

Dignity Deterred, Justice Denied: The Human Rights of Dalits in Nepal

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Background

Nepal became member of United Nations (UN) on 14 December 1955 alongside other 15 key countries like Japan, Austria, Finland, Spain, Jordan, Portugal, Sri Lanka etc. on the same day. The membership of UN marked Nepal to enter into international diplomacy that opened door to participate in international forums. Nepal is also known for its earliest countries to ratify international human rights instruments. In the international arena, Nepal is well known and praised for its natural beauty, the Mount Everest and birth place of lord Buddha etc. On the other side of coin, it is less known for its history of exclusion and marginalization of about one quarter of population. People in Nepal faces multilayers of exclusion and marginalization based on gender, caste, ethnicity, religion, language, disability, geographical remoteness etc. among others. This article focuses on the human rights situation of Dalits who are placed at the bottom of the Nepali society due to long history of exclusion and deprivations. National Dalit Commission defines Dalit as “those communities who, by virtue of atrocities of caste-based discrimination and untouchability, are most backward in social, economic, educational, political and religious fields, and are deprived of human dignity and social justice.”

There are contradictory argument among historians on how and when the caste-based discriminations and untouchability practices entered into Nepal. Anwor, A. & Islam N. (2018) believe that Brahmins are the descendent of invader Aryans who came to Indian subcontinent from the place between Europe and Asia in about 3,400 BC. Those invaders created many scripts like Vedas and Manusmriti to rule the societies. Before the Manusmriti, the *Purushasukta* in Rigvada talks about the existence of Caste practices but from profession points of view. It is estimated that globally about 260 people are affected by the caste-based discrimination practice of which majority are in South Asia, Nepal has around 3.5 millions of Dalits.¹

Magarati, S.L. (2022) found that in Nepal the caste system was entered and spread from three different directions. First, Lichhavis in around 600 A.D. entered from India and started the Varnashram system making four Varna and eighteen castes. Later, Jayasthiti Malla (1360-1395) rigidly imposed the untouchability system that included four Varna and sixty-four castes. Second, King Ram Shah of Gorkha (1605-1636) established the system of four Varna and thirty-six castes to reinforce the Vernashram system. Third, in around 1000 BC during the time of king Janak, the Vernashram system spread among the Maithili and Avadhi speaking Madhesi community of Nepali Terai from its origin in India. After the Mughal intervention in India, lots of the ruling classes Hindus fled away to the hill of Nepal and even some established the reign (Timalsina, 2022). Aahuti (1967 BS) believes that the high caste Hindu rulers brought untouchables servants and untouchability in Nepal when they flee from India. Prithwinarayan Shah, the founder of the Nepal kingdom addressed the diversity in his famous ‘Divya Uddesh’ by subscribing Nepal as a common garden of four castes and thirty six creeds.

Through country’s first documented law, Civil Code (1854), Prime Minister Jung Bahadur Rana legitimized the caste system that strictly prevented Dalits from education and economic opportunities as well as excluded from all social life. Different punishment provisions were established by Civil Code (1854) for similar crime based on caste hierarchy, with higher punishments to Dalits (Michale, A. 2021).

Due to centuries of state sponsored and institutionalized discrimination and the rigid enforcement of caste hierarchies, Dalits in Nepal continue to face systemic dehumanization that included the practices

¹ International Dalit Solidarity Network, retrieved on 12 April 2025 at <https://idsn.org/caste-discrimination>

of caste-based discrimination and untouchability, economic exclusion and forced displacement, labor exploitation, deliberate denial of education and political representation, social and cultural boycotts etc. These intergenerationally perpetuated injustices strip Dalits of basic human dignity and justice, the very foundations of human rights. Despite constitutional guarantees, deep-rooted caste supremacy ensures that Dalits remain trapped in cycles of poverty, marginalization, and violence. The persistence of such oppression sustained over generations through social norms, economic coercion, and state inaction that demands not just legal reform, but a radical dismantling of caste-based power structures.

