

NEPAL

El affiliates

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| NTA | Nepal Teachers' Association |
| NNTA | Nepal National Teachers' Association |
| ISTU | Sansthatagat Vidyalaya Schickshak Union |

Other Organisations

Teachers' Forum of Nepal

National Teachers' Council

Nepal Revolutionary Teachers' Organisation

TUN Teachers' Union of Nepal

ILO Ratifications

- C.98 Right to Organise and Collective Bargaining (1949) ratified 1996
- C. 100 Equal Remuneration (1951) ratified 1976
- C. 111 Discrimination (Employment and Occupation) (1958) ratified 1974
- C. 144 Tripartite Consultations (1976) ratified 1995

Freedom of Association

Nepal is not a signatory to the ILO Convention 87 (Freedom of Association and the Protection of the Right to Organise). The 1990 Constitution allowed for the right to associate in unions (Section 12) and the interim Constitution (2007) stated "every employee and worker shall have the right for form trade unions to organise and to perform collective bargaining for the protection of their interest in accordance with law" (Part 3 Article 30 (2)). However, the interim Constitution also included provision for "the making of laws which allow for reasonable restrictions" on these freedoms. (Part 3 Article 12 (3d)). However, the drafting of the new Constitution suffered considerable delays. In 2012, the Constituent Assembly was dissolved and in November 2013, a 2nd Constituent Assembly elected with the mandate of drafting a new Constitution within a period of a year. Hence there is considerable legal ambiguity at the present time.

The Trade Union Act 1992 provides for the registration, operation, management and recognition of trade unions (Chapter 2 and 3) and the Associations Registration Act 1977 contains provisions for the registration of social, religious, educational, intellectual, and philanthropic associations.

The El affiliates from both the public and private sectors are registered under the 1977 Associations Registration Act 1977. NTA states it is registered under the 1992 Labour Act (1st Amendment 1998).

Status of Teachers

In public education, teachers with permanent contracts are public employees. However, less than 60% of public teachers have permanent contracts.¹ The 1971 Education Act (Article 11B) provides for the establishment of a Teachers' Service Commission (TSC), which is responsible for the issuing of teaching licences and the selection and recruitment of public school teachers at central level through a process of competitive examinations. However, in practice, between 1995 and 2013, the TSC did not announce any vacancies for new permanent positions.

At the same time, the 1999 Local Self-Governance Act (LSGA) initiated a process of decentralisation. In 2003, as required under the LSGA, public schools were handed over to local communities so that by 2012, 25% of all public schools, or over 29,000 schools, were managed by local communities, through School Management Committees.² As a consequence, there has been a notable increase in temporary and other forms of contract teachers. An amendment to the Education Act (Article 22 E) has made provision for the recruitment of temporary "community" teachers and other contract teachers by the local School Management Committees. By 2014, there were 26,000 temporary teachers, with 13 different types of contract, and of whom 25,000 had worked as a teacher for over a decade.³

Private schools make up about 30% of educational provision. Private sector teachers, where they have been issued with contracts, are covered under the provisions of the 1992 Labour Act.

Employment conditions

There are considerable variations in pay and conditions for teachers, even with the public education system and often within the same school.⁴ The pay scale of public school permanent teachers is established by the government, as stipulated in the Education Rules (2002) and subsequent amendments. Permanent teachers are entitled to an annual grade increment, and pension and medical allowances, and other benefits. Female teachers are granted 60 days maternity leave but only on two occasions.

¹ Santwona Memorial Academy Pvt. Ltd. Educational Research and Consultancy Center A Study on Teacher Management of Community Schools in Nepal- A Study Report 2012 p.28

² p.17 "Political economy analysis of local governance in Nepal with special reference to education and health sectors," The Asia Foundation, Kathmandu, Nepal, 2012

³ Kathmandu Post: "Ministry of Education has decided to extend term of all temporary teachers until 2018" April 4 2014.

⁴ "...Management of teachers is hugely problematic with nationally a bewildering number of types of teacher, and even several types within one school. When salaries and conditions are so variable there is a recipe for industrial unrest. Polarisation of the teaching force is accepted as a matter of fact..." The Mid-term Evaluation of the Government of Nepal School Sector Reform Programme, p.23 March 2012

According to one recent report, teachers are relatively well paid,⁵ although this view is not widespread. In 2005, a primary teacher's salary translated into only US\$1.80 per day, indicating that if they have a family, or even a spouse, they are living below the poverty line if they have no other income. A secondary teacher would be below the poverty line with a family of four. As a result, nearly 70 per cent of teachers mentioned that they were involved in other income-generating activities.⁶

The conditions of employment of community teachers are established by the School Management Committee. The Government of Nepal can issue "directives" to the School Management Committee, concerning remuneration, allowances and other conditions of community teachers. Political interference and nepotism in the school management committees is widespread, which impact both on the recruitment and employment conditions of teachers, and on issues such as transfers, redeployment and imbalances between rural and urban areas.⁷ The system of the Per Capita Fund, whereby the number of teaching posts is linked to enrollment numbers, is considered particularly vulnerable to abuse. For example, there are reports of common practices such as teachers not receiving their salary in full, or that the bank account where the teacher's salary was transferred is in the name of another person.⁸

Temporary teachers have no pension or medical allowances, although many have worked for considerable periods of time. Generally speaking, private school teachers' employment conditions are less favourable than public sector teachers. Only about 10% of private school teachers receive a salary equivalent to permanent public school teachers.

