



Segregating education, discriminating against girls: privatisation and the right to education in Nepal

Parallel Report submitted by the National Campaign for Education-Nepal, the Global Initiative for Economic, Social and Cultural Rights, the Sciences Po law school Clinic, and partners, on the occasion of the Universal Periodic Review (UPR) of Nepal during the 23rd session of the UPR Working Group

The main organisations submitting this report are:

- **The Global Initiative for Economic, Social and Cultural Rights (GI-ESCR)**, which is an international non-governmental human rights organisation which seeks to advance the realisation of economic, social and cultural rights throughout the world, tackling the endemic problem of global poverty through a human rights lens. It was established and it is in consultative status with the United Nations Economic and Social Council (ECOSOC). See more on <http://globalinitiative-escr.org/>.
- **The National Campaign for Education-Nepal (NCE-Nepal)** is a national level network of 286 members working for rights to education in Nepal. Its members include I/NGOs, teacher organizations, education journalists and community based organizations. It was established as a national chapter of Global Campaign for Education Nepal (GCE Nepal) in 2003 and it was registered as National Campaign for Education Nepal in 2009. It focuses for evidence based policy advocacy to ensure the equitable quality inclusive education for all children. See more on <http://ncenepal.org.np/>.
- **The Sciences Po law school Clinic** is an educational program articulated around the mission of public interest within local, national, and global communities – in which it is inscribed in the Sciences Po Law School project. The Clinic conducts integrated scientific research, founded on a systematic documentation and on theoretical analysis. See more on <http://www.sciencespo.fr/ecole-de-droit/en/content/clinic>.

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I. Introduction

1. This report shows that the current organisation of education system in Nepal, in particular a high level of unregulated private involvement in education, is creating and entrenching **segregation in education**. As pointed out recently by the UN Committee on the Rights of the Child, such segregation in itself constitutes a human rights violation and need to be ended.¹ Is also the source of additional other human rights abuses, including **discrimination on the grounds of socio-economic background, gender and race, the limitation of the right to free quality education, and the lowering of education quality**. This situation is extremely problematic due to the immediate human rights violations it is causing, but also because the injustices it generates contribute to **threatening the fragile social cohesion and peace that exist in Nepal**. If the situation remains the same, experience shows that the education system is bound to generate instability and protests in an already unstable country that is slowly trying to recover from conflict.

II. Follow up to the previous sessions

2. In the 2011 Universal Periodic Review (UPR) report, several countries recommended that Nepal focus on the inclusion of most marginalised social groups in society, especially through

¹ CRC, CRC/C/CHL/Q/4-5, para. 14.

education. Slovakia (paragraph 108.34) stated that Nepal should “[c]ontinue pursuing appropriate, efficient, inclusive educational policies to provide for free and compulsory education to all segments of its society, including marginalized, disadvantaged - and thus most vulnerable – groups.” It was also recommended that Nepal “[p]ay special attention to helping Dalit children, girls, and children belonging to ethnic minorities to complete their education cycle” (Finland, paragraph 108.35).

3. Other recommendations include the suggestion that Nepal improve access to education, and the importance of eliminating fees for this purpose was highlighted. Turkey recommended to “ensure that education is free and compulsory, with special focus on the enrolment of girls in schools” (paragraph 108.33) and Norway to “continue efforts to ensure that primary education becomes free and compulsory for all children” (paragraph 106.52). Nepal accepted all of these recommendations and recognised the necessity to implement them (except for the Turkish one on which Nepal’s answer was unclear).
4. **Despite these recommendations, the situation has not significantly improved with regards to access to free quality education, in particular for the most marginalised groups.** Rather, the growth of unregulated private education supported by the State of Nepal threatens access to education for girls and children from socioeconomically disadvantaged backgrounds and is a cause of discrimination with regards to access to, and participation in, quality education.

III. The education system in Nepal

5. According to 2014 official statistics, community (public) schools represent 84.1% of all schools, and private schools account for 15.9% of the total.² The number of private schools is however underestimated, due to the present of unregistered private schools that are not accounted for. The 2010/2011 Living Standard Survey shows for instance that 27% of children attend private schools.³ Overall statistics also mask high disparities between urban areas, where 56% in average, and up to 80% of children are enrolled in private schools, and rural areas where 20% of children attend private educational institutions.⁴
6. Whether taking the official statistics or the Living Standards Survey, the proportion of children enrolled in private schools has grown tremendously in the last twenty years (see Figure 1). The gap between the figures from the Living Standards Survey and official statistics also tends to increase over time, which suggests that a large part of the recently created private schools are unregistered.

