

I. Introduction

1. The Dalit CSO Coalition for UPR, Finn Church Aid (FCA) and International Dalit Solidarity Network (IDSN) submit this report for consideration by the UPR Working Group at its 37th Session of Human Rights Council, with the expectation that Member States will consider the recommendations on elimination of caste-based discrimination and untouchability.
2. The Dalit Community of Nepal is taking the UPR process as an opportunity to advocate issues of human rights of Dalit, caste-based discrimination and untouchability to an international forum, and persuade the Government of Nepal to take adequate legislative and policy measures and comply with its international obligations to end multifaceted caste-based discrimination and untouchability.
3. Despite the official abolishment of untouchability in 1963, Parliamentary Declaration of caste-based discrimination, and untouchability free Nepal and criminalization of caste-based discrimination and untouchability by law in 2011, Dalits continue to face severe discrimination and violence. The Human Rights Yearbook 2020 Nepal has recorded 62 incidents and ten complaints of caste-based discrimination registered at the National Dalit Commission (NDC) (Annex 2). Discrimination and violence against Dalit are further aggravated during COVID-19 Pandemic. There is a large number of unreported incidents.
4. The Caste Based Discrimination and Untouchability (Offence and Punishment) (CBDU) Act 2011 Section 4 (10) criminalizes restriction from entering into public or individual premises or evict from the house or village, or compel to leave the house or village on the ground of caste or race. Due to failure of the law enforcement agencies to effectively enforce law, Dalits are still denied from accessing public places such as places of worship, public spaces, public sources of food and water, education and housing facilities.

Who are Dalits?

5. Dalits are those who by virtue of atrocities of caste-based discrimination and untouchability, are most marginalized in social, economic, educational, political and religious life, and are deprived of human dignity and social justice. Dalits comprise 13.8% (Madhesi Dalit 4%, Hill Dalit 8% and other unidentified 1.22%) of the total population of Nepal¹. A list of Dalit communities is given in Annex 3.

II. Methodology

6. This submission has been prepared by the Dalit CSO Coalition for UPR under the coordination of NNDSWO comprising of 91 organizations (Annex 1) with the technical support of IDSN and FCA. A main UPR Preparation Committee was formed to provide supervision and guidance on the overall process. This document is an outcome of a series of consultative meetings and workshops covering representatives from 77 districts representing all seven provinces where 361 (104 Women, 275 Men) Dalit representatives were directly engaged. Efforts has been made to ensure inclusivity of various groups paying attention to intersectionality factors such as gender, age, ethnicity, disability or any other issues. Participants include: 104 women, 46 Madhesi Dalit, 242 Hill Dalit, 73 Non-Dalit and 11 Dalits (Annex 5) with disability have been able to contribute in this submission.
7. The findings of these consultations have been shared among a wide range of stakeholders including the National Human Rights Institutions and the Government of Nepal at a national level consultation workshop on 17 February 2020.

III. Background and Framework

Scope of international Obligation

8. Nepal is party to 24 international treaties related to the human rights, which also include seven key international human rights instruments. During 2018-2020 Nepal is a member of the UN Human Rights Council. This has created great expectations from Dalits and other marginalized groups of this UPR session. Nepal has ratified the international Convention on the Elimination of all Forms of Racial Discrimination (ICERD) in 1971 (first ratification). After the second cycle of UPR, Nepal has received concluding observations from three treaty bodies i.e. CERD, CRPD and CEDAW and in 2018 and CAT in 2016.
9. The most recent CERD Committee's concluding observations received on 29 May 2018² reflects implementation deficit of the ICERD obligations. CEDAW Committee (CEDAW/C/NPL/CO/6) also stressed on a few concluding observations related to Dalits, which include existence of discriminatory laws, implementation deficit Domestic Violence Act 2009, absence of concrete goals and timetable to increase representation of women, including Dalits and access to quality education to Dalit girls with disabilities. The CRPD Committee's concluding observations (CRPD/C/NPL/CO/1) stressed on multiple and intersectional forms of discrimination (caste, gender and ethnicity) faced by persons with disability. The CRC Committee's concluding observations (CRC/C/NPL/CO/3-5) stressed on de-facto discrimination against Dalit children including girls and girls with disability based on their caste, that create hindrances to access education and public places. Nepal has received five recommendations related to the human rights of Dalits in UPR 2011, and this number increased to twelve in the Second UPR cycle in November 2015.
10. Nepal Treaty Act 1990 states that the provision of international treaties in which Nepal is a party shall prevail over national legislation if there is inconsistency.³
11. Records show that Government of Nepal fails to report timely to international treaty bodies, for example, the CERD Committee Report was submitted in 2018 after 2004 review; the CEDAW Committee report in 2018 after 2011; the ESCR Committee Report was due in November 2019 but is yet to be published. This reflects a compliance deficit with international human rights mechanisms and procedures.
12. While submitting reports to international human rights bodies, the Government of Nepal conducts limited consultations with CSOs, and without taking into account the specificity of diverse groups including Dalit CSOs.

