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*Around the World:*

**Children's Lack of Access to Fundamental Rights in Nepal and the Effects the Nepalese Legal System Has on Poverty, Health, Education, Child Labor, Child Trafficking, and Child Marriage**

*By: Lily Ealey*

**I. INTRODUCTION**

Nepal is one of the least developed and most impoverished countries in the world. Nepal lies along the southern slopes of the Himalayan Mountains and is landlocked by India and the Tibetan region of China. Their legal system is not any better. Children, especially in Nepal, have little access to their rights, live in extreme poverty, and deal with many issues, including, malnutrition, violence, and other harmful circumstances. The country of Nepal is made up of over 90 Sino-Tibetan languages. Many communities cannot make themselves publicly understood, which leads to unintended discrimination of children who are unable to understand Nepali or English. More than 30% of children in Nepal are not registered with the Nepalese authorities, leading to numerous issues, and making children invisible in the eyes of society. Thus, children cannot take advantage of the very few rights they have, most importantly, health care and education.

Government policies need to become more pro-business and pro-citizen by creating employment opportunities, encouraging new industries, eliminating curbs on foreign investment, lowering taxes on income, imports and production, and promoting free trade. Most importantly, the government needs to invest in the country's children. Through examinations of poverty, health, education, child labor, sex trafficking, and child marriage, this article will explore how Nepalese law affects the outcomes of children in Nepal.

**II. POVERTY**

Over half the Nepalese population lives below the poverty line and cannot meet their families' needs. Children in particular struggle, as their rights to health care, freedom, and education are rarely fulfilled when they live below the poverty line. Nearly 25% of the population lives on less than one U.S. dollar per day. Nepal ranks 145<sup>th</sup> out of 187 countries in terms of human development, and the reduction of poverty is moving extraordinarily slowly. Despite extreme poverty, Nepal's social policy investments and civil society engagement has not wavered. Poverty has become an identifying part of Nepal, but their societal resilience throughout this extreme stands strong. The high rate of population growth and the low economic progress are two of the major reasons for poverty in Nepal. If this pattern of growth continues, Nepal's population will be doubled within almost 33 years, reaching fifty million. Economic growth is extraordinarily low at an average of a 4% gross domestic product (GDP) growth rate.

Much of Nepal's poverty can be linked to decades of political instability and oppressive rulers. Although Hindus make up the majority, 81.3% of the population, there are deep caste divisions within the populace. Individuals who are desperately poor are often members of lower castes, whilst most people who receive higher incomes are members of a higher caste. Untouchables, indigenous peoples, women, and children suffer the most poverty in comparison to other caste groups. Youth who are affected by poverty often seek other opportunities by migrating to the Indian and gulf cities in search of paid menial jobs. The income distribution inequality perpetuates this growth and will continue to ruin the Nepalese economy if changes aren't made in economic policy to distribute the wealth more fairly, and to close the gap between the rich and poor.

There have been several poverty alleviation approaches that continue to unfold in Nepal: state-centered poverty alleviation; NGO/INGO-centered poverty alleviation; community-centered poverty alleviation; and market-centered poverty alleviation. These four approaches set plans and programs to alleviate poverty in Nepal with agriculture plans, skills trainings, credit group development, technical and financial support to villages, formation of community groups, and employment opportunities.

### III. HEALTH

More than 45% of children perish before the age of five, and 21% of those that make it past five are underweight. Less than half of the population has access to safe drinking water or proper sanitation, which leads to serious health issues, especially affecting children who do not have access at home or at school. The Ministry of Health and Population Department of Health Services is the governing body in Nepal that oversees medical care. The overall purpose of the Department of Health Services (DoHS) is to deliver preventative, promotive, and curative health services as one of the three departments under the Ministry of Health (MoH). There is a special division that focuses on Child Health and Welfare under the Department of Health Services, known as the Child Health Division. The Child Health Division is responsible for providing a broad array of programs to improve the availability and access to high quality preventative and primary health care to children in Nepal. The Ministry has developed awareness programs for mothers to teach them to recognize the symptoms of childhood illnesses. The goal is to decrease sickness of children, but also to make mothers aware of serious illnesses and how they present themselves.

