



KidsRights Report

Behind Closed Doors

**Child Domestic Labour, with a focus
on the Kamlari system in Nepal**

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Executive Summary

Behind closed doors, all over the world, there are children as young as five years old working long hours for little or no pay – domestic slaves with no way out. The International Labour Organization estimates that 11.5 million children worldwide are child domestic labourers (ILO, Child Domestic Work: Global estimates 2012, 2013).

There are crucial distinctions between child domestic work and child domestic labour. According to the ILO, work becomes unacceptable and is classified as labour when the child is under the age of 12; or under 15 years old and working more than 14 hours a week; or under 18 and working in hazardous conditions or more than 43 hours a week. Many countries still fail to recognise that child domestic work can under these circumstances be classified as child labour.

Child domestic labour breaks numerous internationally-recognised child rights, depriving children of their childhood and their education, and placing them in dangerous and abusive situations. But worse still, in bonded child labour, the child is often a form of payment for a pre-existing family debt, and is not at liberty to leave.

In 2000, Nepal abolished the Kamaiya system of bonded agricultural labour, where families of the low-status Tharu tribe would be put to work to pay the never-ending interest on historical debts. After the abolition of the Kamaiya system came the Kamlari system, where these same families, now homeless and destitute, sold their daughters into domestic service, believing they would have a better life and a good education.

That better life and good education was a fiction peddled by the middlemen who sold the Kamlari girls into a life of servitude. Plan International estimates that “between 10,000 to 12,000 girls are currently working as domestic servants under the Kamlari system”¹, based on a survey from 2011.

These girls are living a life of bonded child domestic labour, working long hours, separated from their families, unable to gain a basic education and subject to all sorts of abuse, or even death.

Despite laws against bonded labour in Nepal, little has been done. Middle and upper class professionals were responsible for eradicating the system, but middle and upper class professionals also happened to be benefiting from it.

In May 2013, campaign groups, including former Kamlari girls themselves, united to carry out a ten-day protest, calling on the Nepalese government for immediate change. They secured a significant number of promises, including an official announcement of the abolition of the Kamlari system on 18 July. That announcement has yet to be followed by legislation, but NGOs are actively rescuing Kamlari girls and accessing resources to support them.

But there is much still to be done in Nepal. Although the state has signed up to key international conventions and has enacted the relevant national laws, the burden of implementation seems to fall to NGOs. The abolition of the Kamlari system remains an aspiration, not yet reinforced with legislation. And impoverished Tharu families still need to be rescued from the desperate circumstances that made the system possible in the first place.

Section 1: Introduction

Child domestic labour occurs all over the world, breaching many child rights. Behind closed doors, it is particularly hard to detect. This report focuses on the Kamlari system in Nepal, which as a system of bonded child domestic labour violates many of the rights enshrined in the Convention on the Rights of the Child (CRC, 1989). The scope and severity of domestic child labour globally are underestimated; it is an area which merits much more scrutiny.

The Kamlari System

The story of the Kamlari system begins with the Kamaiya system. The latter evolved 50 years ago, when disease broke out in the mountains of The Terai, in South West Nepal. The higher caste people were forced down to the plains of the Tharu tribe, an ethnic minority who had survived on the low lands due to their natural resistance to malaria. The Tharu people, by their own admission, soon became easy targets due to illiteracy and a weakness for alcohol. They were cheated out of their land for a bottle of alcohol, a few thousand rupees or a farm animal. Thereafter, they became sharecroppers, forced to work the land that they no longer owned nor earned money from. This system of bonded agriculture was called the Kamaiya system², a term which also came to describe the labourers themselves (Chaudhary, 2011).

Making little or no money, the Tharu were forced to borrow money from their landowners. As debts accumulated, the Tharu's daughters would also become bonded to the landowners to work without pay. In 2000, the Nepalese government officially outlawed the Kamaiya system; all debts were cancelled and the Tharu people freed from their landowners. However they were, as a result, evicted from the land and left with nothing.

Now destitute, parents have resorted to selling their daughters as Kamlaris – bonded female domestic workers. They work for middle- and upperclass families, sometimes for nothing, sometimes for \$25 to \$50, as a one-off payment or annually. Girls as

young as 5 years old are promised a school education and good home care. Their parents sell them on this basis, handing them over to a middleman who will bring them to their new home.