Recommendations

- Uphold Nepal's international human rights obligation through timely reporting to treaty and charter-based bodies focusing on impact of caste-based discrimination and untouchability in enjoyment of all human rights; civil, political, economic, social and cultural rights.
- The Government of Nepal, while preparing reports to treaty bodies, conduct nation-wide consultations covering remote and hard to reach areas with inclusive participation of Dalit CSOs to respond the specific concerns of Dalit, and recognizes Dalit CSOs and communities as key stakeholders for consultation.
- Implement the recommendations from treaty bodies and UPR, especially recommendations received after the second cycle of UPR, CEDAW and CERD Committees.

Constitutional and Legal Framework

13. The Preamble of the Constitution of Nepal has expressed a strong commitment to end all forms of discrimination and untouchability. It has guaranteed rights to equality (Article 18) and non-discrimination with the provision of affirmative action for minorities, women, Dalits, backward classes, including persons with disability. Article 24 has guaranteed rights against untouchability and caste-based discrimination; article 29 rights against exploitation based on religion, customs, rituals and any other harmful practices. Article 40 offers specific guarantee of rights of Dalits, which include proportionate inclusive representation and participation in all

state structure (article 42); access to free education with the scholarship up to higher education for Dalit student and special provision for technical and vocational higher education; social security; right to land for landless and housing for homeless Dalit families. The NDC has been recognized as a constitutional commission with broad autonomy, independence and mandate.

14. The Constitution has firmed commitment to end all forms of discrimination, exploitation and injustices that are based on religion, rituals, customs, cultural practices or other forms. This is also reflected in social and cultural transformation related policies that intend to eliminate all forms of harmful social practices and create an egalitarian society by eliminating all forms of discrimination, exploitation and injustice on the grounds of religion, culture, tradition, usage, custom, practice or on any other similar grounds (Article 51 (b) of the Constitution).
15. The CBDU Act 2011 is the main law that has criminalized the act of caste-based discrimination and untouchability in any form anywhere. The Government of Nepal has amended this Act in 2018 to increase the punishment to at least three months of imprisonment and to increase the penalty in line with the advocacy of CSOs working on Dalit issues. Record shows that 33 cases of caste-based discrimination and untouchability were registered with the Nepal Police⁴.
16. The inclusive electoral system adopted in the election with three tiers of state structure has increased representation from Dalits. Inclusive representation has increased especially in Municipalities/Rural Municipalities with at least one female Dalit member in each Ward Committee, and nomination of Dalits and other marginalized communities in local level executive bodies. However, in key executive positions the representation of Dalits is very limited. The positions where Dalit women are represented such as Ward Committee members, have limited decision-making power.
17. In line with the constitutional commitment for protection and empowerment of Dalits, the Government of Nepal has developed targeted programmatic interventions. Such interventions include the reservation of 9% reservation quota for Dalit in civil service, 15% of quota in military and security service, reservation in technical education etc., scholarships for Dalit student in public schools and higher education; social security allowance, children's nutrition allowance, and the Peoples' Housing Program.

Recommendations

- Assess the implementation and effectiveness of laws aimed at ending and preventing all forms of discrimination, in particular against Dalits. Based on the finding of the assessment, take steps to convert anti-discrimination efforts into effective practices on the ground.
- Develop an Action Plan for the comprehensive implementation of the CBDU Act 2011 with its first Amendment. Amend CBDU Act to impose additional imprisonment and fine to the perpetrator if the crime is induced due to caste- based issues, with at least 3 years of imprisonment in caste-based discrimination.
- Develop sets of indicators for implementation of the legal frameworks for eradication of all forms of caste-based discrimination and untouchability.
- In collaboration with CSOs working on Dalit rights, launch awareness-raising and sensitization campaigns targeting law enforcement officials, religious and faith-based leaders, elected representatives and government officials against caste-based discrimination and untouchability.
- Enact separate law to ensure effective implementation of fundamental rights of Dalit in line with Article-40 of constitution of Nepal-2015.

Institutions and Human Rights Infrastructure

18. The National Human Rights Commission (NHRC) of Nepal is accredited "A status" NHRI by Global Alliance for National Human Rights Institutions (GANHRI) with a holistic mandate on Human Rights, and has been actively engaged in the international human rights mechanisms.

In addition, the Constitution has established seven other thematic commissions such as National Dalit Commission (NDC), National Women Commission (NWC), and so on. Unfortunately, the Constitutional Council has failed to appoint Chairpersons and members of the NDC and other thematic commissions, despite the demands from the Dalit community to ensure independence and autonomy of NDC as per the Paris Principles. The NDC's mandate is limited to investigation and recommendations without assigning as a quasi-judicial authority. NDC cannot investigate if the case is under consideration of other bodies, organizational structures and employees to be approved by government and requirement of consent of Ministry of Finance to formulate Rules that create financial obligation and so on.