² Ministry of Education, “Nepal Education in figures 2014 At-a-glance”, 2014.

http://moe.gov.np/SoftAdmin/content/Nepal_Education_Figure_2014.pdfhttp://moe.gov.np/SoftAdmin/content/Nepal_Education_Figure_2014.pdf

³ Central Bureau of Statistics, National Planning Commission Secretariat, Government of Nepal, Nepal *Living Standards Survey 2010/11, Statistical Report, Volume one*, November 2011, p. 99.

⁴ *Ibid.*

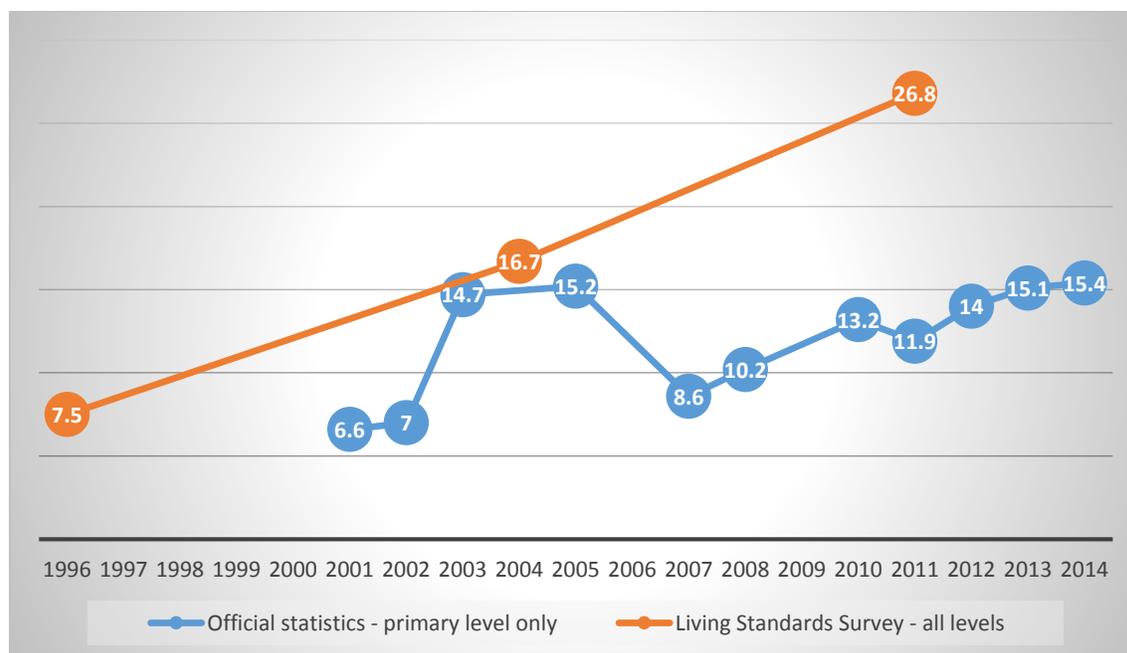


Figure 1 - Percentage of children attending private school, both sex, according to official statistics (UNESCO, primary level) and the Living Standard Survey (all levels)

Source: Central Bureau of Statistics, National Planning Commission Secretariat, Government of Nepal, Nepal Living Standards Survey 2010/11, Statistical Report, Volume one, November 2011, p. 84, and <http://data.uis.unesco.org/>.⁵

IV. The normative framework on the right to education and education policies in Nepal

7. The right to education is protected by the Interim Constitution of Nepal of 2007. Article 17 of the Constitution guarantees that “[e]very citizen shall have the right to free education from the State up to secondary level”. The constitution also provides for the “right to equality” at article 13.
8. Education is regulated by the Education Act, 2028 (1971), which has been amended seven times. The 1981 Education Regulation allowed for the establishment and operation of private and/or boarding schools. The seventh amendment of the Education Act (2002) institutionalised the role of private education. It allows for private schools to register as a trust, either public or private, or as a private company. Most private schools in Nepal are registered as profit-making companies, regulated under the company act.⁶ Education Rules, 2059 (2002) enforce the application of the Education Act, 2028.

⁵ Figures from the Living Standards Survey actually cover two years (e.g. 1995/96), and these figures been approximated to correspond to the second applicable year in this graph.