The reality is very different. Kamlari girls are mostly used as slaves; rarely living as part of the family, they sleep on the floor in a separate area such as the kitchen. Fed with leftovers or rotten food, they work up to 14 hours a day. The girls are reported to be beaten, neglected, deprived of medical attention, forbidden to leave the house and are sexually assaulted.³

Domestic and bonded child labour

It is important to recognise the distinction between child domestic work and child domestic labour: domestic work refers in general to work in or for a household, with or without pay.⁴ Domestic labour implies circumstances considered unacceptable by the international community and its laws. According to the International Labour Organization (ILO), child domestic labour constitutes the following:

- I. All children aged 5-11 years engaged in domestic work;
- II. All children aged 12-14 years engaged in domestic work for more than 14 hours per week; and
- III. All children aged 15-17 years engaged in hazardous domestic work which includes working “for long hours” defined for purposes of these estimates as “43 and more hours per week”.

Hazardous domestic work is that “which, by its nature or the circumstances under which it is carried out, is likely to harm the health, safety or morals of children.” (ILO/IPEC, 2012)

Child labour is further described by the ILO as depriving children of their childhood, their potential and their dignity, and harmful to their physical and mental development. It is work that:

- is mentally, physically, socially or morally

dangerous and harmful to children; and

- interferes with their schooling by:
 - depriving them of the opportunity to attend school;
 - obliging them to leave school prematurely; or
 - requiring them to attempt to combine school attendance with excessively long and heavy work. (ILO, 2002)

The terms “work” and “labour” are not always used correctly, creating confusion in this area. The circumstances are crucial to distinguishing between child domestic work and child domestic labour, only the latter being punishable by law. If countries across the world are to understand the nature of child domestic labour and legislate against it, these definitions must be upheld, particularly given that many countries do not currently accept that child domestic work can be classified as child labour (ILO/IPEC, 2012).

In its most extreme forms, child labour involves the enslavement of children, separated from their families, exposed to serious hazards and illnesses, and left to fend for themselves on city streets, often at a very young age. Whether or not particular forms of work can be called child labour depends on the child’s age, the type and hours of work performed, the conditions under which it is performed and the

objectives pursued by individual countries.⁵

Most Kamlari girls are sold by their parents into work, and have no choice. They are prevented from leaving for a certain period of time, and are vulnerable to every type of abuse. Their situation can therefore be described as bonded child labour.

The Human Rights Watch report on bonded child labour (2003)⁶ explains that children can be bonded either individually or as part of a family. The child may be put to work to repay a loan, but the chances are that the child will inherit the debt on the death of their parents. Although situations can vary, according to the report, all bonded child labourers have three things in common: “they are working for nominal wages, in consideration of an advance (loan), and are not free to discontinue their work.” The children often work not to pay off the debt itself, but just the interest. They are prevented from seeking other employment by the threat of calling in the debt, or by physical violence (Human Rights Watch, 2003).

This report will address child domestic labour in the global context of children’s rights, with a case study on the Kamlari system in Nepal. It will examine the legal framework, context, facts and figures and action undertaken at both global and local levels. The report will conclude with recommendations.

Section 2: Child domestic labour from a global perspective

2.1 Legal framework

In 1948 the Universal Declaration of Human Rights was adopted by the United Nations. This declaration, of 30 articles, is committed to protecting and promoting the human rights of every individual. That includes children, who are entitled to enjoy all the rights guaranteed by the various international human rights treaties which have since evolved from the original Declaration.

Although children are covered by these international treaties, the international community recognised the specific need for the protection and promotion of children's rights in 1989, with the Convention on the Rights of the Child (CRC). The CRC applies to all children below the age of 18, and contains 54 articles covering almost all aspects of the life of a child. These articles are grouped in the following three categories:

- Provision: these are the rights to the resources, the skills and services; the “inputs” that are necessary to ensure children's survival, and the development of their full potential;
- Protection: these are the rights to protection from acts of exploitation or abuse, in the main by adults or institutions that threaten their dignity, their survival and their development;
- Participation: these are the rights that provide children with the means by which they can engage in those processes of change that will bring about the realisation of their rights, and prepare them for an active part in society and change.⁷

All States that have ratified the UN Convention on the Rights of the Child are bound to this convention by law. The only States that have not ratified the CRC are The United States of America and Somalia.

