Estimation*, 2002, Pp.3-4.

⁸⁷ Shrestha, B., *Strengthening the Role of International Labour Standards in Selected Developing Member Countries of the Asian Development Bank: Country Report on Child Labour in Nepal*, 2002, Pp.32.

⁸⁸ Agricultural bonded labourers should be included in any calculation of landlessness because their landlessness is the result of a feudal arrangement that has denied them ownership of land that they had worked for generations.

contributing to levels of household vulnerability and the push of adolescent males to urban areas.

- There are also several studies that indicate that girls are more likely to become child labourers, as are children from marginal communities (e.g. caste, ethnicity, language).⁸⁹
- *Hela* and *Dukha* (suffering and a “lack of justice”) are often the household realities described by working children. 75% of child domestic workers reported that the food provided by their employers was better than what they had received at home. 71% reported that their accommodations were better than those they had at home.⁹⁰
- The conditions for economic development have yet to be created in most rural communities, the source of most child labourers. The failure to create the conditions necessary for rural development have been acknowledged by HMG/N⁹¹
- In *Decent Work for Poverty Reduction: An ILO Contribution to the Poverty Reduction Strategy Paper in Nepal*, child labour is discussed as both a cause and result of poverty. “*Poor families send their children to work for household income supplement, which may be critical to ensure family survival. Or parents may want children to work as part of a survival strategy to diversify income sources or to off-set immediate family expenditure. Combined with the high direct costs associated with education in Nepal, child labour then becomes a relevant and valid alternative for poor and illiterate households.*”⁹²

Action Recommendations:

104. There are currently several recommendations that have been made to HMG/N by the donor and Nepali stakeholder communities. These recommendations tend to be limited in number as the response to household vulnerability is usually developed through the responses to the wider determinants of household vulnerability and by extension, child labour. These responses have focused on macro-economic issues, income generation, education, social protection, etc... These have been well developed in the *Poverty Reduction Strategy Paper* and the preparations for the *Tenth Plan*. The recommendations include:

⁸⁹ This statement is qualified with the exceptionally and unexplained high number of Brahmins and Chhetris amongst Kathmandu ragpickers.

⁹⁰ Shrestha, B. and Edmonds, C, *Child Labour Situation in Nepal: Status Paper*, 2002, Pp.24.

⁹¹ Speech by Dr. Narayan Khadka, Vice Chairman of the National Planning Commission. *NPC to give priority to development policy*, *The Himalayan Times*, August 14, 2002, Pp. 4.

⁹² ILO, *Decent Work for Poverty Reduction: An ILO Contribution to the PRSP in Nepal*, 2002.

- Monitor the role of the Tenth National Development Plan in reducing both the number of children entering the labour market and the number of children in the labour market.⁹³
- Focus income generation and poverty reduction programs on regions, communities, and families that are the most at risk for child labour. Monitor the impact of these programs upon child labour rates.
- Pilot social protection programs such as crop insurance, micro-health schemes and disability insurance in order to test their ability to specifically reduce the number of children “pushed” into labour by household income loss or emergency expenses.

105. The action recommendations of this paper are listed below:

1. A commitment by “child labour” involved ministries to evaluate all child labour programs for their contribution to reducing household vulnerability to child labour. A commitment to request that donor funding for child labour be used to test appropriate poverty reduction programmes for effectiveness in eliminating child labour. (Medium-Term)
2. A commitment by “child labour” involved ministries to include child labour in the social analysis of all income generation and poverty reduction programs and measure the ability of these programs to both reduce the number of children entering the labour market and reduce the numbers in the labour market. (Medium-Term)
3. A commitment by HMG/N to better measure child labour from the perspectives of gender, caste, ethnicity, language and household vulnerability. (Medium-Term)

5.3.8 Demand for Child Labour

Introduction:

106. For every child labourer there is an employer. Regardless of whether the employment is benign or the intentions noble, it is the exploitation of a child with limited survival options and continues a system of injustice that drives vulnerable families to pursue child labour. In addition, it perpetuates a low wage, no-skill work force with the resulting long-term costs to the productivity of children and the wider economy. The

⁹³ ILO, *Recent Work for Poverty Reduction: An ILO Contribution to the PRSP in Nepal*, 2002, Pp 22.