⁶ Priyadarshani Joshi, "Experiencing Private Sector Competition: The Case of Nepal's Public Schools" The Selected Works of Priyadarshani Joshi (2015), available at: <http://works.bepress.com/pjoshi/4>, p. 9.

9. Following a Supreme Court decision from 23rd May 2012, the Ministry of Education enacted directives to regulate the private educational sector: the Institutional School Criteria and Operation Directives – 2069 BS.
10. The School Sector Reform Plan 2009-2015 articulates education policy direction for the given period. It stipulates, with regards to basic education, that “[l]ocal governments have the authority to encourage private providers through a contractual agreement to deliver such services by providing subsidies, scholarships, or any other appropriate support”.⁷
11. Under international law applicable to Nepal, including the International Covenant on Economic, Social and Cultural Rights and the Convention on the Rights of the Child, State parties have to ensure the provision of compulsory free primary education, and progressively free secondary education.⁸ Equality and non-discrimination is an immediate and crosscutting obligation, which requires States parties to guarantee non-discrimination in the exercise of all human rights, including the right to education.⁹ They must in particular “*adopt an active approach to eliminating systemic discrimination and segregation in practice*”.¹⁰ International law requires States to guarantee that the growth or existence of private education “*does not lead to extreme disparities of educational opportunity for some groups in society*”.¹¹ Such standards were applied for instance with regards to the situation in Morocco. Recent concluding observations from the UN Committee on the Rights of the Child expressed concern that the quick development of private education in Morocco “*has led to the reinforcement of inequalities in the enjoyment of the right to education*”.¹²

V. Segregating effect of the Nepalese education system

12. According to the Education Rules, 2059: “An institutional school shall determine the fees that is permitted to be collected from its students, only after the approval of the prescribed authority. In the course of giving an approval in respect of the determination of the fees, the prescribed authority shall give approval on the basis of the facilities provided by such school to the students.”¹³
13. In law, the maximum fees private schools are allowed to charge is determined by the State, and depends on the category a given school belongs to, which is determined by criteria such as physical facilities, responsibility and transparency, performance and results. In Kathmandu, ‘C’ schools are authorised to charge a maximum of 1,100 Rupees (Rs) at the primary level, Rs 1,250 at the lower secondary level and Rs 1,700 at the higher secondary level. ‘B’ schools can charge up to Rs. 1,375 at the primary level, and ‘A’ schools up to Rs 1,600.

⁷ School Sector Reform Plan 2009-2015, p. 18.

⁸ ICESCR articles 13 and 14; CRC article 28.

⁹ ICESCR, Article 2(2).

¹⁰ CESCR, General Comment 20, para. 39.

¹¹ CESCR, General Comment 13, para. 30.

¹² CRC, *Concluding Observations: Morocco*, CRC/C/MAR/CO/3-4 (2009), para. 60. See more generally e.g. <http://globalinitiative-escr.org/wp-content/uploads/2014/11/101114-ChilereportCESCR-GI-ESCR-privatisationineducation-FINAL.pdf>.

¹³ Para. 16D (5).

14. However, many private schools charge much more than the State-determined fees, due to poor monitoring and regulation of the State¹⁴ – a situation that has been defined as “*tolerated illegality*”.¹⁵ This situation led the Nepali Supreme Court to issue an 11-point verdict on 23 May 2012 ordering private schools to not increase their fees for three years and to not charge any fees without the approval of the government agencies concerned.¹⁶ It also demanded that educational authorities devise reform programmes to better regulate the private school sector. The court considered that the “lack of government control over the education sector has raised serious questions concerning the public’s right to education, employment, social security and the right against exploitation”.¹⁷ Following this court order, the Ministry of Education enacted the Institutional School Criteria and Operation Directives – 2069 BS, to enforce the court order. However, the Private and Boarding Schools’ Organisation of Nepal (PABSON) announced that it would not obey the guidelines,¹⁸ leading to another court case.¹⁹
15. These measures have not prevented private school from raising fees illegally.²⁰ As the Nepali National Planning Commission recognised itself, one of the major problems in the education system in Nepal is the “ineffective regulation of institutional (private) schools”.²¹ As a result, private schools fees can be very high. For instance, at Little Angels’, an average private school in Kathmandu, the costs for two months attendance for a primary level pupil amounts to Rs 7,417 (see Figure 2), equal to approximately Rs 3,700 per month – without taking into account the inscription and other annual fixed fees. These figures are common for this type of school. As a comparison, the monthly minimum wage in Nepal, which is “barely sufficient to meet subsistence needs” is Rs 8,000 (approx. \$80 USD).²²

¹⁴ Subedi, Govinda, Shrestha, Mandan Gopal, Suvedi, Mukti, *op. cit.*, p. 132.