Children in domestic labour risk the violation of many of the rights contained in the CRC. These include:

- The right to non-discrimination, on grounds of ethnic or social origin, birth or other status (Article 2);
- The right to be cared for by his or her parents (Article 7);
- The right to preserve identity, nationality, name and family relations (Article 8);
- The right to maintain regular contact with parents if separated from them (Article 9);
- The right to freedom of association (Article 15);
- The right not to be subject to unlawful attacks on her or his honour and reputation (Article 16);
- The right to protection from physical or mental ill-treatment, neglect or exploitation (Article 19);
- The right to benefit from the highest attainable standard of health and access to health care services (Article 24);
- The right of every child to a standard of living adequate for the child's physical, mental, spiritual, moral and social development (Article 27.1);
- The right to education (Article 28);
- The right to rest, leisure, play and recreation (Article 31);
- The right to protection from economic exploitation and from performing any work that interferes with his or her education or is harmful to his or her mental, spiritual or social development (Article 32);
- The right to protection from all forms of sexual exploitation and sexual abuse (Article 34);
- The right to be protected from all other forms of exploitation prejudicial to any aspect of the child's welfare (Article 36);
- The right to protection from cruel or degrading treatment, and arbitrary deprivation of liberty (Article 37).

Child labour also breaks many ILO conventions. The organisation has set specific age barriers, as well as boundaries related to the strain that can be placed on a child. During its 100th session in 2011,

the International Labour Conference adopted The Domestic Workers Convention, setting new standards with Convention No. 189 and Recommendation No. 201. These instruments were designed specifically to protect children in domestic work from child labour, and to ensure that the educational opportunities of any child in legal domestic work are not compromised.

Article 1 of ILO Convention No. 189 (2011) gives the following definition of domestic work:

- (a) The term “domestic work” means work performed in or for a household or households;
- (b) The term “domestic worker” means any person engaged in domestic work within an employment relationship;
- (c) A person who performs domestic work only occasionally or sporadically and not on an occupational basis is not a domestic worker.⁸

Recommendation No. 201 (2011), Article 5, says the following:

- “(1) Taking into account the provisions of the Worst Forms of Child Labour Convention, 1999 (No. 182), and Recommendation (No. 190), members should identify types of domestic work that, by their nature or the circumstances in which they are carried out, are likely to harm the health, safety or morals of children, and should also prohibit and eliminate such child labour.
- (2) When regulating the working and living conditions of domestic workers, members should give special attention to the needs of domestic workers who are under the age of 18 and above the minimum age of employment as defined by national laws and regulations, and take measures to protect them, including by:
- (a) strictly limiting their hours of work to ensure adequate time for rest, education and training, leisure activities and family contacts;
 - (b) prohibiting night work;
 - (c) placing restrictions on work that is excessively demanding, whether physically or psychologically; and
 - (d) establishing or strengthening mechanisms to monitor their working and living conditions.”⁹

According to the ILO, the key Conventions with regard to child labour in domestic work are Convention No. 138 on the Minimum Age, and No. 182 on the Worst Forms of Child Labour. Convention No.138 has been ratified by 156 of the 183 member states, and requires that no children under 12 years should work, under any circumstances.

Children between the ages of 12 and 14 (or until the end of compulsory schooling or below the national minimum age for work, whichever is higher) can be employed in light work that does not interfere with their schooling, for no more than 14 hours per week. Children below 18 must not be employed in hazardous occupations or circumstances.¹⁰

Article 3.a of ILO Convention No.182, Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, was ratified by Nepal in 2002.¹¹ It defines the worst forms of child labour as follows:

- (a) 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, including forced or compulsory recruitment of children for use in armed conflict;
- (b) the use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances;
- (c) the use, procuring or offering of a child for illicit activities, in particular for the production and trafficking of drugs as defined in the relevant international treaties;
- (d) work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children.

Bonded child labour therefore ranks officially among the worst forms of child labour. It is further defined in the Child Workers in Asia Taskforce report, “Understanding Bonded Child Labour in Asia” (2007), as follows:

- “A child (younger than 18 years old, as defined by the United Nations Convention on the Rights of the Child, 1989);
- working against a debt taken by himself/herself or his/her family members or guardians, and/ or working against any social obligation with or without his/her consent;
- under conditions that restrain his/her freedom and development, make him/her vulnerable to physical and other forms of abuse and deprive him/her of his/her rights.”

2.2 Context of child domestic labour

Children who perform domestic work carry out tasks such as cleaning, ironing, cooking, gardening, collecting water, looking after other children and caring for the elderly. Many of these children have little or no access to education.