Recommendation 7: *Develop a national strategy for extending social protection to the poor and excluded, particularly women. Priority could be given to identify ways to provide access to better health care (including HIV/AIDS), life insurance, maternity protection, livestock insurance, etc... through micro-insurance schemes and related community-based mechanisms.*

Recommendation 8: *Bring draft of updated Social Security Bill before Parliament... and strengthen support to the most vulnerable members of society through an increase in allocation to the national social assistance scheme.*

willingness to employ children creates a demand for them. At the micro level, it is the direct or mediated relationship between a vulnerable household and an employer who exploits this vulnerability.

Key Factors Affecting Child Labour:

- Perceived attractiveness of child labour
- Societal acceptance of child labour
- Demand for special characteristics of child labour: virginity, STD-free, size, less aware of rights, more malleable for criminal activities, etc...
- Weak laws, limited prosecution and small penalties

Analysis and Findings:

- There is a perception of attractiveness of child labour by some employers. This perceived attractiveness is based upon a number of factors particular to children:
 - Physical size permits certain tasks (i.e. “Nimble Fingers”: mining, carpet making)
 - Easily intimidated or coerced; little knowledge of their human rights
 - Eager to please and uncomplaining; unorganized and undemanding
 - Low wage or no wage
 - Virginity and perception of sexually-transmitted disease free
 - Easily convinced to participate in criminal activities
- The majority of paid child labour, including those in the worst forms of child labour, is concentrated in the unregulated informal sector. This sector is one whose competitive advantages are low wage rates, low skill, and low investment, and is tolerant of the relative unproductiveness of child labourers. What child labour that does exist in the formal sector tends to be concentrated in “sunset” and non-competitive industries.
- Much of child labour of Nepal seems to be focused in marginal economic activities which do not exist in more developed countries owing to labour saving devices, mechanized processes, strong policy frameworks, wage expectations, or social norms.
- There are limited sanctions for engaging child labour. Knowledge of child labour laws is limited. Penalties are small and successful prosecutions are rare.
- International mechanisms for the elimination of child labour such as sanctions, boycotts and labeling would be ineffective as there are few child workers in Nepal’s export sector.

Action Recommendations:

107. There are currently several recommendations that have been made to HMG/N by the donor and Nepali stakeholder communities. Many of the recommendations are focused on controlling the demand for child labour through an improved **Child Labour**

Policy Framework and strengthened **Regulatory Enforcement**. Other recommendations include:

- Awareness campaigns to develop an understanding of employers of their legal duties to child labourers. Building of networks of enterprises opposed to child labour.
- Development of voluntary codes of conduct with regard to engaging legal youth labour.

108. This document proposes no separate action recommendations of its own for this section.

5.3.9 *Gender-Based Discrimination*

Introduction:

109. Wide spread legal and illegal discrimination against women and girls in issues such as property, inheritance, access to justice, education and health care, all conspire to increase the levels and types of vulnerabilities which create the supply of girls for child labour. It also permits child marriage, limited mobility and control over income, a lack of access to resources, an unequal distribution of household work, drudgery, celebrates boy children at the expense of girls, and offers limited protection from domestic violence. This occurs despite Nepal's ratification of the UN Convention for the Elimination of All Forms of Discrimination Against Women (CEDAW), and the ILO Equal Remunerations Convention (No. 100) and the ILO Discrimination (Employment and Occupation) Convention (No.3).

110. Gender-based discrimination is characterized by both active discrimination against girls at the micro level and societal acceptance of this discrimination at the macro level. It allows girls to be removed from school and become child labourers in larger numbers than boys, and to do so at a younger age, because society places a lower value upon girls.

Key Factors Affecting Child Labour:

- | |
|--|
| <ul style="list-style-type: none"> • Low social position of girls makes them more vulnerable to child labour • Lack of support for girls' education • Reproductive health issues as a factor in child labour • Victims of trafficking for sexual exploitation • Girls are under-represented or inaccurately represented in labour force data due to a lack of appreciation for women's work |
|--|

Analysis and Findings:

- Gender specific issues that have been already been covered in the document include:

- Girls are more likely than boys to not complete their primary education and become involved in child labour, as well as become involved at a significantly younger age.⁹⁴
 - 28.9% of girls in the worst forms of child labour are between five and nine years of age, compared to 16.3% of boys in the same age group.
 - Girls and boys are involved in significantly different types of child labour and that girls face “...*significantly higher levels of discrimination once trapped in the worst forms of child labour.*”⁹⁵
 - The changes in the economic participation rate between 1971 and 2001 suggests a male bias in school enrollment.⁹⁶
 - Only 78 girls attend primary school for every 100 boys.
 - Among *Economically Active Children*, boys predominate over girls, indicating both a stronger tendency for girls to work domestically and a bias amongst parents and statisticians against viewing household work as an economic activity.⁹⁷
 - Adolescent fertility rates remain high, encouraged in part by early marriage. 21% of all girls between the ages of 15 and 19 years are either pregnant or already mothers. The median age of first birth is approximately 20 years.
 - Approximately 12,000 children, mostly girls are trafficked each year from Nepal⁹⁸. It is assumed most girls will become commercial sex workers.
- The National Living Standards Survey indicates that “...*female-headed households and widow-headed households in particular, are more likely to be poor if there is no adult male present.*”⁹⁹ While no statistical data is available, there is a suggestion that the loss of a male earner will increase household poverty and be a “push” factor for child labour.
 - Assessments indicate that girl child labourers are paid less than boys. Among child domestic labourers 50% of girls and only 28% of boys earn less than R4000 a year. Parents collect the wages of 79% of girl domestic workers, compared to the average of 59% for all waged child domestic labourers. A review of the reasons for leaving a job indicates that the largest single reason for girls was harassment.¹⁰⁰ Some sources believe that sexual abuse of female child domestic workers by the male members of the employers’ families is a large hidden issue.
 - In a study carried out for UNICEF, it was found that girl students were generally older than boys and more likely to be removed from school for domestic work;

⁹⁴ Understanding Children’s Work Project, *Bivariate Probit Estimation*, 2002, Pp.3-4.

⁹⁵ Shrestha, B and Edmonds, E., *Child Labour Situation in Nepal: Status Paper*, 2002, Pp.16.

⁹⁶ Central Bureau of Statistics (HMG/N), *Age Specific Participation Rates in Economic Activities in Nepal 1971-2001*, Table 4.46, 2002.

⁹⁷ MoH (HMG/N), *Nepal Demographic and Health Survey 2001*.

⁹⁸ This figure is an estimate as measurement of a criminal activity is difficult. It was developed by KC, Bal Kumar, et al. for the ILO’s *Trafficking in Girls with Special Reference to Prostitution: A Rapid Assessment*, No. 2, 2001.

⁹⁹ NPC(HMG/N), *Concept Paper on PRSP/10th Plan*, 2002, Pp.4.

¹⁰⁰ Shrestha, B., *Strengthening the Role of International Labour Standards in Selected Developing Member Countries of the Asian Development Bank: Country Report on Child Labour in Nepal*, 2002, Pp.41.

that early marriages deterred the education of girls, and that families were less likely to pay for a girl's education. The study also concluded that while education development projects placed a high value on enrolling girls in schools, less effort was spent retaining them, resulting in the lower completion rates of primary and secondary education for girls.¹⁰¹

- For reasons of gender bias or lower visibility, the data tends to often ignore the work of girl labourers. An example is that activity data more often places girls than boys in a category entitled "idle". Any empirical review would call this conclusion into question.
- Programming on child labour, particularly in education and in trafficking, has recognized the special needs of girls and are actively seeking to address them

Action Recommendations:

111. There have been many recommendations made to HMG/N by the donor and Nepali stakeholder communities on the issues of gender and child labour. Many of them are already found within **Section 5.3.2: Education as an Alternative to Child Labour**. For the most part they have focused on the same four issues that are included below:

- Ensure that gender is included as an issue in program design and implementation.
- "Mainstream" gender specific policies through all strategies and activities.
- Develop special programming for girl child labourers and girls at risk of becoming child labourers as need warrants. Create accountability structures for such programming to ensure its success.
- Monitor the impact of programming on girls and develop gender specific indicators for managing performance.

112. This document proposes no separate action recommendations of its own for this section.

5.4 Migration and Trafficking of Child Labour

Introduction:

113. Migration and trafficking of child labourers are not determinants of child labour but rather processes which move a child from household to the worst forms of child labour. In general, the literature's distinction between these two terms is based upon the

¹⁰¹ Rai, M., *Study of Girls and Children from Disadvantaged Groups and Their Access to Education*, 2002, Pp. 14-5.

idea of informed consent. As children cannot provide informed consent, it is normal to refer to the “trafficking” of children and not their “migration”. The process itself is exploitative, while its most pressing issue in trafficking is the movement of girls into the sex trade.