19. For the last twenty years the Marginalized, Oppressed and Dalit Class Upliftment Committee has been in operation. The institution has made great contributions in awareness-raising, empowering Dalit students, and promoting occupational businesses. Despite the demand from the Dalit community to continue the Committee's work, this institution is now at the verge of collapse without having any alternative arrangements to work on similar and/or more tasks for Dalits. The situation of The Badi⁵ Community Development Board (BCDB) is similar.
20. The Government of Nepal has established Human Rights Division under the Office of the Prime Minister and Council of Ministers (OPMCM), which are mandated to oversee the implementation of international human rights obligations and reporting to the international mechanisms. The OPMCM has formulated the National Human Rights Action Plan. Currently, the government has accomplished the fourth National Human Rights Action Plan and is formulating the fifth National Human Rights Action Plan, in which the constitutional commitment has been consolidated in an action plan format.

Recommendations

- Take immediate steps to appoint qualified and independent professionals through transparent procedures in all constitutional commissions including NDC, Marginalized, Exploited and Dalit Class Upliftment Committee, and Badi Community Development Board and allocate adequate resources to act on caste-based discrimination.
- Equip the NDC with adequate resources, autonomy and independence as per the Paris Principles. For this, review the NDC Act 2018 particularly Section 29 that compromises the autonomy of the commission.
- Establish an oversight system to ensure the effective implementation of the National Human Rights Action Plan and the recommendations received from treaty and charter-based bodies.
- Ensure close cooperation and collaboration of the NHRC, NDC and NWC and joint activities to promote access to justice for victims of caste-based discrimination and untouchability.
- Expand and ensure NHRIs in the federal context and ensure access to these commissions, as they are currently centralized with no or limited access to and from people in remote areas.

IV. Human rights Situation of Dalits in Nepal

Right to equality and non-discrimination

21. The second UPR cycle on Nepal provided eleven recommendations related to caste-based discriminations and untouchability practices. Many of these recommendations have stressed on the implementation of CBDU Act 2011.

Recommendation	Status of Implementation based on study of government official documents
Work actively to abolish legal and factual discrimination by developing effective and independent mechanisms for the implementation of the Caste-based	<ul style="list-style-type: none"> • Constitutional guarantee of fundamental rights to equality and non-discrimination, rights against untouchability and discrimination, rights of Dalits • No specific or concrete strategy or public policy are put in place to effectively implement this recommendation

Discrimination and Untouchability Act (122.40) (Germany);	
Put in place a concrete strategy (122.36, Switzerland), Develop public policies (122.33) (Paraguay); for the comprehensive and effective implementation of the 2011 Law on Discrimination Based on Caste and Untouchability	<ul style="list-style-type: none"> • Amendment of CBDU Act in 2018 to increase punishment and fine and mandatory imprisonment from three months to three years. • The much awaited Caste Based Discrimination and Untouchability (Offence and Punishment) Rules came into force in 2018
Strengthen its efforts to effectively implement existing laws and policies to eliminate all forms of discrimination (121.17) (Thailand);	<ul style="list-style-type: none"> • Formulated draft of fifth National Human Rights Action Plan in which issues of Dalits are streamlined under the title of protection, empowerment and development of target class and inserted in themes such as education, health and nutrition, food etc. This plan is still in draft stage. • Affirmative action clauses for protection, empowerment and development of weaker section including Dalits.
Ensures full and effective implementation of the 2011 Caste-based Discrimination and Untouchability Act (121.18, 122.35 and 122.41) (Denmark, Japan and Namibia)	<ul style="list-style-type: none"> • Acts provides additional 50% punishment in case of Public Officials committing these crimes. • Formulation of Action Plan⁶ for implementation of UPR recommendations in which concerns of Dalits are covered under Inclusive Development. However, the government lack effective monitoring, oversight and reporting on the implementation status of the Action Plan.
Ensure the freed bonded laborers' access to fertile land and their equal enjoyment of human rights, including the right to work and right to property (122.82) (Finland);	<ul style="list-style-type: none"> • Government of Nepal has Liberated 19,059 Haliya families in 2008, but Liberation of approximately 10,000 Harawa and Charawa has not yet been declared. • Liberated Haliya Rehabilitation Problem Solution Committee formed and Action Plan passed Government. • Government has been providing land and cash subsidy to liberated Haliya under rehabilitation package, but the rehabilitation is not effective, as the program does not ensure access to fertile land and work.