¹⁵ Chandra Sharma Poudyal, “Nepali private schools and tolerated Illegality”, *Setopati*, available on <http://setopati.net/opinion/1792/>.

¹⁶ <http://www.openequalfree.org/archives/ed-news/nepali-private-schools-banned-from-raising-fees>.

¹⁷ Nabin Khatiwada, “SC stays school fee hike”, *Republica*, 19 March 2014, available on http://www.myrepublica.com/portal/index.php?action=news_details&news_id=71280.

¹⁸ See e.g. “Under fire PABSON defies MoE guidelines”, *Republica*, 12 March 2013, available on <http://www.educatenepal.com/news/detail/under-fire-pabson-defies-moe-guidelines>; “Private school operators defend tuition fee hike”, *The Kathmandu Post*, 10 May 2014, available on <http://www.educatenepal.com/news/detail/private-school-operators-defend-tuition-fee-hike>.

¹⁹ “PIL filed at SC to stop school fee hike”, *Republica*, 17 March 2014, available on http://www.myrepublica.com/portal/index.php?action=news_details&news_id=71167.

²⁰ Subedi, Govinda, Shrestha, Mandan Gopal, Suvedi, Mukti, *op. cit.*

²¹ Government of Nepal National Planning Commission, “An approach paper to the thirteenth plan (FY 2013/14 – 2015/16) - (unofficial translation)”, July 2013, available on <http://www.npc.gov.np/web/new/uploadedFiles/allFiles/typeng13.pdf>, p. 74.

²² US Department of State, “Country Reports on Human Rights Practices for 2013 - Nepal”, available on <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2013&dldid=220400>

LITTLE ANGELS' SCHOOL		PAN NO: 301308781		
BILL		GPO Box 8322, Hattiban, Lalitpur, NEPA		
NAME		CLASS :	DATE :	
MONTH		A/C NO. :	BILL NO. : 25/10/2071	
S.No.	Fee Descriptions	Non Taxable Fee	Taxable Fee	Total Fee
1	TUITION		6,750.00	6,750.00
2	COMPUTER	300.00		300.00
3	REMEDIATION (FINAL TERM)	300.00		300.00
TOTAL				
Educational Service Tax @ 1%		600.00	6,750.00	7,350.00
NET AMOUNT			67.50	67.50
NET AMOUNT		67.50	67.50	7,417.50

Figure 2 – A two months bill at a middle-fee private schools, 8 February 2015

16. In addition to tuition fees, households have to cover other expenses, such as transportation, lunch or uniforms, which are also considerably higher in private schools as compared to public schools. These costs are essential to take into account as

Private schools hide the true cost of education by lowering tuition fees but increasing other fees like admission fees. They force parents to buy expensive books and uniforms for which the school gets a commission.²³

17. Taken together, household expenditure is eight times higher for attendance to private primary schools compared to public primary schools (respectively Rs 11,164 and 1,332 per year).²⁴

²³Dr AnandJha , “At what cost?- Regulating Private Schools”, *Republica*, 31 march 2013, available on http://www.educatenepal.com/education_issues/display/at-what-cost--regulating-private-schools

²⁴ Subedi, Govinda, Shrestha, Mandan Gopal, Suvedi, Mukti, *op. cit.*, p. 127-128.

Description	Primary		Lower secondary		Secondary	
	Public	Private	Public	Private	Public	Private
Monthly fee	116	4,841	235	7,985	554	10,640
Exam and admission fees	119	1,469	324	2,369	795	4,901
Uniform	342	936	546	1,135	675	1,131
Textbooks and other	379	1,704	766	2,346	1,424	2,582
Transportation	7	371	7	611	28	1,008
Tuition/coaching	84	367	152	756	882	2,353
Tiffin	286	1,477	475	2,065	1,029	2,521
Total	1,332	11,164	2,504	17,267	5,387	25,134
Percentage higher for private schools compared to public schools		8.4		6.9		4.7

Figure 3 - Per capita annual education expenditure by level of education, Nepal (in Nepali rupees).

Source: raw data from the Nepal Living Standards Survey 2010/11, quoted in G. Subedi, M.G. Shrestha, M. Suvedi, "Dimensions and implications of Privatisation of Education in Nepal: the case of primary and secondary schools", in Ian Macpherson, Susan Robertson and Geoffrey Walford (eds.), Education, Privatisation and Social Justice: Case studies from Africa, South Asia and South East Asia (Symposium Books, Oxford, 2014) 113, p. 127.

