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CHRGJ Releases Groundbreaking Report on Nepalese Dalit Rights

“Recasting Justice” Outlines Crucial Next Steps for Nepal’s Constitution

(NEW YORK and KATHMANDU, April 22, 2008)—Nepal’s new constitution must recognize and protect the fundamental human rights of Dalits, says a new report released today by the Center for Human Rights and Global Justice (CHRGJ) at New York University School of Law. The report was released on the heels of Nepal’s historic Constituent Assembly elections held on April 10, 2008.

The 89-page report [*Recasting Justice: Securing Dalit Rights in Nepal’s New Constitution*](#) analyzes Nepal’s Interim Constitution to inform how the new constitution may be drafted in accordance with the country’s international human rights obligations to secure the rights of Dalits—a group which has faced more than 2000 years of systematic discrimination on the basis of caste. As Nepal prepares its new constitution after years of prolonged civil war, *Recasting Justice* provides Nepalese lawmakers with tangible means to demonstrate the country’s commitment to the inherent dignity and human rights of all individuals.

“The caste system is an affront to human dignity and inimical to the right to equality under international law,” said Smita Narula, Faculty Director at CHRGJ and an expert on caste discrimination. “Nepal’s new constitution must strike at the heart of this inhumane system, or risk perpetuating the very injustices that fueled its conflicts of the past.”

The report’s principal areas of focus correspond with Nepal’s international human rights treaty obligations, which include ensuring: nondiscriminatory access to citizenship; the right to equality and non-discrimination; civil and political rights; economic, social, and cultural rights; women’s rights; children’s rights; the right to be free from torture and other cruel, inhuman, or degrading treatment or punishment; and the right to a remedy for human rights violations. Nepal has to date fallen far short of meeting these human rights obligations, as is shown by the reality of the Nepalese Dalit experience. While the Interim Constitution takes commendable steps toward human rights, significant gaps remain in the protection of Dalit rights.

Caste discrimination and the practice of “untouchability” have ensured the complete subordination of Dalits who, based on some unofficial estimates, comprise up to 25 percent of Nepal’s population, yet own only one percent of Nepal’s wealth and arable land. Although some Dalits have excelled despite the caste system’s substantial constraints, a large percentage remain vulnerable to extreme forms of exploitation. “Upper-caste” community members typically force Dalits to live in segregated communities; forbid them from entering public spaces; deny them access to food, water, and land; and coerce them into caste-based occupations considered too “ritually impure” for “higher castes.” Attempts by Dalits to defy this prescribed social order are met with punitive violence and social ostracism. Dalit women and girls bear the dual brunt of caste and gender discrimination. The exclusion of Dalits from all facets of governance has ensured their continued marginalization and their unequal receipt of the state’s attention and resources. This political marginalization also makes them particularly vulnerable to abuses such as torture and arbitrary detention, abuses that were ripe during the conflict

“The new constitution should act as a roadmap for how Nepal will meet its international human rights obligations,” said Jayne Huckerby, CHRGI’s Research Director, “It must finally answer the long overdue call for Dalit rights.”

The report’s recommendations are based on a detailed analysis of Nepal’s obligations under international human rights law. Among its key recommendations, CHRGI calls on the Constituent Assembly to ensure that Nepal’s new constitution:

- facilitates political representation and meaningful participation of Dalits and other marginalized communities in decision-making bodies, including the Constituent Assembly which will draft the new constitution;
- ensures nondiscriminatory access to citizenship;
- explicitly prohibits private acts of discrimination;
- explicitly prohibits the use of religion to encroach upon fundamental rights;
- explicitly guarantees the right to health and the right to freely choose or accept employment;
- adopts a definition of torture beyond acts that occur in traditional custodial detention; *and*,
- extends the right to constitutional remedy to non-citizens.

Recasting Justice was produced in close cooperation with Dalit advocates and members of the legal community in Nepal and draws on the expertise of Nepalese academics and international constitutional scholars. In November 2007, CHRGI also conducted extensive in-country interviews with Dalit rights advocates, members of the Nepalese legal community, and representatives of international organizations. The report includes detailed factual information on human rights abuses against Dalits in Nepal and builds on both CHRGI’s expertise on caste discrimination and international human rights law.

The report’s findings and recommendations have been endorsed by the International Dalit Solidarity Network (IDSN), a non-governmental organization based out of Copenhagen which brings together national solidarity networks and Dalit NGO platforms from around the world. IDSN welcomed the unprecedented inclusion of Dalits in the Constituent Assembly, adding that far more needs to be done.

“Nepal faces a historic opportunity to eliminate this entrenched system of radical inequalities,” said Rikke Nöhrlind, IDSN’s Coordinator, “This report makes a tremendous contribution to the new government by clearly articulating the full range of measures that need to be adopted to address the long legacy of injustice against Dalits. We sincerely hope the international community will support Nepal’s transition toward eliminating all forms of caste discrimination.”

CHRGJ's analysis is based on extensive research and builds upon its previous work on the topic of caste discrimination—particularly its 2005 report [*The Missing Piece of the Puzzle: Caste Discrimination and the Conflict in Nepal.*](#)

The report and other background materials, including a summary briefing paper in both English and Nepali, are available at www.chrgj.org
For more information about the IDSN, please see: www.idsn.org.

About the CHRGJ

The Center for Human Rights and Global Justice (CHRGJ) brings together and expands the rich array of teaching, research, clinical, internship, and publishing activities undertaken within New York University (NYU) School of Law on international human rights issues. Philip Alston is the Center's Faculty Chair; Smita Narula and Margaret Satterthwaite are Faculty Directors; Jayne Huckerby is Research Director; Veerle Opgenhaffen is Program Director; Mattie Johnstone is Clinical Fellow; and Michelle Williams is Clinic Administrator. The CHRGJ and its International Human Rights Clinic have focused extensively on caste discrimination, and have collaborated with Dalit NGO partners throughout South Asia. The Center's reports, statements, and briefing papers on caste discrimination are regularly cited by policymakers and inter-governmental actors.

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