Human Rights Situation of Dalits in Nepal

A report by the UN Office of the High Commissioner for Human Rights (OHCHR, 2011) highlights how Dalits remain trapped in a vicious cycle of exclusion and poverty, systematically denied justice and dignity. Despite legal and other efforts, deep-rooted, centuries-old caste hierarchies perpetuate discrimination and untouchability, making eradication efforts immensely challenging. Still practically Dalits are denied to enter into temples, restricted to touch water sources, excluded to eat together with other community people, boycotted in social life, work as bonded labour and restricted to marry with so called upper castes. In case of inter-caste marriage with other caste groups Dalits are killed, physically assaulted, their houses are arson, forcefully displaced, charged with false cases etc. Dalit girls and women are raped and murdered but police deny to file the case, if filed no cases are investigated properly. Police always encourage to mediate such cases out of formal justice system.

INSEC (2022), a human rights organization found that in 4 years (2018 – 2021), 62 youths were killed and 249 girls and women from Dalit communities were raped only in Madhesh Province. Most of the killing incidents belonged to intercaste love affairs or marriages. This data reveals the gravity of caste-based discrimination and untouchability in Nepal. One Dalit civil society organizations noted that the incidents of killings, torture, abduction, disappearances, physical assaults, intimidation, threats, displacement, boycotts, rape, sexual abuse, trafficking and verbal abuse have been continued against Dalits. This situation is compounded by little access to justice for such rights violations. In addition, Dalit women faces multiple layer of discriminations based on the intersection of their caste, class and gender identity (SAMATA Foundation, 2014). A recent trend emerged in Nepal is that police makes fake allegation of human trafficking to arrest, torture and kill Dalit youth in police custody or prisons in cases of intercaste relationships. The death of Sanu Sunar in Kalimati Police Post (May 2010), death of Sridhan Bishwakarma in Dharan Police Post (Augsut 2017), death of 15 year old Kiran Karkidholi in Birtamod Police Post (April 2019), , the death of Shambhu Sada in Sabaila Police Post (June 2020),² death of Bijay Mahara in Garuda Police Post (August 2020),³ death of Roshan BK in Dhangadhi Police Post (September 2020),⁴ death of Paltu Ravidas in Dhanusha District Police Post (July 2021),⁵ death of Sundar Harijan in Rolpa Prison (May 2022), Bhim Kamat was killed in Morang District Police Office (September 2022).⁶ The extra judicial killing of Dalit youths in fake charges are at the increasing trend.

Similarly, Nepal's National Penal Code Act, 2017 (section 219) defines any sexual intercourse with a girl below 18 as statutory rape, regardless of consent. This provision has beome a strong weapon to trap Dalit youths in case of intercaste marriages. These provisions are disproportionately used to justify police torture, brutality, arbitrary arrest and custodial killings.

During the field monitoring, OHCHR found that usually victims were unaware that caste-based discrimination and untouchability acts are criminal offences under law. In Dalit related incidents often police follows ad-hoc settlements without following formal justice procedures where Dalits are forced to remain silent. There are also findings that the law enforcement officials are reluctant to act suo motu

² <https://www.recordnepal.com/deaths-in-custody>, retrieved on 13 April 2025

³ <https://kathmandupost.com/province-no-2/2020/08/27/rautahat-youth-arrested-on-murder-charge-dies-while-undergoing-treatment>

⁴ <https://kathmandupost.com/sudurpaschim-province/2020/09/14/in-custody-death-of-a-dalit-youth-in-kailali-sparks-protests>

⁵ <https://kathmandupost.com/national/2022/05/31/custodial-deaths-continue-with-little-being-done-towards-investigation>

⁶ <https://kathmandupost.com/national/2022/05/31/custodial-deaths-continue-with-little-being-done-towards-investigation>

upon caste-based discrimination and do not, upon receipt of related allegations, consistently register First Information Reports (FIR) with the view to initiating criminal investigations. Rather, in majority of incidents, police denies to register First Information Report (FIR) rather they pressurize to withdraw complaints taking sides of perpetrators. If incidents are registered then investigations are made intentionally weak. It is also because in justice system the case officer, investigator, attorney, judges usually none of them are from Dalit communities. On the other hand, Dalits in Nepal are not eligible to complain to CERD committee because so far Nepal government has not recognized the article 14 of the convention. As a result, Nepal has not recognized the competence of CERD committee to receive complaints in the case of violence of this convention.