22. Despite above mentioned efforts, no significant progress has been observed with regards to the implementation of UPR recommendations, particularly addressing the issues of caste-based discrimination and untouchability. The past few years' Human Rights Yearbooks reveal that the incidents of caste-based discrimination are not decreasing. For example, in 2018, the reported incidents were 52, which are increased to 62 in 2019. The Human Rights Year Book 2020⁷ reveals that 1427 (247 Men and 1180 women) Dalits were victims of human rights violations. This is the highest number in comparison with other ethnicities. This reveals that Dalit women are the most vulnerable of violation of human rights.
23. During COVID-19 pandemic, the incidents of discrimination and violence is increasing⁸. Due to lockdown, the access to justice is being limited. Sexual violence against Dalit women, genocide like murder as a result of denial of love and marriage between Dalit boy and non-Dalit Girl (Known as Nabaraj BK case); using derogatory terms against Dalit, denial to perform mourning rituals, denial of treatment in Isolation Center, discrimination in quarantine and isolation center are common incidents reported during COVID-19 pandemic⁹.
24. Due to age-long tradition linked with the religious belief, a high number of incident of caste-based discrimination are either not reported or ends with the compromise at community level. The law enforcement authorities such as police and lawyers often show reluctance to file FIR on the cases of caste-based discrimination and untouchability. Rather, the law enforcement authorities often encourage with a compelling motive to seek compromises between the victim and the perpetrator. This further victimizes Dalits and discourage them to seek justice.
25. The CBDU Act 2011 remains ineffective due to an inadequate statutory limitation of three months, range of punishment not corresponding to the seriousness of crime¹⁰, excessive

judicial discretion in determining the punishment and gaps in guaranteeing adequate compensation and reparation.

26. It is appreciated that the Government of Nepal has criminalized caste-based discrimination and untouchability through legislation with mandatory imprisonment for at least three months¹¹. However, the "caste attitude" of law enforcement authorities and political influence to compromise or convert caste-based discrimination cases into other offences such as libel and slander, battering and public offence by courts, is an increasing trend. Barriers for Dalits in accessing justice include pressure on the victim for forceful negotiation in the name of social harmony, security threat to the victim and witness, undue political influence, difficulty to collect evidence, and lack of representation of Dalits in law enforcement agencies. As a result, extremely limited cases are brought before the court for justice. For example, only 72 cases of untouchability under court of law¹² whereas only ten cases are reported to NDC in 2018.
27. The Human Rights Yearbook 2020 reflects three incidents of caste-based discrimination and racial threat from the state actor. This proves existence of racism and caste attitude of the state itself¹³.

Recommendations

- Prepare and enforce a concrete strategy along with a time-specific action plan to practically eliminate any form of caste-based discrimination and untouchability at all levels.
- Process all cases of caste-based discrimination and untouchability with a principle of Zero Tolerance in the justice system with the provision of punishment to law enforcement officials (police, government attorney and judges) who deny proceeding cases.
- Widely disseminate information about constitutional provisions, the Anti-Untouchability Act, and provisions of ICERD amongst Dalits, as well as the general public through awareness campaigns.
- Offer specialized trainings and capacity building on caste-based discrimination and untouchability Act to law enforcement agencies and officials to ensure effective implementation.
- Amend the CBDU Act to statute of limitation, interim relief, reparation, compensation, and victim and witness protection.
- Amend the Evidence Act 1974 to provide burden of proof to the defendant in the cases of caste-based discrimination and untouchability.
- Effectively functionalize the Caste-Based Discrimination and Untouchability Elimination Mechanism formed under the OPMCM and expand such mechanisms at the provincial and local levels.
- Consider adopting a legislation to tackle the inter-caste marriage issues, including investigation of inter-caste marriage induced violence against Dalits, offering protection and rehabilitation facility to the victims, and obligating the three levels of government to take measures to promote a safe and conducive environment for inter-caste marriage.
- Ensure that access to justice in cases of discrimination, sexual violence during crisis is available and crisis response measures are caste and gender sensitive.

Economic, Social and Cultural rights of Dalits

28. **Poverty:** Approximately 42% of Dalits fall below the poverty line. An average per capita consumption in Nepal is NPR 34,187, yet Madhesi Dalits consumption per capita is NPR 23,106, followed by Hill Dalits NPR 25,298 per annum. Among the Dalits of Hill and Madhesi origin, every two in five persons are below the poverty line.¹⁴ Despite several policy and programmatic measures targeted to address this, significant transformation on poverty status of Dalits has not been observed. Livelihood and employment opportunities for Dalits are shrinking due to commercialization of Dalit occupational skills by non-Dalit entrepreneur.