Key Factors Affecting Child Labour:

- Migration as an established and successful strategy for income generation and diversification and to reduce vulnerability
- Lack of appreciation of the rights of the child and the duties of parents – “commodification” of the child
- “Moral” approach and a policy focus on the end result of trafficking as opposed to the process itself
- Weak laws, limited prosecution and small penalties

Analysis and Findings:

- *“At the core of any trafficking definition must be the recognition that trafficking is never consensual. It is the non-consensual nature of trafficking that distinguishes it from other forms of migration. The lack of informed consent must not be confused with the illegality of certain forms of migration – all illegal migration is not trafficking.”*¹⁰²
- The data on migration and trafficking shows, as mentioned, approximately 8% of children between the ages of five and fourteen are migrant workers, while four out of five children trapped in the worst forms of child labour have migrated to the work site.¹⁰³ It is also known that families play a large role in the movement of children to work. Approximately 12,000 children, mostly girls are trafficked each year from Nepal¹⁰⁴, mostly, it is assumed to become commercial sex workers. Girls and women who are trafficked to India for sex work report significantly higher rates of HIV infection, though a causal link between HIV/AIDS and trafficking has yet to be established.
- Nepal’s commitments under Article 3 of the ILO Worst Forms of Child Labour Convention (No.182) expressly commit it to eliminating:
 - All forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and serfdom, and forced or compulsory labour;
 - The use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances;
 - Illicit activities, such as trafficking of drugs; and

¹⁰² *Trafficking in Nepal: An Assessment of Policies and Legislative Measures for Prevention and Control of Trafficking in Nepal*, 2000, Pp. 7.

¹⁰³ MoLTM(HMG/N) and ILO/IPEC, *Project Document on the Time-Bound Programme on the Elimination of the Worst Forms of Child Labour*, 2002, Pp. 13-15.

¹⁰⁴ This figure is an estimate as exact measurement of a criminal activity is difficult. It was developed by KC, Bal Kumar, et al. for the ILO’s *Trafficking in Girls with Special Reference to Prostitution: a Rapid Assessment*,(No.2, 2001).

- Work that harms the health, safety or morals of children.¹⁰⁵
- Other international anti-trafficking instruments include the UN Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others, UN Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), UN Convention on the Rights of the Child, and the UN Convention against Trans-national Organized Crime and the attached UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children. Regional anti-trafficking instruments include the SAARC Convention on Regional Arrangements for Child Welfare in South Asia, Colombo Resolution, Regional Fund for Rehabilitation of Victims of Trafficking in Women and Children for Prostitution, and the Rawalpindi Resolution.
- While much of the literature argues for a greater emphasis on controlling the mechanisms, which traffic children within Nepal, current laws have tended to focus on prostitution (result of trafficking) and not trafficking (the process). This has resulted in the criminalization and the marginalization of the victims and not the traffickers. This, in addition to a “moralistic” approach, increases the vulnerability of the victims.

114. Current laws define a range of “moral” offences as trafficking, including rape, child sexual abuse, pornography, kidnapping, trafficking and prostitution. The focus on “morality” and the conflation of unrelated offences has caused confusion. The laws also do not accept consent in migration and do not distinguish between adults and children.

115. *“Consistent with international commitments, HMG(N) should ensure that anti-trafficking interventions do not subject trafficked persons to discriminatory treatment in law and practice.”*¹⁰⁶ Current policies under discussion will subject victims to punitive measures.

- The rapid assessment on trafficking described concerns with the enforcement of laws on trafficking including a low priority placed on trafficking by police and local government, political interference, low prosecution rates, and limited political commitment.¹⁰⁷
- A focus solely on trafficking as a “border” issue is not practical, given the open border with India. Additionally, discriminating against consensual women migrants will be ineffective in stopping migrants.
- With regard to the adult victims of trafficking, many current anti-trafficking programs have been accused of paternalism and ineffectiveness.

¹⁰⁵ KC, Bal Kumar et al., *Trafficking in Girls with Special Reference to Prostitution: A Rapid Assessment, No.2*, 2001, Pp.5.