18. A specific aspect that serves to filter access to private schools is admission fees. Admission fees are important because they are a one-off expense that can deter poor parents to access certain schools, and therefore play a particular role in barring access to private schools for select socio-economic groups. Yet, although the Supreme Court put legal cap on the admission fee at Rs 100 and for admission forms at Rs 25 in its 23 May 2012 ruling, it is not enforced in practice. As, for instance, *The Himalayan Times* reported:

Many schools under the Private and Boarding Schools Organisations Nepal (PABSON) have been charging around Rs 500 for entrance tests, especially for the primary level. Among them are the Hattiban-based Little Angels' School, Dhapakhel-based GEMS School, Lalitpur-based Subhatara School and the Thapagaun-based Pathshala.²⁵

19. Therefore, as a number of studies have shown, "private schooling costs are prohibitive for most of the poor" in Nepal.²⁶ In addition to the cost, other non-financial barriers prevent children from low-income households from attending certain schools. This includes in particular entry processes, which may include parent interviews. In a context where social prestige, closely tied to socio-economic background, plays an influential role in the choice of school, these types of

²⁵ "Private schools fleecing with impunity", *The Himalayan Times*, 16 March 2013, available on <http://www.educatenepal.com/news/detail/private-schools-fleecing-with-impunity>

²⁶ Priyadarshani Joshi, "Experiencing Private Sector Competition: The Case of Nepal's Public Schools", *op. cit.*, p. 9.

entrance requirements create barriers to access particularly for socio-economically and other disadvantaged households.²⁷

20. The result of this organisation of the education system is a highly segregated society according to socio-economic background. In Nepal, children generally attend not only different schools, but also different types of schools, according to their socio-economic background (see Table 1). Almost half of the pupils enrolled in private schools belong to the 20% richest quintile of the population, while 50% of the pupils enrolled in government schools belong to the two poorest quintile of the population.

Consumption Quintile	Community/ Government School/ College	Institutional/ Private School/ College	Other School/ Colleges
Poorest 20%	92.7	6.4	0.9
Second	86.5	11.2	2.3
Third	79.1	19.8	1.1
Fourth	64.3	34.7	1.0
Richest 20%	39.0	60.1	0.9
Average	71.9	26.8	1.2

Table 1 - Type of school attended by individuals currently in school according to their income quintile (figure in red when above the average)

Source: Central Bureau of Statistics, National Planning Commission Secretariat, Government of Nepal, Nepal Living Standards Survey 2010/11, Statistical Report, Volume one, November 2011, p. 99.

21. Such levels of segregation appears to be even higher than that in other highly segregated education systems, such as in Chile (see Table 2), which is the most segregated by socio-economic status amongst the 65 countries assessed by the Organisation for Economic Co-operation and Development (OECD) through the Program for International Student Assessment (PISA). This is not surprising as similar mechanisms are at play in both countries, and researchers have noted that the findings in Nepal “are consistent with the evidence from Chile [...] and New Zealand [...] which suggest that a predominant effect of long-term, unregulated school choice is the stratification of the system”.²⁸

²⁷ Priyadarshani Joshi. "Parent decision-making when selecting schools: The case of Nepal" Prospects” (2014), available at: <http://works.bepress.com/pjoshi/6>.

²⁸ Priyadarshani Joshi, "Competitive Effects (Quality and Sorting) of private competition on public school outcomes" The Selected Works of Priyadarshani Joshi (2014), available at: <http://works.bepress.com/pjoshi/5>, p. 21.

Enrolment, by type of school
(Percentages)

Type of school	Income quintile				
	I	II	III	IV	V
Municipal	42.39	27.60	16.06	10.66	4.24
Private (subsidized)	22.34	22.63	21.26	20.59	13.37
Private (fee-paying)	4.64	4.64	4.49	12.37	75.26

Table 2 - Segregation by socio-economic status according to types of schools in Chile
Source: Drago J.L. and Paredes R.D., "The quality gap in Chile education system", in *Cepal Review No. 104 (2011)*, on the basis of the 2006 National Characterisation Socio-Economic Survey (CASEN) database. See more on <http://bit.ly/ChileCESCR>