The large majority of child domestic workers come from poor families in socially excluded environments such as outer city slums, where there is no safety net, and children are sent to work to ease the financial strain at home.

The main reasons for child domestic work are social exclusion and poverty within the family and the community (IPEC, Governance and Tripartism Department & ILO, 2013). The ILO also speaks of push and pull factors. Push factors include “poverty, feminization of domestic work, social exclusion, lack of education, gender and ethnic discrimination, violence suffered by children in their own homes, displacement, rural-urban migration and the loss of parents due to conflict and/or disease.” The pull factors include “increasing social and economic disparities, debt bondage, in addition to the perception that the employer is simply an extended family and therefore offers a protected environment for the child, the increasing need for the women of the household to have a domestic “replacement” which enables more and more women to enter the labour market, and the illusion that domestic service gives child workers an opportunity for education.”¹²

Child domestic workers say that daily discrimination and isolation are the hardest things to bear.

“My punishment was not being able to see my family; they knew my family was my weak point.”
Luis, male, child domestic worker, Pucallpa, Peru

As the existence of domestic labour is very difficult to establish, children in domestic labour are difficult to protect. They are often underpaid and overworked (ILO & IPEC, 2012). And as child domestic workers often can't go to school, they are unable to break the vicious cycle by pursuing alternatives.

“Because my salary was too small, I ended up asking for money advances from my employer. Over the years, I incurred too huge a debt. I could never repay it. So I worked and worked just to be able to get more advances while my debt grew bigger and bigger.”

Anna, former child domestic worker, who entered domestic work at the age of 9, the Philippines

Many child domestic labourers are unable to leave their employer's house or dissolve the contract. The Understanding Bonded Child Labour in Asia report (2007), published by the Child Workers in Asia Task Force on Bonded Labour, explains that not all bonded labour is enforced labour. Bonded labour can result from a contract or an agreement which was consented to. Bonded labour can also be a matter of custom within a community or society.

Children in bonded labour, including bonded domestic labour, experience severe exploitation, and harmful, intense physical labour for long hours. This can result in skeletal problems, deterioration of eyesight, severe fatigue and other problems that can harm their health and development. Diseases and other health problems also occur.

Understanding Bonded Child Labour in Asia also shows that the causes of bonded child labour, as with domestic child labour, are largely social exclusion and poverty. Across the world, those vulnerable to labour exploitation and forced labour include indigenous

and tribal people, and other socially excluded communities like lower castes, religious minorities and the uneducated and illiterate. Poverty is a key feature of bonded labour, which characteristically affects people without assets, who are landless, underpaid and overworked (Stafford, 2007).

2.3 Facts and figures

The 2013 ILO-IPEC report, “Marking Progress Against Child Labour - Global Estimates and Trends 2000-2012”, showed that the number of children in child labour globally has declined from 246 million to 168 million children since 2000. More than half of these children, 85 million, are performing hazardous work (down from 171 million in 2000). Asia and the Pacific still have the largest numbers, with 78 million children; 9.3% of the child population. Sub-Saharan Africa continues to have the highest occurrence of child labour (59 million, over 21%). In Latin-America and the Caribbean, there are 13 million (8.8%) child labourers and in the Middle East and North Africa there are 9.2 million (8.4%).

The agricultural sector remains by far the biggest culprit with regards to child labour (98 million, or 59%), but there are also significant problems in services (54 million) and industry (12 million) – mostly in the informal economy. Child labour among girls has fallen by 40% since 2000, compared to 25% for boys.¹³

According to the ILO report ‘Ending Child Labour in Domestic Work’ “the precise number of child domestic workers worldwide is still not known, because reliable data on this type of activity remain limited” (ILO, 2013: 19). However, it is known that child domestic work and child domestic labour are global problems, not limited to any region. The ILO estimates that in 2012 there were 17.2 million children between the ages of 5-17 years old involved in domestic work. 11.2 million of these children are between 5 and 14 years old.

Estimates show a significant gender difference in child domestic work: girls far outnumber boys. 5.6 million boys aged 5 to 17 years old are involved in domestic work (that constitutes 3.8% of all working

boys), compared with 11.5 million girls in that age range (9.9% of all working girls). This gap increases as the children get older, so that domestic work among 15 to 17 year olds affects 1.8% of all boys who work, and 9.8% of girls who work.

The International Labour Organization estimates that 11.5 million children worldwide are child domestic labourers (ILO, Child Domestic Work: Global estimates 2012, 2013).