¹⁰⁶ Idem, Pp. 5.

¹⁰⁷ Idem, Pp.37-8.

Action Recommendations:

116. There have been many recommendations made to HMG/N by the donor and Nepali stakeholder communities on the issues of migration and trafficking. For the most part they have focused on the issues that are included below:

- The policy, legal and regulatory framework must:
 - Fulfill its international commitments to create a policy and legal framework that does not discriminate against or marginalize women.
 - Move from a focus on the victims and results of trafficking, to one on the traffickers. This includes that prostitutes are not further criminalized and marginalized.
 - Ensure that consensual women migrants are not discriminated against.
 - Distinguish between adults and children on the issue of informed consent.
- Programs should make a philosophical shift from only rescue, repatriation and rehabilitation to one that includes the promotion and protection of the human rights of trafficking victims and creates opportunities for sustainable incomes.
- Develop social mobilization programs against trafficking, particularly for the purposes of prostitution. Involve local bodies in the community-level prevention of prostitution.
- Support HMG/N to take an active role in the protection of Nepali citizens trafficked to neighbouring states and in developing transboundary cooperation mechanisms.

117. This document proposes no separate action recommendations of its own for this section.

5.5 Donors and Civil Society Stakeholders: Comments and Recommendations

Introduction:

118. There is a general need to both coordinate donor activities and to focus funding less on the symptoms of child labour and more on its determinants. This includes the development of community capacity to prevent and deal with child labour. The framework of the Time-Bound Programme allows for this and should be applied to all child labour funding in Nepal, while allowing individual donors the freedom to chose their type and method of intervention.

Key Factors Affecting Child Labour:

- General need for donor coordination and to focus funding more on the determinants of child labour
- HMG/N policy inaction: analysis and response required
- Child labour needs to be mainstreamed and institutionalized into programming and organizational cultures
- Fragmented child labour stakeholder community

Analysis and Findings:

- Given the volume of child labour policy research and the concomitant lack of policy action, it is important to question why, when so much is known, so little progress is being made.

119. HMG/N accountability in implementing donor and stakeholder recommendations will require HMG/N's active participation and donor follow-on efforts. This thought should be considered with particular reference to the volume of research data and reports produced. Do they have an end user in mind? Is there active participation of HMG/N in its creation and validation? Is there a commitment from HMG/N and the funding body to implement any recommendations?

120. The focus of future policy research should be moved from research on the state of child labour in Nepal to applied research to evaluate policy implementation.

- Following the lead of the World Bank, there is a need to institutionalize and mainstream child labour issues in donor programming. This can be done through the inclusion of child labour as a factor in all project social analyses, commitments to ensuring projects do not become either *supply/push* or *demand/pull* factors for child labour, commitments to ensuring that no children are employed in project work (i.e. this is particularly important for infrastructure projects), organizational audits, and sensitization training.
- There is a need for donors and NGO stakeholders to take an unambiguous position on child labour through their internal human resource, programming and procurement policies.
- The NGO stakeholders appear to be fragmented and unable to develop a coordinate approach on child labour issues. There also appears to be considerable unproductive competition within this "community".
- There is a growing need to focus on children, particularly adolescent males, who have been forced from their rural communities by the security situation. These children are vulnerable to recruitment into the worst forms of child labour. Consideration should be given to emergency interventions for these internally displaced children.
- The yet to be released World Bank *South Asia Regional Social Protection Strategy*, represents a possible opportunity to deal with the vulnerabilities which underlie child labour.

Action Recommendations:

121. The Nepal child labour *Body of Knowledge* offers little in the way of reflection on the work of donors and their partners. What work has been done is contained mostly in the ILO's *Working for Nepalese Children: An Overview of Child Labour Related Programmes*. The following recommendations have been developed through an analysis of the *Body of the Knowledge* and discussions with the UCW Nepal Working Group and stakeholders.