22. Moreover, the fees and cost of education can vary widely from one school to another, partly reflecting different levels of quality between schools. Adding to that, while public education is supposed to be free, "public schools typically charge parents an annual fee to supplement inadequate government funding" and "better functioning public schools also charge a quality premium".²⁹ Therefore, the Nepali education creates not only segregation between socio-economic groups, but also segregation within those socio-economic groups that can afford to send their children to fee-paying schools. According to parents, fees in private schools vary widely, from Rs 2,500 to Rs 4,500 per month for average schools, with high-profile schools charging Rs 7,000 to Rs 20,000 per month.³⁰

VI. Effects of segregation on the realisation of human rights

23. In Nepal, instead of being positively supported, the most disadvantaged and vulnerable pupils, including girls and marginalised ethnic groups, are segregated together in different schools from the most advantaged pupils. High level of segregation is itself a human rights violation,³¹ but it also has secondary impacts which are contrary to human rights standards in several regards.

DISCRIMINATES AGAINST PARENTS FROM MARGINALISED SOCIO-ECONOMIC GROUPS WITH REGARDS TO EDUCATIONAL OPPORTUNITIES

24. Segregation reinforces inequalities and is a source of discrimination, as children with less social capital are segregated together, which further negatively affects their chances to fulfil their aspirations.³² In Nepal, irrespective of the inherent quality of different schools, "the existence of a de facto multi-tiered education system [...] means it is not sufficient to be educated – students

²⁹ Priyadarshani Joshi. "Parent decision-making when selecting schools: The case of Nepal" *op. cit.*, p. 11.

³⁰ Nirjana Sharma, "Sway of private schools hard to break", *Republica*, 23 March 2013, available on <https://nirjanasharma.wordpress.com/tag/education-in-nepal/>.

³¹ See above para. 11.

³² See in particular article 29 of the Convention on the Rights of the Child.

*have to be educated in the right place.*³³ Parents try to find their way out of their position in a highly stratified society by making important financial sacrifices,³⁴ often by purchasing what is perceived as the “the right place” – i.e. private schools - of education. Yet, to the disillusion of many, sending a child to a private school is not enough.

*Despite this investment, students’ aspirations are, in the main, not met. Budget private schools, with poor facilities, unqualified and underpaid teachers, are unlikely to provide education which will open the livelihood choices that the marketing efforts of their Principals suggest. The dream of being a doctor or engineer can only be realized by a select few.*³⁵

25. On the other hand, those parents who can afford high-quality, expensive, private schooling, are able to buy their children, amongst other things, good English proficiency, which is considered “simultaneously the key to a better future, an index of social capital, and part of the purchase price for a ticket out of Nepal”.³⁶
26. This situation is exemplified, for instance, by the respective share spent on survival – represented by food – and improving one’s future – which education is a proxy for (see Table 3). The system is such in Nepal that the poorest households have to spend more than 70% of their income on survival – food –, and only 3% on improving their situation – though education -, whereas they need it the most, while the richest 20% of the population is able to spend less than 50% of their income on food, and more than 7% on ensuring their children receive an opportunity at a good life.

Consumption Quintile	Share of income spent on food	Share of income spent on education
Poorest	71.6	3.4
Second	70.2	3.9
Third	66.6	4.6
Fourth	61.3	5.7
Richest	45.8	7.6

Table 3 - Share of the distribution of household income on food and education

Source: Central Bureau of Statistics, National Planning Commission Secretariat, Government of Nepal, Nepal Living Standards Survey 2010/11, Statistical Report, Volume one, November 2011, p. 36.

³³ Martha Caddell, “Private Schools and Political Conflict in Nepal” in Prachi Srivastava and Geoffrey Walford, (eds.), *Private Schooling in Less Economically Developed Countries: Asian and African Perspectives* (Oxford Studies in Comparative Education. Didcot, UK: Symposium, 2007), pp. 187–207.

³⁴ See e.g. Mallika Aryal, “Nepal Scores Low on Quality Education”, Inter Press Service, 9 July 2013, available on <http://www.ipsnews.net/2013/07/nepal-scores-low-on-quality-education/>.

³⁵ Martha Caddell, *op. cit.*.

³⁶ M. Liechty, *Suitably Modern: Making Middle Class Culture in a New Consumer Society*, 2003, (Princeton, N.J., Princeton University Press), p. 213.