These children fall into the following categories:

1. Between 5 and 11 years old and therefore under the minimum age;
2. Between 12 and 14 years old and engaged in domestic work for more than 14 hours per week;
3. Between 15 and 17 years old and engaged in hazardous domestic work for more than 43 hours per week.

In 2012, of the 11.5 million children in domestic labour, 9.5 million were between the ages of 5 and 14 years old, and almost 7.4 million children were younger than 12 years old. Among these children almost one third, 3.7 million children between 5-17 years old, were involved in hazardous work; and a quarter, 930,000 children, were younger than 12 years old (ILO, Child Domestic Work: Global estimates 2012, 2013).

For those children who perform domestic labour in conditions of slavery, it is even harder to form accurate estimates. It is popularly believed that slavery, and therefore child slavery, is a thing of the past. But bonded child labour still exists in many forms and in different sectors, such as agriculture, mining, construction, prostitution, the drugs trade, armed conflict and domestic work.¹⁴ The ILO published its Global Estimate of Forced Labour in 2012, showing that of a global 20.9 million forced labourers, 5.5 million are thought to be children. There are even more in debt bondage and servitude situations, or who are victims of trafficking (ILO & IPEC, 2012).

2.4 Government action and the role of NGOs

The CRC establishes the following duty-bearers for guaranteeing children the enjoyment of their rights:

1. The State (Article 2.2, 3.2 and 37);
2. Parents, legal guardians and individuals legally responsible for children (Article 3.2);
3. Institutions, services and facilities for the care and protection of the child (Article 3.2).

As well as violating human rights, domestic child labour also contradicts the United Nations Millennium Development Goals, specifically Education for All, and Decent Work. The issue requires attention and action on all levels, from government to NGO and society in general. The CRC places the primary responsibility on States to ensure the safety of children in their country, and the implementation of their rights.

“Worldwide, only 10 percent of all domestic workers are covered by general labour legislation to the same extent as other workers, with more than a quarter excluded from national legislation all together.” (IPEC, Governance and Tripartism Department & ILO, 2013.) In many countries, child domestic work as a form of child labour remains unrecognized, but in a number of countries, governments are working to improve the situation of domestic workers. Since the adoption of Convention No. 189 and Recommendation No. 201 (2011), ten countries have integrated new laws or regulations which improve the labour and social rights of domestic workers. These countries are Argentina, Bahrain, Brazil, India, the Philippines, Thailand, Spain, Singapore, Venezuela and Vietnam. Other countries have started legislative and regulatory reforms; among these are: Austria, Chile, Finland, Jamaica, Kuwait, Morocco, Namibia, Paraguay, The United Arab Emirates and the United States.

Ivory Coast, Uruguay and South Africa have implemented a minimum age for admission to domestic work. France and Finland have regulated, by law, the type of “light work” that is permitted for children below the minimum age. And Brazil, Panama, Paraguay, Ivory Coast, Togo and Austria have classified domestic work as hazardous to children,

and have regulated it accordingly. Other countries have limited the working hours of young workers, restricted exceptionally demanding tasks, and required employers to keep a record of employees under the age of 18.

Over the years, the ILO and IPEC have made great efforts to improve awareness of child domestic work, to expand the legal framework and to instigate national action. The ILO works together with all those involved – governments, legislators, representatives of employers’ and workers’ unions, and more.

Community Based Organisations (CBOs) and Non-Governmental Organisations (NGOs) play a key role in identifying and contacting child domestic workers. They are also very important when it comes to addressing the employers and the parents. These organisations provide the short and long-term support and immediate care which the children need. “International NGOs like Human Rights Watch and Anti-Slavery International and international networks such as IRENE (Informal Regional Network) and WIEGO (Women in Informal Employment: Globalizing and Organizing)”, the ILO says, “have contributed significantly to understanding the complex dimension of domestic work in different parts of the world.” These organisations have focused among others on child labour in domestic work, forced labour and human trafficking.

In recent years trade unions around the world have also undertaken action against domestic child labour. Organising themselves locally and globally, they have focused on raising awareness, campaigning, education, counselling, monitoring and legal action. This has resulted in the withdrawal of thousands of children from a life of domestic labour. These children have been sheltered, rehabilitated and socially reintegrated (IPEC, Governance and Tripartism Department & ILO, 2013).