1. The cooperating agencies of the UCW Nepal Project and the Time-Bound Programme should commit to ensuring that more child labour programming is devoted to reducing household vulnerability through income generation, wealth distribution and social protection, particularly in the most impoverished and remote regions of Nepal, which are the major suppliers of child labour. They should also continue to commit themselves to encouraging the “mainstreaming” of child labour in all donor-funded program development.
2. The cooperating agencies of the UCW Nepal Project and the Time-Bound Programme should commit themselves to improving coordination and information sharing, as well as the dissemination of this information to stakeholders. These agencies should also commit themselves to re-invigorating existing donor, civil society and government child labour coordination bodies.
3. It is recommended that donors develop appropriate emergency interventions for children displaced by the conflict and at risk of involvement in the worst forms of child labour.
4. It is recommended that a dialogue between donors and HMG/N be undertaken on the causes of inaction by the relevant authorities and developing approaches that develop HMG/N ownership of the entire policy process, as well as its capacity for implementation and monitoring, and action research on policy implementation. Donors should commit to the development of reports and recommendations that are resourced for implementation
5. It is recommended that donors commit to ensure that child labour be a factor for consideration when giving macro-economic, agricultural, industrial and labour market policy recommendations to HMG/N. Specifically, to consider what are the short-term impacts on child workers and on children at risk of becoming child workers. Should there be short-term negative impacts that the donors commit to supporting or seeking support for programs that mitigate the impact on existing child workers and children at risk of becoming child workers.
6. Donors and the NGO community should commit to develop norms amongst their staff on the employment of children, particularly child domestic workers. The creation of these norms should include a complete ban on the new employment of all children under 14 years of age, and the development of criteria for the responsible and humane completion of employment of children under fourteen. Norms for child domestic employees 14 and over should include:

- Conditions of work
 - Education
 - Minimum wage and payment of wage
 - Hours and days of work
 - Punishment
 - Family visits
 - Communication of the terms of work to the child and their consent (Short-Term)
7. Donors and the NGO community should commit itself to develop the above norms into a mandatory code of conduct as quickly as possible. The code of conduct would be completed with sanctions, including dismissal, for violations of the code. (Short-Term).
 8. Donors and the NGO community should commit itself to ensure that it employs no child labourers directly or through its contractors, particularly physical infrastructure works. They should also commit to ensure that none of its suppliers directly or indirectly employs child labour. Such commitments are to become terms for contracts let by donors and the NGO community. (Short-Term).
 9. The UCW Nepal Project cooperating agencies and the Time-Bound Programme develop a strategy for the possible application of the World Bank's draft South Asia Regional Social Protection Strategy to ensure synergy with existing efforts and to push for any future programming in areas where child labour determinants require additional support.

6. CONCLUSIONS

122. The report, *Child Labour in Nepal: Understanding and Confronting its Determinants*, has attempted to analyze a range of child labour determinants and responses in Nepal. For the most part, the determinants facing His Majesty's Government of Nepal are vast and societal, dealing with issues of poverty, education, social protection, labour market structure, and societal acceptance. Likewise, the recommended responses from donors and Nepali civil society have also been large, as well as long-term and costly.

123. Any review of child labour in Nepal brings one back to the reality that it perseveres not only because of the conditions which encourage its existence but also because of wide societal acceptance. It is also clear that incremental improvements in the policy and regulatory framework and increased resources for enforcement agencies will be of limited value in the absence of a commitment to enforce the existing framework or utilize current resources. The empirical evidence would also indicate that despite many official expressions of concern, policy statements, and plans, there has been little action by government bodies against specific incidences of child labour.

124. Sujeev Shakya in "*The squandering of a promising economy*", commenting on the Tenth Development Plan (2002-2007) writes that "...*plan-making has, in fact, become a way for the government and bureaucrats to show work and movement when in fact nothing is being achieved. The fact is, the process of planning needs to be integrated into the process of implementation...*"¹⁰⁸ Given this, how will government, donors and civil society move beyond statements, policy declarations and localized interventions towards implementation? How will Nepali society integrate child labourers into its "paradigm of moral obligations"?¹⁰⁹

125. This report has attempted to identify low cost and short-term actions that could be taken by HMG/N towards the elimination of child labour. The task now for the government, working with civil society and donors, is to show commitment to the elimination of child labour through the implementation of the existing framework and the use of current resources, as suggested by the suggested action recommendations, or others that HMG/N may identify as more appropriate. The challenge is to act.

¹⁰⁸ Shakya, S., "*The squandering of a promising economy*", *The State of Nepal*, 2002, Pp.185.

¹⁰⁹ Mathew, T., "*Liberation of the Child Domestic*", *South Asia Himal*, November 2002, pp.34.

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