DISCRIMINATES ON THE GROUNDS OF GENDER AND RACE

27. Segregation is also a cause for **discrimination on the basis of work and descent (caste)**. 41% of children enrolled in private schools are Brahmin / Chhetri, the most advantaged ethnic group.³⁷

28. Additionally, the Nepali educational system is also **discriminatory against girls**. At the primary and secondary levels, private schools have 57% boys, against 43% girls, whereas public schools have 52% of girls and 48% of boys,³⁸ and it seems to be worsening.³⁹ This is largely due to the fact that because of private schools cost, many families can only send one or some of their children to a private school, and tend to prefer sending their son(s) than their daughter(s), thereby giving more importance to and investing more in the boy than the girl's education.⁴⁰ For instance, the case of this parent that chose a private school for their daughter:

My daughter said, "Put me in a boarding school". I had to explain to her, "What can we do, daughter, this is the difficulty we face. If we had the money we would put you in a boarding school". When we explained all this to her, she said ok. She understood.⁴¹

AFFECTS THE POSSIBILITY OF FREE QUALITY EDUCATION

29. It weakens the public sector, and thus the possibility for a quality, free, option to develop. As the most advantaged parents gravitate to private schools, "*public school officials have to work with an increasing concentration of highly disadvantaged and vulnerable populations that are not able to dedicate as much effort to schooling.*"⁴² As public schools have to educate the most disadvantaged children, they also become "*stigmatised*".⁴³ Over time, many private school parents believe public schools' lack of user fees automatically in itself devalue them in comparison to private schools.⁴⁴ As a parent explained:

We feel embarrassed to send them to the government school... let's say things as they are... people who are of lower status than us—even poor people—are going hungry and sending their children to private schooling.⁴⁵

³⁷ Subedi, Govinda, Shrestha, Mandan Gopal, Suvedi, Mukti, *ibid.*, p. 132.

³⁸ Ministry of Education, "Nepal Education in figures 2014 At-a-glance", 2014, p. 7. See also study on a few schools: Pramod Bhatta, "Public Desire for Private Schooling in Nepal" in Ian Macpherson, Susan Robertson and Geoffrey Walford (eds), *Education, Privatisation and Social Justice: Case studies from Africa, South Asia and South East Asia* (Symposium Books, Oxford, 2014) 113, p. 127.

³⁹ See the *Kantipur Daily* of 16 March 2015 which reports that the number of girls in private schools decreased this year by 3% as compared to last year.

⁴⁰ E.g. Priyadarshani Joshi. "Parent decision-making when selecting schools: The case of Nepal" *op. cit.*; Subedi, Govinda, Shrestha, Mandan Gopal, Suvedi, Mukti, *op. cit.*, p. 132.

⁴¹ Priyadarshani Joshi. "Parent decision-making when selecting schools: The case of Nepal", *op. cit.*, p. 16.

⁴² Priyadarshani Joshi. 2014. "Competitive Effects (Quality and Sorting) of private competition on public school outcomes", *op. cit.*

⁴³ Using the expression from Priyadarshani Joshi. "Parent decision-making when selecting schools: The case of Nepal" *op. cit.*, p. 18.

⁴⁴ *Ibid.*

⁴⁵ *Ibid.*

30. It is important to note that public schools in Nepal face “a serious perception problem that is not entirely based on the academic merits or efforts of individual schools”.⁴⁶ The relative quality of public and private schools is a complex debate, that needs nuance, as there both good and bad private and public schools. The effect of segregation, however, is to create a dynamic that goes beyond an assessment based on relative merit. It does not take into account, for instance, that the share of fully trained teachers is considerably lower in the private (75%) than in the public sector (84%),⁴⁷ while on the other hand, results at national exams only give a very imperfect proxy for quality: “private schools deserve no praise even if 50 percent of their students get first divisions; they have taught their students to do no more than remember”.⁴⁸ In a highly segregated education system such as in Nepal, social prestige or the socio-economic composition of children attending a school become more important criteria of choice than academic achievements.⁴⁹

LOWERS THE QUALITY OF THE OVERALL EDUCATION SYSTEM

31. Segregation lowers the general quality of education. On one hand, it affects privileged children, who miss on an important part of a quality education. As the Kothari Education Commission in India put it, such segregation

is bad not only for the children of the poor but also for the children of the rich and the privileged groups [...] By segregating their children, such privileged parents prevent them from sharing the life and experiences of the children of the poor and coming into contact with the realities of life [...] [and also] render the education of their own children anaemic and incomplete. 50

32. On the other hand, as shown by the OECD, segregation also has negative impact on the overall quality of an education system. The highest performing education systems across OECD countries are those that combine quality with equity.⁵¹

WEAKENS SOCIAL COHESION

33. High social segregation risks creating and entrenching prejudices, stereotypes, and defiance between different groups in society. For instance, in a household survey, 59% of parents believed that the dual schooling system in Nepal was not conducive to the social cohesion of the country.⁵² As summed by a commentator:

The present system therefore produces two classes of citizen who are schooled and prepared very differently and who would perhaps never meet in their youth anywhere except, after their

⁴⁶ *Ibid.*, p. 20.