In recent years many organisations across the world have advocated for stronger laws against bonded child labour. Bachpan Bachao Andolan (BBA) and Global March Against Child Labour in India have,

for example, lobbied with their government for years, speaking out at international conferences, to secure stricter laws against (bonded) child labour and for education. Because of their persistence, the Indian government has implemented laws to better

protect children against labour. In the years to come, organisations like BBA will monitor and promote compliance with these, and additional, laws.

Section 3: Child domestic labour from a country perspective: Nepal

3.1 Legal framework

Nepal is signatory to many conventions and acts which protect children from labour, exploitation and abuse. Nepal is signatory to:

- the ILO Worst Forms of Child Labour Convention (No. 182, 1999);
- the ILO Minimum Age Convention (No. 138, 1973);
- the ILO Forced Labour Convention (No. 29, 1930);
- the UN Convention on the Rights of the Child (1989)¹⁵

Nepal is also a signatory to the Slavery Convention of 1926 and the Supplementary Convention of 1956 on Abolition of Slavery, the Slave Trade and Institutions and Practices Similar to Slavery (Shiva, Basnyat & Ganesh, 2001).

The Nepalese government has enacted various pieces of legislation to regulate child labour over the years:

- The Children's Act (1992): this Act serves to protect the rights of Nepalese children and to ensure their physical, mental and intellectual development. The Act includes a number of provisions that focus on child labour and it has recently been amended for extra protection against abuse. This Act defines a child as a person below the age of 16 and further specifies that children under the age of 14 are not allowed to perform labour.
- The Labour Act (1992) and Labour Rules (1993): this Act also includes prohibition on employing children under the age of 14 and on having children under the age of 18 perform hazardous work.
- The Child Labour (Prohibition and Regulation) Act (1999): this Act followed the ratification of the ILO's Minimum Age Convention (No. 138) and it has made significant amendments to the Labour Act of 1992. "The Child Labour Act lists specific occupations as hazardous work and prohibits the use of children below 16 years of age in

such activities. The Act regulates hours of work for children aged 14 - 16 and provides that no child shall be engaged to work during a period from 6 p.m. to 6 a.m. Further, it prohibits the engagement of children below 14 in any kind of employment." (ILO/IPEC) Section 7 expresses the need for a Labour Certificate for those children between 14 and 16 years old who are to be employed. The Certificate is extended by the Labour Office Stations according to the nature of tasks and age, as confirmed by the birth certificate. If a child's age is undefined, it should be determined by a medical doctor. The act specifies a penalty for those who hire children as Kamlari of maximum 1 year imprisonment, or a fine of maximum 50,000 rupees, or both (section 19).¹⁶ Nevertheless, according to the Freed Kamlari Development Forum (FKDF), only 43 men have been fined and no one has been sent to jail, except for seven men convicted of rape.¹⁷

- Bonded Labour Prohibition Act (2002): this Act prohibits bonded labour and frees all bonded labourers, annulling all debts that have come from such arrangements. The act is primarily focused on the elimination of the Kamaiya System. IPEC says that many girl domestic labourers have been freed as a result of the introduction of this Act. In order to accomplish its goals, the government has implemented a Freed Bonded Labourer Rehabilitation and Monitoring Committee, and as a penalty for those who practice bonded labour it sets a fine of 15,000 to 25,000 rupees. In addition to the fine, the offender must provide the victim with a predefined wage for each day of employment as compensation (section 16).¹⁸

"Other legal provisions restricting child labour and trafficking in the country include: the Citizen Rights Act, 1955; the Begging Prohibition Act, 1962; the Prison Act, 1962; the Common Law Code, 1963; the Public Offence and Punishment Act, 1970; the Foreign Employment Act, 1985; the Trafficking Control Act, 1986, and the Drug Trafficking (Control) Act."¹⁹

Recently, the Government of Nepal raised hope that legal action would be taken against those who hire young girls as Kamlaris or bonded servants, by officially announcing on July 18th 2013 the abolition of the Kamlari practice. Although the government's acknowledgement of its responsibility to protect children from the Kamlari practice marks a major breakthrough, there has not since been any further legal development.²⁰

3.2 Context of Nepal

Nepal is located in South Asia, landlocked between China and India. The country is divided into three zones: the Terai (plain) region, the Himalayan region and the mid hill region. The major religions in the country are Hinduism and Buddhism.²¹ In 2011, the country had a population of just over 30 million, including 13 million under 18 years old. 25% of the Nepalese population lives below the poverty line of \$1.25 per day, according to the United Nations Development Programme. In the KidsRights Index, Nepal ranks 129th out of 165 countries on the overall score. The KidsRights Index is a global measurement tool which ranks countries on the basis of their adherence to children's rights. The index is based on five domains which are necessary for the implementation of children's rights: the right to life, health, education, protection and child rights environment.²²