As a result of strike action during 2012, the TSC announced vacancies for new permanent posts and exams were held in May 2013. Over 480,000 applications were received for the 13,000 posts.⁹ The Ministry of Education also agreed to give equivalence in working conditions to temporary teachers but while an amendment to the Education Act was drafted to this effect, it was never tabled in Parliament. Instead, the government in 2014 has agreed to extend the contracts of the temporary teachers until 2018.¹⁰ The results of the exams for the new permanent posts have not yet been announced.

⁵ *Ibid* p. xiv Note 2 "Starting yearly salary for beginning teachers are 3.86 times, 4.09 times and 5.31 times GDP per capita, respectively for primary, lower secondary and secondary. World Bank FTI "Best Practice" benchmarks recommend that in low income countries this ratio (salaries to GDP per capita) should be about 3.5 (World Bank, 2004)."

⁶ p.22 "Lessons from the classrooms: a policy research report on teachers' motivation and perceptions in Nepal", Purna Shrestha VSO 2005

⁷ p.18 "Political economy analysis of local governance in Nepal with special reference to education and health sectors," The Asia Foundation, Kathmandu, Nepal, 2012

⁸ Santwona Memorial Academy Pvt. Ltd. Educational Research and Consultancy Center A Study on Teacher Management of Community Schools in Nepal- A Study Report 2012 p.5 and p.30

⁹ The Himalayan: "TSC to publish teachers' exam results by end of November" October 23 2013.

¹⁰ Kathmandu Post: "Government to extend temporary teachers' term" April 5 2014.

Social dialogue

Under the provisions of the Education Rules (2002) teachers' unions are represented on various curriculum development and planning councils at both national and district level, as well as the Educational Human Resource Development Council. Teachers' representatives form part of the local PTAs, the SMCs and the Village Education Committees. Two members of the central committee of the teachers union may be granted leave for up to 3 years, for a period of one year at a time.¹¹

Unions have consistently expressed concerns over fairness and due process in teacher recruitment, promotion and transfers.¹² Union members often face intimidation and threats.

EI affiliates also note that there is a general absence of stakeholders in decision-making processes and an ineffective implementation of the code of ethics. In March 2012, the umbrella organisation of 5 teachers' associations, the Teachers' Union of Nepal, presented a charter of 47 demands, including the following points:

- (1) An end to the use of temporary contract teachers;
- (2) Harmonisation of working conditions and salaries;
- (3) A halt to the use of threats and intimidation against teachers' leaders;
- (4) The establishment of an independent constitutional commission for teachers' appointments;
- (5) An enhanced role for teachers' organisations in decision-making.

They have also called for a major increase in funding earmarked for education, putting forward a proposal of 25% of the national budget, while the figure in 2011/2012 fiscal year was 17.1% of the national budget or 4.87% of GDP.¹³

Unions called for the negotiated agreements to be signed not only with the Ministry of Education but also in the presence of the chief whips and education department heads of the main political parties and with the agreement of the Speaker and the Vice President of the National Planning Commission. They argued that many agreements signed with the Ministry of Education have not been honoured and it was necessary for the political parties to also take ownership of the agreement.¹⁴

In the private sector, ISTU represents teachers from pre-primary to higher secondary education. Registered in 2004, in 2008 and the government invited the union to participate in policy-making concerning the private education sector and in particular, how to reduce gaps in the quality of education and terms and conditions of employment.

¹¹ *Education Rules 2002 Chapter 19 Article 111 (4) Provisions related to leave and deputation p. 107*

¹² *The Mid-term Evaluation of the Government of Nepal School Sector Reform Programme notes "there are persistent concerns over irregularities in personnel practices" p.xiv March 2012*

¹³ *p.17 "Political economy analysis of local governance in Nepal with special reference to education and health sectors," The Asia Foundation, Kathmandu, Nepal, 2012*

¹⁴ *Kathmandu Post: "Warring MOE, teachers to make peace" March 15th 2012.*

In general, private sector teachers' pay and working conditions are extremely poor. However, there have been some gains. Some private sector teachers were given licenses and the opportunity to participate in professional training programmes. Others have been issued with formal contracts of employment which means they are legally covered under the provisions of the Labour Act. Working hours, including the number of teaching hours, have been regulated. Cases were taken to the Labour Courts and there were successful outcomes. The union was also able to press for changes in some school constitutions so that the union was represented on the management board.