Human rights obligations of Nepal to end caste-based discriminations

As a member of UN, Nepal has moral obligations to respect, protect and fulfill all the international human rights standards. As of now, Nepal ratified 24 international human rights conventions including International Convention on the Elimination of All Forms of Racial Discrimination (ICERD, 1965) on 30 January 1970. Nepal was the 14th country in the world to ratify the ICERD yet it gutted the treaty's power by adding discriminatory reservation on four key articles that restricted Nepali Dalits to realize full human rights. As per reporting obligation, after ratification Nepal submitted initial report to CERD Committee in 1972, but failed to submit State periodic reports in every two years, the second and third reports were submitted in time, then combined reports of 4th and 5th were submitted in June 1981, combined 6th to 8th reports in 12 Feb 1987, combined reports from 9th to 13th in 1997, 14th report single in 1999, combined 15th and 16th reports in April 2004 and latest combined reports from 17th to 23rd was submitted in 20 February 2017. The CERD Committee gave deadline for combined 24th and 25th report on 1 March 22 but those reports are not submitted yet. The reporting history to CERD committee is not satisfactory means Nepal is not serious on its reporting obligations.

First in 1987, issuing concluding observation on 6th to 8th periodic reports, CERD Committee expressed disappointment and suggested to Nepal government to withdraw reservations put on article 4 and 6 so that people can fully enjoy rights provided by the convention. In 1997, issuing concluding observation on 14th periodic report, CERD Committee suggested Nepal to adopt special declaration of article 14 to recognize the competency of CERD Committee so that Committee can receive complaints from victims.

The essence of article 4 of ICERD is that State parties have to criminalize all the hate propaganda, outlaw the racist organizations and prohibit the State supports to discriminations. The article 6 is about to provide effective remedies and provide adequate reparations to victims; and guarantee fair trials in the incidents of caste-based discriminations and untouchability acts. Article 22 establishes critical inter-state accountability mechanism to resolve inter-state disputes, one country can bring case to the international court of justice (ICJ) when one country believes that the other country is violating provisions of ICERD. The reservations on those important articles hinders Dalits of to seek justice through the international mechanism.

Fifty four years after the ratification, Nepal continues to maintain the reservation on articles 4, 6 and 22, Nepal has yet to make special declaration to recognize the article 14 which opens door to complain to CERD committee in case victims fail to access justice through domestic justice system.

Ways forward

1. Nepal should prioritize lifting its reservations on Articles 4, 6, and 22 that were put during the ratification of ICERD.
2. Nepal should issue a special declaration under Article 14 of ICERD, recognizing the competence of the CERD Committee to receive and consider individual and group complaints.

3. Nepal must submit periodic reports to the CERD Committee biennially, ensuring these reports are prepared through broad consultations with affected communities and victims.
4. All three levels of government should develop comprehensive action plans to address the CERD Committee's concluding observations, with adequate budgetary allocations for implementation.
5. In accordance with the Constitution, Nepal should adopt a fully proportional and inclusive system in all state bodies including constitutional institutions, diplomatic and political offices, and public services ensuring representation proportionate to the populations of Dalits and other marginalized groups.
6. Nepal should establish an independent Ombudsman or Commission to investigate all incidents of caste-based discrimination and untouchability occurring since June 4, 2006 (the date Nepal was declared an untouchability-free nation).
7. The National Dalit Commission (NDC) should be strengthened as an autonomous, independent, and well-resourced institution, with provincial branches established in all seven provinces.

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