Literacy among 15 to 24 year olds between 2007 and 2011 was 88% for males, and 78% for females. Attendance rates at primary school education were 67% for males and 70% for females.²³

The Kamaiya system, where families worked the land as bonded labourers, was abolished in 2000. Those freed from bonded labour were left with no land to work on, and no other means to support themselves. Before the abolition, it had been common for the women of a bonded family to work within the household of the landowner. After the abolition, this element evolved into the Kamlari system, where the family of a young girl enters into a contract with the employer. This most often takes place during the Maghe Sankranti winter festival in January, when

middlemen come to Tharu villages to negotiate contracts for the new year. Although, in theory the family of a young girl has a choice to enter or not the contract; in practice, they are forced for social economic and other factors to accept it, under any conditions the employer dictates. Kamlari girls can be forced to remain until their employers set them free (Chaudhary, 2011).

The Nepalese government has ignored the existence of the Kamlari system for years, even after the abolition of bonded labour with the end of the Kamaiya system in 2000. Organisations such as the Nepal Youth Foundation, Friends of Needy Children and the Freed Kamlari Development Forum (FKDF), have all filed petitions, campaigned for awareness of the Kamlari system, and called for the girls' freedom.

In early 2013, a Kamlari girl in Kathmandu, Nepal, was reported to have committed suicide by dousing herself in petrol and setting herself on fire. Others say that the 12 year-old was killed by her employers. This incident sparked protests from former Kamlaris and their support organisations, but their demonstrations were met with violence from the police.

Nevertheless, some demands have been met: a committee has been set up to look into cases of disappearance and suspected murder, and compensation has been paid to those families whose daughters were killed during their employment. On 18 July 2013, the government announced the abolition of the Kamlari system.

3.3 Facts and figures

The Nepal Child Labour Report (2011), which draws data from the Nepal Labour Force Survey 2008, shows that there are 7.7 million children in Nepal, of which roughly 3.14 million children aged 5 to 17 work for a living (54% girls, 46% boys). Amongst them are 1.6 million children whose work, by breaking regulations such as the ILO Minimum Age Convention, falls into the category of child labour. 19.7% (621,000) of working children perform

hazardous work, including in agriculture, fishery, manufacturing, mining and household chores. Of the children performing hazardous work, the report estimates that 56.8% attend school and 43.2% do not. Household chores are carried out by some children in hazardous situations, and by many without payment. The percentage of boys carrying out these chores is significantly lower than that of girls. Of the girls who perform household chores, 81.9% do not attend school, whereas only 18.1% of the boys who carry out household chores do not attend school (ILO, Central Bureau of Statistics & Government of Nepal, 2011).

Although, there is no agreement on the exact number of girls working in the Kamalari system and sources mention different numbers, Plan International estimates that “currently between 10,000 to 12,000 girls are working as domestic servants under the Kamalari system”²⁴, based on a survey from 2011.

3.4 Challenges and underlying causes

The Kamalari system is a remnant of the Kamaiya system; it is officially illegal, prohibited by national and international laws on bonded labour, child labour and slavery. So why does it still exist?

As well as being hidden behind closed doors, the crime is favoured by those who are charged with abolishing it. It is generally acknowledged that Kamalari girls' employers belong to the middle and upper classes, so they are being kept as slaves by the very same law enforcers, teachers, and civil servants who are supposed to protect them from such exploitation.

Tharu people, many of whom are ex-Kamaiyas, are accorded a very low status in Nepalese society. The fathers of 20% of Kamalari girls are sharecroppers on the land of the employer (Chaudhary, 2011). Tharu people are often illiterate, very poor and unemployed. Sending their children to work gives them one less mouth to feed, and a little bit of income. The KidsRights Index notes in Domain 5 (Child Rights Environment) the concern of the CRC about discrimination against children from ethnic

minorities in Nepal, urging the State to make sure legislation is upheld.²⁵

Girls can find themselves in the Kamalari system as security on a loan. With no means of income, their parents will take loans, sometimes from former masters, and their daughter is all they have to offer in return. Or, parents will believe false promises of a brighter future for their daughters, often made by the middleman carrying out the negotiations. Research on freed Kamaiyas shows that 90% of all Kamalari are never sent to school, but are put to work for several years instead (Chaudhary, 2011).