29. **Landlessness:** Land is one the main assets for determining individual social status and standard of living in Nepal. Landlessness among Dalits is extreme; 37% among the hill population and 41% among Madhesi Dalit. Those that do hold land have very small landholdings of less than 0.5 hectares¹⁵. Landlessness make Dalits economically vulnerable. Most Dalit victims of violence and discrimination are agricultural and occupational labourers, generally landless. The root causes of the exploitative Haliya¹⁶, Balighare/Khalo¹⁷, Charuwa¹⁸ and Haruwa systems are landlessness and smallholdings. The government formally abolished the Haliya system in 2008 but most ex-Haliyas are unaware of their rights, and do not have the skills to organise and participate in the rehabilitation process. The government is offering rehabilitation service to the roughly 20,000 "liberated" families. It is estimated that the rehabilitation programme has reached less than 5% of Haliya families. Without support, families affected by bonded labour often fall back into slavery.¹⁹
30. Taking into account the landlessness situations of Dalits, the constitution of Nepal has made specific provision in Article 40 to arrange housing for homeless and provide land for landless Dalits. In order to give effect to this provision, the Land Related Act has been amended which used the term "as prescribed" by Rules. Therefore, no Dalits have received benefit from this provision. However, the government has been providing housing subsidies to homeless marginalized Dalits through the "Peoples' Housing Program". Due to administrative challenges, such as citizenship, land certificate, technical requirements, allocation of limited fund etc., this program has had limited effectiveness.
31. **Education:** The school dropout rate among Dalits is extremely high. Only 28% male and 25% female from Hill Dalit completed basic education, and for Madhesi Dalit this figure is 18% and 12% respectively²⁰. The national literacy rate is 82%, whereas literacy of Dalit women is only 46%, and from Musahar and Dom communities it is only 17% and 18%. Dalit children face discrimination by teachers and peers at school. Due to prejudiced mindsets, teachers provide less care for Dalit children, who are not permitted to drink water, and are addressed in a rude manner etc. Ultimately their learning achievements become slow, often leading to dropout. In turn, low educational attainments have a multifaceted impact on the socio-economic and political life of Dalits, and are a barrier to Dalits' human development. It is also a barrier to poverty elevation and inclusive development.
32. **Health, Hygiene and sanitation:** Although the overall access to drinking water of Nepalese people has significantly improved, the situation of Terai/Madhesi Dalits remains bad. Only 14% have access to safe drinking water, affecting particularly Dalit women, who look after the family affairs. Dalits has minimal access to improved toilet facilities, especially poor for Terai/Madhesi Dalits, of whom just 5% have access to improved toilet facilities, compared to 31% of Hill Dalits and 42% of the national average.
33. Almost no Madhesi Dalit and Muslim households use any form of treatment for their drinking water. The Madhesi Dalit households fared relatively poorly for all WASH-related indicators²¹. Only 40% Hill Dalits have access to health facilities within 30 minutes of walking distance. 56% of people in Nepal cannot afford medical treatment but even more Dalits; 61% of Hill Dalits and 66% of Terai/Madhesi Dalits²². 43% of Terai/Madhesi Dalits and 15% of Hill Dalit experience discrimination when receiving medical treatment in local health services. 72% of women experience problems in accessing health service, but for Hill and Terai/Madhesi Dalit women it is 79 and 85% respectively²³. As 62% of Dalit girls get married before 15 years of age their health situation is at a further challenge due to uterine prolapse, early pregnancy, sexual violence and exploitation.
34. **Right to food:** Dalits are highly vulnerable in terms of right to food. The food sufficiency mean value percentage is extremely low for Dalit compared to an average of 77%. This is aggravated by lack of access to agricultural land, employment opportunities, and displacement from traditional occupations that are modernized and done by others.

35. Traditional Occupation and Skills: Dalits are skillful and were traditionally employed in their own trade. They have expertise in ironwork, gold smith, tailoring, shoemaking, bamboo-crafting etc. However, these occupations were practiced as bondage or low wage laborer and exploitative and stigmatization practices is still prevalent in different forms. Lack of modernization, limited access to markets and absence of legal arrangement for patenting traditional skills, knowledge and practices put Dalits at risk of displacement from these occupations. As provided in the constitution, there is a need for legislation that protects and develops tradition occupational skills of Dalits, and encourage them to modernize these occupational practices.

Recommendations

- Ensure prompt formulation of acts and rules to enforce right to land and housing for Dalits as guaranteed under Article 40 of the Constitution, particularly: i) Rules to provide adequate land for livelihood to landless Dalits and housing for homeless Dalits, ii) Expand the government's "People's Housing Program" covering all landless Dalits and marginalized groups.
- Reduce poverty among Dalits, by providing income-generating skills and training, career counselling, on-the-job training to Dalit youths especially in modernization of traditional occupation and skills. Enact legislation to guarantee protection and development of Dalit traditional occupation and skills.
- Implement measures to ensure and promote occupational mobility for marginalized castes, including through hiring incentives, vocational training, and community-based awareness and empowerment programmes.
- Strengthen government efforts with targeted actions to achieve universal provision of quality education at each level of the education system with special incentive to Dalit including Madhesi Dalits and Dalit girls.
- Adopt and implement an action plan to make schools and educational institutions discrimination free (zero tolerance) zones to discourage dropouts. To ensure non-discrimination in the school, strengthen special measures to appoint at least one Dalit, especially women, at all levels of education (school, university, vocational training institutes etc.).
- Launch awareness and information campaign on rights, entitlements and services available for Dalits including Haliya, Haruwa, Charuwa etc. such as scholarship, rehabilitation, social protection, training and empowerment facilities etc.
- Provide micro-credits and loan facilities without collateral to promote Dalit entrepreneurship.
- Introduce sustainable and gender sensitive rehabilitation facilities to the freed *Haliya* program. Provide an opportunity for freed *Haliya* to be registered for rehabilitation benefits.