The healthcare system in Nepal has a serious lack of appropriate materials and workers, and the Ministry of Health requires the support of many other organizations to keep the system running. Many hospitals lack advanced medical equipment and resources, and therefore rely on donations from British and American hospitals. Doctors without Borders, the American Red Cross, UNICEF, and USAID are major organizations that designate time and money to assisting Nepal.

Bir Hospital is the nation's oldest hospital, and primarily serves the underprivileged population. Bir Hospital is located in the capital, Kathmandu, and is the main government hospital in Nepal. Located directly next door is the only government children's hospital in Kathmandu, Kanti Children's Hospital. The Kanti Children's Hospital (KCH), like Bir Hospital, primarily serves poor populations. Poor patients receive free medical treatments at KCH, and with 300 beds, KCH has a large opportunity to serve the population. KCH aims to deliver quality child health care at affordable costs, as well as quality higher education, training, research and development. For families who cannot afford a private hospital, KCH is their only option for children-focused medical treatment. Most doctors and surgeons in Nepal who are properly trained work in the hospital setting, and this makes options for parents slim. Despite low government funding and lack of materials (just as in Bir Hospital), KCH is a well-respected and renowned hospital in Nepal. Families come to Kathmandu from all over the country to receive treatment for their children. This is due not only to the success and capabilities of KCH, but also because it is often a parent's only option for treatment and care.

#### IV. EDUCATION

The Nepali education system was not even developed before 1951, when the country finally transitioned from an absolute monarchy to a representative political system. Since the 1950s, access to education has increased greatly, giving children more educational opportunities than their parents once had. The bulk of the education system became developed in the early 1980s with the establishment of the multi-university system. There are over 35,000 elementary and secondary schools in Nepal, and 10 universities (with more than 1,500 colleges and campuses). The school system, however, has high dropout rates, and girls are likely to leave school earlier than boys. The education of girls is not seen as a priority in many rural households. Only 76.8% of students stay in elementary school until the final grade. The majority of students that drop out of school come from impoverished households, or live great distances from their school. Children from poverty-stricken families are often forced to drop out of school to help their families by working. The literacy rate remains extremely low and stands at 60%, far below the global average of 84.6%.

The Federal Ministry of Education (MoE) is responsible for developing overall education policies and directives for the country. The Government of Nepal has developed the *School Sector Development Plan for 2016 to 2023 (The Plan)* with the following goals:

- i. Ensure that the education system is inclusive and equitable in terms of access, participation and learning outcomes;
- ii. Increase students' learning by enhancing the relevance and quality of the learning environment, curriculum, teaching and learning materials, teaching methods, assessment, and examinations;
- iii. Strengthen and reorient governance and management systems in the education sector to make them robust and accountable to local governments while assuring

- agreed overall minimum standards in teaching and learning processes and learning environment;
- iv. Accommodate the political and administrative restructuring the education sector in line with the identified needs and the federal context and to ensure sustainable financing and strong financial management by introducing a cost-sharing modality between central, provincial and local governments; and
  - v. Mainstream comprehensive school safety and disaster risk reduction in the education sector by strengthening school-level disaster management and resilience amongst schools, students and communities and to ensure that schools are protected from conflict.

The Plan will develop physical, socio-emotional, cognitive, spiritual, and moral potential for all children. The Plan ensures school readiness and universal access to quality basic education, and promotes life skills and value-based education. Additionally, secondary education will continue to make students ready for work by developing skilled human resources, provide options between technical and general secondary education opportunities, strengthen institution links, and facilitate the transition to high education.

## V. CHILD LABOR

Even though child labor is illegal, an estimated 1.6 million children ages 5-17 are in the work force in Nepal. The majority of them are under the age of 14 and most are girls. Girls work more often than boys because, according to the family's belief, a boy's future is likely to represent the family's future so they are typically enrolled in school. Many children continue to be the breadwinners for their families. There is an unspoken agreement between parents, employers, and children which allows child labor to continue. The years of child labor that are engrained in the nation allow for this to continue without penalties for employers and parents. The practice of child labor has been going on for years, and the government is working on eliminating the extreme forms of child labor, even though everyday child labor continues to slip by unnoticed and unpoliced.

