

Nepal's Human Rights Obligations to Conduct an Accurate & Non-Discriminatory Census

In June 2011, Nepal will conduct its first post-revolution Census, just months after the country was reviewed by the U.N. Human Rights Council. In that review, Council members raised concerns about the widespread practice of caste discrimination in Nepal, concerns echoed by many Nepali Dalit advocates. Advocates and the Council also recently highlighted Nepal's obligation to protect the human rights of its people through its upcoming Census. This obligation includes ensuring an accurate count of Dalits and other marginalized populations in Nepal who have historically been under-counted.

Human rights law has two primary implications for the Census:

1. International human rights law prohibits discrimination on the basis of sex; race; color; descent (including caste); religion; and national, ethnic, or social origin, among other categories. This prohibition extends to the administration of the Census.
2. Nepal must act immediately to eliminate discrimination and must guarantee the civil, political, economic, social and cultural rights of all Nepalis. Accurate data is required in order for Nepal to fulfill these obligations.

Below, we outline in detail the human rights issues raised by the Census:

Non-Discrimination

The International Covenant on Civil and Political Rights (ICCPR); the International Covenant on Economic, Social and Cultural Rights (ICESCR); the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD); the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW); and the Convention on the Rights of the Child (CRC) collectively:

- *Require equal access to human rights by all people, regardless of sex, race, color, descent (including caste), religion, or national, ethnic or social origin, among other categories.*

- *Prohibit discrimination against children, women, racial or ethnic minorities, indigenous communities, and members of "lower castes," including Dalits, among other categories.*

The U.N. Draft Principles and Guidelines for the Effective Elimination of Discrimination based on Work and Descent (a non-binding document for which Nepal has expressed support) reiterate the requirements above in the particular context of discrimination based on caste. **Nepal must take steps to ensure that its Census fully reflects and captures data relevant to all citizens, including Dalits, to avoid any discrimination on prohibited grounds.**

Nepal also has an obligation to remedy both direct and indirect discrimination, regardless of whether the discrimination is private or public. **Nepal must collect accurate Census data in order to meet its obligation to identify and analyze the extent of discrimination in access to human rights in its population.**

Special Measures

International human rights law encourages governments to adopt special measures to ensure substantive equality and address inherent disadvantages faced by particular groups. Special measures should also address multiple forms of discrimination, such as those faced by women who belong to disadvantaged groups.

Nepal must collect accurate Census data if it seeks to implement special measures and ensure proportional representation. Inaccurate counting of any group in the Census will lead to inaccurate representation in the government, in violation of Nepal's obligations under international human rights law.

Participation in Public Life

The ICCPR guarantees the right of all citizens, without discrimination, to:

- *Take part in the conduct of public affairs, to vote and be elected, and to have access, on general terms of equality, to public service.*

As noted above, Nepal has adopted a system of proportional representation to ensure the participation of disadvantaged groups.

Nepal must collect accurate Census data to ensure truly proportional representation and to ensure full enjoyment of the right to participate in public life.

The right to participation in public life also extends to the Census process. The government must ensure that all citizens have the right and opportunity to participate.

Work, Education, and Adequate Standard of Living

The Census collects data on employment, education, occupation, housing, access to water, and ownership of land.

The ICESCR guarantees the right of all Nepali people to:

- *Freely choose and accept work, and to equal pay for equal work.*

Nepal must collect accurate Census data about employment and occupation in order to determine whether and to what extent Nepal is fulfilling its obligation to: immediately ensure non-discrimination in the right to work; and to create programs to progressively achieve the full realization of the right.

- *Have equal access to compulsory and free primary education, and to secondary/higher education.*

Nepal must collect accurate Census data in order to determine whether and to what extent Nepal is fulfilling its right to education obligations. In particular, Nepal must collect accurate education data disaggregated by sex, caste, ethnicity, religion, and other categories in order to ascertain whether the right to equal access to education is being met.

- *Have an adequate standard of living, including access to food, water, and housing with adequate privacy, adequate space, adequate security, adequate lighting and ventilation, adequate basic infrastructure and basic facilities*

Nepal must collect accurate Census data to determine whether and to what extent Nepal is fulfilling its obligation to progressively realize the right to an adequate standard of living for all. Nepal must collect accurate data to identify those segments of Nepal's population for whom this right is currently inaccessible.

Recommendations

- Nepal should immediately prioritize educating Census enumerators about the country's human rights obligations regarding the Census
- Nepal should use "shadow enumerators" to ensure Census workers do not discriminate against Dalits or other disadvantaged groups
- Nepal must ensure Dalits and other disadvantaged groups are involved in the Census-taking process, including in the post-Census coding, data entry, and data interpretation stages