Social Inclusion and participation of Dalit

36. Social inclusion based on the principle of proportionate participation of socially backward class including Dalit is mentioned in the constitution (Preamble, Article 42, Article 40 (7)), but it has not been realized in practice. Dalits consist of roughly 14% of the total population of Nepal. Data shows 7% Dalit representation in the House of Representative, 12% in the National Assembly, 9% in the Provincial Assemblies, and 1.3% Mayor/Chair of Rural Municipalities and Municipalities, 3% Ward Chair and 20% in the Ward Committee.

37. The inclusive electoral system has somehow ensured representation of Dalit, especially women, in the three tiers of government. However, due to patriarchal and caste-oriented mindset in the society, the leadership of Dalits, especially women, is rarely recognized and respected. These elected Dalit representatives also lack capacity on communication, leadership, governance procedures etc. with the.

38. The representation of Dalit in Civil Service is only 1.4%. The government, while implementing social inclusion in recruitment of civil service for the local level, has interpreted reservation

quota provision for each of the local government unit while publishing vacancy by Public Service Commission. The Total vacant seat of 9,161 has been disbursed into all local government units, which ultimately decreased to reservation seat. As a result, only 29 seats were allocated for Dalits, which is far less than 370 that Dalits deserve from the reservation. Recruitment practices of civil service does not guarantee inclusive participation of Dalits.

Recommendations

- Empower and enhance Dalit women representatives' skills, knowledge and confidence at for quality representation of Dalit issues in the local level policymaking and implementation.
- Ensure proportional political representation of Dalits with additional compensation quota at all levels of governance including executive, legislative, judiciary, bureaucracy, security forces, political and diplomatic appointments and constitutional bodies, as guaranteed by the constitution of Nepal.
- Adopt fast track method of group recruitment provision for Dalits in civil and security services.
- Address intersectionality of Dalits (Dalit women, Madhesi Dalits, Dalits with disability, inter-caste dynamics of Dalits) in proportion to their population in all state structures, including political parties' organizational structures.

Harmful social practices

39. There are number of social practices prevalent that pushes Dalits into marginalization. In addition to, *Haliya*, *Khaliya*, *Balighare*, *Haruwa* and *Charuwa*, there are other practices that compel Dalits to do derogatory work. Few examples are *Doli* (serve as labor to carry goods, bride and bridegroom during marriage), *Damaha* (play musical instrument during marriage), *Olke* (offer goods produced by Dalit to village chief/non-Dalit), *Sino* (manage carcass). These harmful social practices undermine the dignity of Dalits. Article 29 of the Constitution of Nepal has prohibited exploitation in the name of religion, custom, tradition, rituals or practices.

40. In many cases, Dalit women face multiple forms of abuses and atrocities due to being stigmatized as witchcraft, tortured due to dowry, menstrual discrimination, sexually exploited and suffer from untouchability and domestic violence due to extensive alcohol use in Dalit households.

41. The Badi community, in particular Badi women, are considered as traditional sex worker despite their proud history of serving as musician for royal palaces. They are sexually exploited; and it is often difficult getting citizenship for Badi children, due to absence of identified father.

Recommendations

- Launch awareness campaign together with punitive measures to practically eliminate harmful social practices that undermine humanity and human dignity of Dalit women.
- Establish a help desk for Dalits at all local government including all thematic Constitutional Commissions, and facilitate the services and benefit available.
- Ensure laws, regulations and practices contain clear procedures for issuing citizenship certificates without distinction as to caste; justified decisions for rejection of such applications are provided within a reasonable timeframe; and the availability and accessibility of a complaint mechanism to contest the rejection of citizenship applications.
- Intensify efforts to eradicate violence against Dalits, including awareness-raising campaigns, reporting, investigating all reported cases, prosecuting and sanctioning the perpetrators, and providing protection and remedies to victims.
- Launch awareness campaign with resources and engage with religious and traditional leaders to practically eliminate caste-based discrimination, untouchability and empowerment of the Dalits.