⁴⁷ Ministry of Education, “Nepal Education in figures 2014 At-a-glance”, 2014, p. 10.

⁴⁸ Sakar Pudasaini & Dipeshwor Man Shrestha, “Assaying the Iron Gate”, *eKantipur.com*, 27 March 2015, available on <http://www.ekantipur.com/2015/03/27/opinion/assaying-the-iron-gate/403309.html>.

⁴⁹ See e.g. Subedi, Govinda, Shrestha, Mandan Gopal, Suvedi, Mukti, *op. cit.*, p. 126; Martha Caddell, *op. cit.*

⁵⁰ India Education Commission, “Education and national development: Report of the education commission, 1964-66 – Volume I”, India ministry of education, National Council of Educational Research and Training (1966), para. 1.37.

⁵¹ OECD, *Equity and Quality in Education: Supporting Disadvantaged Students and Schools*, OECD Publishing (2012).

⁵² Subedi, Govinda, Shrestha, Mandan Gopal, Suvedi, Mukti, *op. cit.*, p. 129.

*graduation, in the work place. The failure of the public education system may have a negative impact on the creation of a national culture and a cohesive society, among other things, which is so important in post-conflict Nepal. It [...] frustrates government plans for social integration and the empowerment of women, Dalits and ethnic groups.*⁵³

VII. Conclusion and recommendations for action by the State

34. The segregation and discrimination engendered by the Nepali education system is both a human rights violation in itself and a source of other human rights breaches. Besides, it also constitutes an additional **threat to peace, in an already unstable country**. This should be taken seriously, in a country where the history of schooling provision [...] since the 1950s “*is one of ongoing tensions and continual reinterpretation of the relative significance of state and non-state actors as education providers*”, and “*a story of educational aspirations and the shifting nature of the divide between those able to pursue their schooling dreams and those who are thwarted in their efforts*”.⁵⁴ As the Chilean experience has shown,⁵⁵ an education system built on a deep sense of injustice and frustration with regards to legitimate aspirations for a better life is bound to lead to protests, revolts, and instability.
35. Yet, experience has shown that **even a little investment in the public education** system can go a long way towards improving access, quality and equality in education. Research has shown for instance that initiatives that support adequate teacher training and professional development, and the development of appropriate and adequate teaching and learning materials and curricula that mainstream inclusion, have resulted in appreciable improvements in the quality of education in the supported schools.⁵⁶ However, Nepal is spending not more than \$77 USD per primary pupil per year (as of 2009) – as compared to \$305 USD in India, 163.5 in Bhutan \$, or 151 USD in Sri Lanka; and a total 4.7% of its Gross Domestic Product (GDP) on education (as of 2010),⁵⁷ well below the 6% of GDP target set by the Global Partnership for Education.
36. Therefore, the State should:
 - a. Take and adequately enforce appropriate regulation measures to ensure that private providers of education do not further threaten social cohesion, and are not a cause of segregation and discrimination, in particular by effectively regulating fees and other barriers to access;

⁵³ Kedar Bhakta Mathema, “Crisis in Education and Future Challenges for Nepal”, *European Bulletin of Himalayan Research* 31: 46-46 (2007), p. 65.

⁵⁴ Martha Caddell (2007), op. cit.

⁵⁵ See generally <http://bit.ly/1vIXmR8>

⁵⁶ Research and interviews by ASPBAE with parents, students, teachers and headteachers with three good performing schools (Shree Jana Jagriti Secondary High School, the Kavresthali Secondary School, and the Bhuwaneshwari High School) – to be published.

⁵⁷ Data from <http://data.uis.unesco.org/>.

- b. Increase its efforts, including the scaling-up of domestic resource mobilisation through an expanded domestic tax base, increase efforts to address tax avoidance, and implementing appropriate financing strategies, so as to ensure the effective and actual provision of free quality education to all without discrimination, in all parts of the country, in particular for the most marginalised; and
- c. Take measures to ensure socio-economic and ethnic diversity in all schools, public in private, with the view to promote social cohesion and solidarity in society.