

Discrimination against Dalits in Nepal

**Key recommendations for the Universal Periodic Review of Nepal,
23rd UPR session, 4 November 2015**

DALIT CIVIL SOCIETY ORGANIZATIONS' COALITION FOR UPR, NEPAL AND
INTERNATIONAL DALIT SOLIDARITY NETWORK (IDSN)

Executive summary

Nepal is a party to 24 human rights instruments including the International Convention on the Elimination of all forms of Racial Discrimination (ICERD). However, the Government of Nepal has failed to submit their periodic reports on a timely basis, which has created gaps in assessing the progress and achievements made by the Government of Nepal. Nepal undertook its first review during the first cycle on January 25, 2011 which resulted in 15 recommendations addressing caste-based discrimination and is undergoing the process for its second review, scheduled for November 4, 2015. For the Dalit community of Nepal, being the most marginalized and excluded and constituting around 13.6% of the total population of the country (2011 census), the mechanism can serve to be instrumental in protecting and promoting their rights. The Dalit Civil Society Organisations Coalition, led by NNDWSO, comprising 125 organizations with the technical support and joint collaboration of IDSN have prepared a joint submission on the Human Rights Situation of the Dalit Community in Nepal, submitted in March 2015 ahead of the review. Dalit organizations in Nepal did not submit an alternative report for the first cycle of the UPR. This report is therefore the first of its kind.

- [Download full version of the joint UPR submission on the Human Rights Situation of the Dalit Community in Nepal \(March 2015\)](#) by the Dalit Civil Society Organisations Coalition and IDSN, UPR review of Nepal 2015.

The submission includes an overview of UPR recommendations on caste-based discrimination from the first review in 2011 to the GoN, their status of implementation and specific follow-up actions/recommendations proposed to the GoN (Annex IV) and draws upon the treaty body recommendations on caste-based discrimination issued since the first UPR (CESCR 2014, CCPR 2014, CEDAW 2011 and CRC 2012).

The issues of caste-based discrimination and untouchability in Nepal are multi-faceted and have adverse impacts on the socio-economic and political life of the Dalit community. Despite numerous commitments of the Government of Nepal to address these issues, Dalits are yet to enjoy their basic human rights and freedom due to lack of effectiveness of the state mechanisms, a lack of resources, non-implementation of legislation and missing determination by the concerned actors. Following a long-delayed constitution process, the new constitution of Nepal was finally adopted on the 20th of September 2015. Several clauses addressing non-discrimination, equality and proportional inclusion principles, serve to guarantee the rights and equal participation of Dalits, though some provisions need to be actualized through enactment of legislation and effective implementation of existing legal provisions.

Key human rights concerns for Dalits in Nepal

General human rights concerns for Dalits in Nepal include:

Right to participation and political representation: The newly adopted constitution outlines provisions to ensure empowerment, representation and participation of the Dalit community in public service and other sectors of employment. Similar provisions were also stipulated in the former (interim) constitution, but lacked effective implementation. The Constituent Assembly (CA) Act 2007 provisioned that proportional representation of Dalits in the CA would be ensured; there is only a 7% Dalit representation. Further, Dalits have poor representation in the civil service of the government i.e. only 1.94% and despite reservation quotas, it has not helped much to increase the participation of Dalits in the state bureaucracy due to their poor socio-economic condition and discriminatory practices.

Discrimination against Dalit women: [Nepal's Dalit women](#) are underprivileged, underrepresented and exploited in all spheres of society. They have limited control over land, housing and money and are forced into the most demeaning jobs. Dalit women are often [victims of trafficking and sexual slavery](#) and girls and women from a particular Dalit sub-caste, the Badi caste, are forced into prostitution.

Livelihood, Employment and Access to land: Dalits' land holdings are small and the landlessness among Dalits is extreme –36.7% Hill and 41.4% Madhesi Dalit are landless. Most Dalit victims of violence and discrimination are agricultural and occupational labourers who are generally landless.

Poverty: Dalits comprise the poorest community in Nepal, in terms of all poverty measures – income, consumption and human development. A total of 42% of Dalits fall below the poverty line which is 17 percent higher than that of the national average (25.2%)

Right to Education: Most Dalits have no formal education and only few make it to the higher education institutions. Dalit children face discrimination at school by teachers and peers and the literacy rate of Dalits (6 years and above) is 52.4% compared to the national average of 65.9% and 34.5% for Tarai/Madhesi Dalits. The low educational status of Dalits has remained one of the major barriers for their human development.

Access to humanitarian relief: The Dalit community faced severe discrimination in the distribution of post-earthquake relief materials, following the earthquakes in Nepal April 2015, receiving less aid than those from higher castes. This was documented in a [rapid assessment report](#) prepared by the Dalit Civil Society Massive Earthquake Victim Support and Coordination Committee, ADRF and NCDHR. See the [urgent appeal](#) to combat caste discrimination in Nepal relief efforts, issued by IDSN on June 3 2015.

- [IDSN webpage on caste-based discrimination in Nepal](#)

Key UPR Recommendations

Guaranteeing constitutional rights and human rights protection of Dalits

1. The GoN should take the necessary steps to ensure that the rights enunciated effectively:
 - guarantee equal proportional and additional representation of the Dalit community in legislative bodies and at all levels of state structures.
 - ensure quasi-judicial powers are granted to the National Women's Commission (NWC) and the National Dalit Commission (NDC) in order to function as constitutional, investigating and monitoring institutions and ensure they are equipped with adequate resources and capacity.
2. The GoN should develop and implement a National Plan of Action to eliminate caste-based discrimination with adequate resource allocation to eliminate caste based discrimination and untouchability and empower the Dalit community.
3. The GoN should strengthen its measures to effectively implement the Caste-based Discrimination and Untouchability (Offence and Punishment) Act 2011.

Dalit women

4. The GoN should combat multiple forms of discrimination against Dalit women by adopting legal provisions and comprehensive programmes, including public education and awareness raising campaigns involving the mass media as well as religious leaders.
5. The GoN should allocate resources for Dalit women's development in proportion to their population in the Gender Responsive Budget of the GoN.

Access to education, land and employment

6. The GoN should strengthen its efforts to achieve universal provision of quality education for children at each level of the education system in urban, rural and remote areas, with special attention to Dalit girls.
7. The GoN should standardize the scholarship amount to Dalits with due priority given to girls by considering the minimum needs of the students and strengthening monitoring mechanisms for efficient use and effective distribution of scholarship schemes and adopt policy measures to ensure employment to Dalits who attain a certain level of education.
8. The GoN should take immediate steps to provide land to landless Dalits and guarantee employment for landless Dalits.

Access to Justice

9. The GoN should process all cases of caste-based discrimination and untouchability according to the Principle of Zero tolerance in the justice delivery system and train all law enforcement agencies and authorities on the Caste Based Discrimination and Untouchability (Offence and Punishment) Act 2011 and ensure effective implementation of existing laws.
10. The GoN should conduct awareness/sensitization programmes and campaigns against caste-based discrimination.

Nepal Earthquakes and humanitarian relief

11. The GoN should engage with the [recommendations](#) laid out by the Dalit Civil Society Massive Earthquake Victim Support and Coordination Committee in their [report](#) May 2015 and follow the recommendations and guidelines in the IDSN [Equality in Aid – Addressing caste discrimination in humanitarian response](#) report.

Cooperation with UN human rights mechanisms:

12. The GoN should observe and implement the [recommendations](#) by UN treaty bodies and Special Procedures with regard to caste-based discrimination and respect its reporting obligations to treaty bodies.