- Enact integrated law to abolish and criminalize all forms of harmful social practices and caste based exploitation such as Haliya, Haruwa, Charuwa, Doli, Khaliya, Balighare etc.

Madhesi Dalit

42. Madhesi Dalits are facing double discrimination being Madhesi and Dalit in all sphere of social and political life. They are at the bottom of most of the human development indicators. The issues of land ownership and citizenship are intertwined. 41% of the Madhesi Dalit population are landless. Only 87% of male and 69% female above 16 years of age have citizenship certificate²⁴. Deprivation of citizenship excludes them to be part of the political process and get benefits from government services.

43. Madhesi Dalits has been categorized as Dalit, but they are excluded from Madhesi category in all reservation quota. Representation in the Dalit reservation quota is extremely low. In most indicators the bottom 20% population includes Madhesi Dalit and Muslim at the bottom followed by Madhesi other caste and Hill Dalit ²⁵.

Recommendations

- Develop and implement special programs to uplift marginalized Madhesi Dalits including awareness raising, economic empowerment, social transformation, and capacity building.
- Ensure inclusion of Madhesi Dalit within the Dalit quota and Madhesi quota in proportion to their population.
- Launch campaign to eliminate remains of feudalistic mindsets, structures, practices that push Madhesi Dalit into poverty.
- Establish Dalit Development Committee in provincial level to support provincial government to streamline dalit issues and implement Dalit uplift related activities at provincial level.

Persons with Disabilities

44. Malnutrition, maternal mortality ratio and under five mortality rates is very high in Dalit Children. Approximately 35% of Dalit children (below 5 years) are underweight. The maternal mortality ratio is 273 in 100,000 live birth, which much higher than national average of 186 maternal mortality and 27% underweight children²⁶. 18% of Dalit women had deliveries at a health facility which is the lowest of all groups in Nepal, and were among those with the highest percentage who had not prepared for delivery²⁷.

45. Discrimination against Dalit children at school is rampant particularly in Province Two, Karnali and Sudurpaschim Provinces. Extreme poverty push children into child labor, which is one of the major cause of low enrolment and school dropout.

46. Dalit persons with disabilities are facing multiple forms of discrimination. Women with disabilities tend to be most vulnerable to various forms of discrimination and exploitation. Children with disabilities are sometimes kept hidden at home, not even offering the same education than the other members of the family/community. They have limited opportunity for education, employment, health, hygiene and sanitation. They are also discriminated in receiving disability identity cards.

Recommendations

- Ensure that malnutrition, pre and post-natal care of Dalit children and sexual and reproductive health of women is addressed through free health and nutrition services targeted to Dalit women and children.
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- Provide Dalit persons with disabilities support from the local government such as doorstep service for identity card, social security allowance, education, nursing and health care etc.

- Ensure that the National Population Census 2021 addresses nationwide data gathering of Dalits with disability to fill the disaggregated data (sex, age, ethnicity etc.) of persons with disability.
- Implement social protection mechanisms focusing on Dalit persons with disabilities to address multiple forms of discrimination.

¹ NNSWO: Facts and figures about Dalits in Nepal cited from https://www.nndsw.org.np/index.php?page=aboutus-content&content_id=9

² CERD/C/NPL/CO/17-23

³ Nepal Treaty Act 1990, Section 9 (1) (1): In case of the provisions of a treaty to which the Government of Nepal has become a party following its ratification accession, acceptance or approval by the Parliament conflicts with the provisions of current laws, the latter shall be held invalid to the extent of such conflict for the purpose of that treaty, and the provisions of the treaty shall be applicable in that connection as Nepal laws.

⁴ Situation of Caste based discrimination and untouchability: Monitoring Report, National Human Rights Commission Nepal, 2019 p 49.

⁵ The term Badi is derived from the Sanskrit word Vadyabadak and means 'one who plays musical instruments', referring to the period when they were a caste of entertainers for feudal and royal families. After change in political system (abolishment of principalities, feudalism and unification of Nepal), their traditional occupation was in risk which pushed them to sexual exploitation and later it became a tradition that discriminate and stigmatized them as prostitute. Badi community consist of 38,603 population which is 0.15% of total population of Nepal spread in Mid and Far Western Regions (Report on Identity and Situation of Badi Community Published by Community Empowerment and Transformation Nepal, 2019 p 9 and 17)

⁶ The Action Plan clustered the UPR recommendations on 18 themes. Recommendations related to rights of Dalit Community are clustered un Theme 12: Inclusive Development and listed activities to address each recommendations.

Indicative activities are: Implement more programs to end de facto

discrimination; reach empowerment programs to targeted groups; strengthen the mechanisms established to end discrimination; Mobilize local authorities, NHRIs and CSOs to overcome the discrimination ; more training programs to mobilize law enforcement authority and judiciary for prompt action against discrimination; Monitor implementation of CBDU Act etc.