In 2017, Nepal made moderate efforts to eliminate the worst forms of child labor by passing the Labor Act. This Act prohibits forced labor and sets penalties for forced labor violations. A child labor monitoring system was implemented to survey forced labor among child and adult workers. Children in Nepal engage in the worst forms of child labor, specifically sexual exploitation, brick production, masonry, and garment industries. As the current law stands, the minimum age for work in Nepal is 15, and 17 if engaging in hazardous work. However, currently, forced labor, child trafficking, commercial sexual exploitation of children, or use of children in illicit activities are not prohibited. The Labor Act was implemented to quash the harsh working conditions that many child laborers find themselves in, which often lead to premature ageing, malnutrition, depression, physical and mental illness, and drug dependency. Child labor employers do whatever is necessary to make children in the workforce invisible and are able to exercise complete control over them. Children work in extremely degrading conditions, completely undermining the principles and fundamental rights that are based in human nature.

## VI. CHILD TRAFFICKING AND MARRIAGE

Child trafficking and marriage is prevalent in Nepal, mostly due to the fact that there is not a law against pedophilia. Although a law against pedophilia would not eradicate the issue, it would work to bring legal attention to the problems surrounding it. Being labeled a pedophile, and the legal implications that come along with it, would deter many people from becoming involved in the child trafficking system, and hopefully help decline the prevalence in Nepal. Girls (more than boys) are torn from their families, sent to brothels, and sex trafficked throughout the country (or even the world). Fifty-four young girls and women are trafficked out of Nepal and into India each day to enter a life of slavery. While most are destined for brothels, some are forced into bonded labor, marriage or even organ removal. The sexual victimization of young girls has extreme negative consequences on their future, as they suffer from trauma, illness, and psychological disorders due to the abuse they've suffered. Furthermore, the legal age of adulthood is lower for girls (18) than boys (21) in Nepal. However, this law is rarely respected and over 51% of girls in Nepal are married long before that age. Married children typically drop out of school and have babies while they are still young.

Much of the trafficking is due to the lack of security along the border of Nepal and India. There are fourteen checkpoints along the 1,000 miles of the border. There is no wall, fence, or barbed wire that protects the border. Much of the land near the border is fields owned by farmers who own land in both Nepal and India. Further, there is no surveillance infrastructure to make sure people don't stray across the border. Nepali and Indian passport holders don't need visas to visit each other's countries; all that is needed is an official identification document.

The Nepal government has taken some steps to increase access to education and healthcare in the hopes that adolescent girls at risk of child marriage will still have access to education and family planning information. During the "Girl Summit" in London in 2014, Nepal's Minister of Women, Children and Social Welfare pledged to strive to end child marriage by 2020. At Nepal's own national "Girl Summit," the goal shifted to ending child marriage by 2030, aligning with the end date of the global Sustainable Development Goals. The Minister is targeting elimination of all harmful practices, such as child, early and forced marriage, and female genital mutilation. The United Nations and various NGOs worked with the Nepalese government to develop a National Strategy to End Child Marriage, as a foundation for the National Plan of Action to End Child Marriage. There are fines in place now for arranging a child marriage, as well as being involved in a child marriage. In some cases, marrying a child is punishable by imprisonment, varying dependent upon the age and gender of the child involved.

An effective strategy to encourage the end of child marriage and trafficking should address the root causes, especially gender discrimination, which is heavily embedded in both social structures and the legal system. The Nepalese government continues to work

toward their plan to eradicate child marriage and stop illegal trafficking throughout the country by 2030.

## VII. CONCLUSION

The children of Nepal face extreme poverty and, as one of the least developed countries in the world, depend on international aid. Nepalese children have diminished access to health care, education, and financial support, and face extremely high rates of child labor, child trafficking and child marriage. The lack of support for education and health care in Nepali laws put children and families at high risk. Nepal's further failure to police child labor, marriage or trafficking laws goes against the welfare and protection of children. Despite that, Nepali children continue to be some of the most resilient population even while living in poverty, malnutrition, violence and other harmful circumstances.

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