3.5 Government action and the role of NGOs

The Kamalari system was officially abolished on 18 July 2013. Until that time, the Nepalese government had passed several anti-child labour laws without specific reference to the Kamalari system, but these remain poorly implemented.

In 2012 the government introduced the Kamalari Education Guidelines, to provide scholarships of education and shelter for freed Kamalaris. However, newspapers reported that only a small percentage of freed Kamalaris actually received the scholarship.²⁶ Manjita Chaudhary, central chairperson of the Freed Kamalari Development Forum, pointed out that many Kamalari girls did not have identification cards, and without these cards could not apply for a scholarship.

In May 2013, The United Committee for the Elimination of Kamalari Practice (UCEKP) led a 10-day protest against the government, along with the former Kamalari girls of the Freed Kamalari Development Forum. The protesters called on the government, with roadblocks, strikes and demonstrations, to acknowledge the existence of the Kamalari system and to act accordingly.

The demonstrations and talks proved productive, and the government promised to free all remaining Kamalaris living in captivity and to rehabilitate them. It also agreed to investigate the disappearance, deaths and pregnancies of Kamalaris; to distribute

ID cards, and to amend the Kamlari Education Guidelines to increase the number of scholarships awarded.²⁷ It allocated approximately 3 million Nepalese rupees (approximately €22,000) to the scholarship fund for 2013.

There are several other organisations in Nepal who fight for the freedom and rehabilitation of Kamlari girls. Youth Foundation Nepal (YFN) runs The Indentured Daughters Program²⁸, which offers families of Kamlari girls a piglet or a goat if they agree to bring their daughter back home. The girls are also given a scholarship for education. YFN says that in 2009, largely due to their lobbying, the government of Nepal has allocated \$1 million each

year for education, vocational training and housing for freed Kamlaris. Since then, they have focussed on creating awareness, empowering rescued girls and helping them to become independent and successful through the organisation of co-ops and other such economically viable options.

Other organisations working to create awareness about the Kamlari system, to free girls and offer them educational opportunities, are the United Committee for the Elimination of Kamlari Practice (UCEKP), Plan International, the Freed Kamlari Development Forum (FKDF), Friends of Needy Children (FNC) and Wombli (fair trade clothing).

Section 4: Conclusions and recommendations

Across the world, 168 million children are victims of child labour, and 85 million of those carry out hazardous work. They are in dire need of greater global awareness and immediate action.

Child domestic labourers are subject to several forms of abuse and prevented from attending school, depriving them of any chance of a brighter future. Due to limited reliable data on child domestic labourers, the precise number of children working under these conditions remains unknown.

Since the abolition of the Nepalese Kamaiya system in 2000, along with any other form of slavery or debt related employment, the Kamlari system increased its grip until the demonstrations of last year. Girls as young as 5 years old are forced to suffer hazardous labour, humiliation, discrimination, and mental, physical and sexual abuse for years. The poverty of the Tharu people is a key contributory factor, along with the fact that those who are charged with eradicating the practice include those who wish to perpetuate it for their own gain.

The UCEKP and the FKDF proved that change is possible and that society can, if united, influence the government. However, despite the abolition of the Kamlari system in 2013, there are still girls living and working as household slaves, unable to go to school. Only the government and its institutions can act through legislation to properly eradicate the system; and NGOs, the CRC Committee and civil society must hold it to account.

Global Recommendations:

- New statistical tools and data collection methods need to be developed to support awareness, policy formation, and national, regional and international action.
- More accurate monitoring is required of child domestic workers and labourers.
- The minimum working age for children must be upheld and a strong legal framework for child domestic work implemented.
- National governments must establish clear principles and priorities for the elimination of child domestic labour.

Recommendations for Nepal:

- Government legislation must be upheld and enforced into practice. The official prohibition of the Kamlari system must be enacted in legislation.
- Employers of Kamlari girls must be tried by law for their offence. This enforcement needs to be indifferent to caste, stature, wealth and position in society.
- The government must ensure that families have an alternative means of income, so that they don't have to sell their daughters into work.
- All remaining Kamlari girls must be rescued and given access to the scholarship which has been promised them.
- Families must be educated on the consequences of allowing their daughters to work as a Kamlari, and on the benefits of schooling.

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