⁷ INSEC Human Rights Year Book 2020 page 357, accessed in <https://www.insec.org.np/wp-content/uploads/2020/02/Nepal-Human-Right-Year-Book-2020-Eng.pdf>

⁸ A Press release issued by National Campaign Against COVID-19 on 26 May 2020 has recorded six incidents of violence and discrimination against Dalits.

⁹ 1. Rukum Massacre: Six boys were inhumanly murdered by villagers including elected representative as a result of denial of love and marriage between Dalit boy and non-Dalit Girl on 23rd May 2020.

2. Sambhu Sada custodial death: A Dalit boy who was under Police custody on vehicle accident case found dead by hanging in Police custody. The posture of dead body did not suggest the death by hanging and family of deceased person alleged police official for this murder and tried to file FIR. Initially, police denied taking FIR, but after a nationwide struggle, FIR against 7 suspects was filed through District Government attorney office.

3. Rape and murder case: A 13 years old girl child Dalit community was killed by hanging on 23rd June 2020. The girl was raped by 25 years non-Dalit boy. Villagers caught the boy red hand on 22 June. Instead of initiating criminal prosecution, Villagers including Ward Chair decided to send girl with the boy (child marriage). Next day she was found death by hanging in Litchi tree.

4. Denial from Mourning Ritual: The Member of Provincial Assembly of Gandaki Province along with local people indulged into denial of mourning rituals to the Dalit in the public ritual facility (please check the date)

5. Denial of treatment and care in quarantine center: A 16 years old Dalit boy was found dead in isolation ward of Dahnusha Provincial Hospital, Janakpur on 21st June 2020. He had diarrhea in quarantine center and taken to the hospital for a treatment. He did not get proper treatment and care in the quarantine center until his PCR test result was negative. It was too late for treatment.

¹⁰ Under Section 7 of the Act, the penalties stipulated include both financial penalties and imprisonment of up to three years

¹¹ Caste Based and other Social Discrimination and Untouchability (Offence and Punishment) Act 2011 with first amendment 2018 section 7.

¹² Supreme Court of Nepal, Annual Report 2017/2018 p 77-78, accessed in <http://www.supremecourt.gov.np/web/assets/downloads/annual/An7475.pdf>

¹³ Human Rights Air Book 2020 page no 23 reflects that there was one case of caste based discrimination and 2 cases of racial threat by the state itself in the year 2019.

¹⁴ Nepal Living Standard Survey 2010

¹⁵ Agricultural Development Strategy 2015

¹⁶ The term *Haliya* comes from Halo which means a plough, a person working for landlord as agricultural labor as a bondage of the loan. Haliya is a form of bondage labor and slavery that still exist in Karnali and Sudurpaschim Province.

¹⁷ Balighare/Khalo is a traditional system of paying wages not in the form of cash but in the form of crop or kind. This system does not pay enough in comparison to the work done and has been found to be very exploitative in economic terms and very humiliating in the social term. The main victims of this system are Dalits. The Dalit households who provide services would go to those families who used their services and collect certain amount of grain (mostly maize, millet and sometimes rice).

¹⁸ Charuwa/Haruwa: In Terai or Madhesh terms, Haruwa and Charuwa are used synonymously and sometime pronounced together. Charuwa means wanderer and herder of the cattle of the land lord but used in reference to semi bondage labour. In Terai region poor families bondage themselves with a landlord who then agrees to use the labour of the family to cultivate crops and in return they would be provided with a shelter and grain. Haruwa means defeated and used to describe a similar kind of semi slavery system in Terai/Madhes. Haruwa are mostly landless without having proper means of production, not necessarily Dalits, could be indigenous people such as Gharti, Bhujel, Tamang of the hill and Tharu of Terai (NNSWOW)

¹⁹ <https://www.antislavery.org/what-we-do/nepal-bonded-labour/>

²⁰ Ministry of Education, Science and technology, Education in Figure: at Glance, 2017, p 31; A study of Social Inclusion in Nepal (SOSIN), presentation of findings on 25 February 2020.

²¹ UNICEF Nepal, Working Paper Series (WP/2018/004), Water Sanitation and Hygiene and Nutrition in Nepal with focus on Children under five, p. 12, 2018

²² Nepal Social Inclusion Survey (NSIS) 2012, Central Department of Sociology/Anthropology, Tribhuvan University, Nepal

²³ Nepal Demographic Health Survey 2011

²⁴ A Study on Social Inclusion in Nepal report finding presented on 25 February 2020

²⁵ A Study on Social Inclusion in Nepal report finding presented on 25 February 2020

²⁶ Nepal Demographic Profiles 2019, cited from https://www.indexmundi.com/nepal/demographics_profile.html

²⁷ Family Health Division, Ministry of Health and Population, Maternal and Child Health in Nepal: The Effects of Caste, Ethnicity, and Regional Identity, 2013 p 6