

**1999**  
**Nepal Alternative Country Report**

*Submitted to the*  
**United Nations Committee on the Elimination of  
Racial Discrimination (CERD)**  
*on the occasion of the CERD consideration of the*  
**Fourteenth Periodic Country Report of Nepal**  
*pursuant to Article 9 of the*  
**International Convention on the Elimination of All Forms of  
Racial Discrimination (ICERD) (Articles 1 – 7)**

**Hearings:**  
***Geneva, Switzerland***  
***9 – 10 August 2000***

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# *NGO Alternative Report – Nepal's 14<sup>th</sup> Periodic Report under the ICERD*

## Executive Summary

Dalits (untouchables) are the people on the bottom rung of Nepal's caste hierarchy.

Because of their low social status, Dalits suffer from extreme racial discrimination. The perpetrators of this discrimination are the Government, private groups, and individuals.

The widely practiced 'de facto' rules of untouchability dictate that:

- Dalits must live on the fringes of upper caste settlements. Often, there is a lack of clean water and sanitation facilities in such places;
- Dalits are not allowed to enter Hindu temples or take part in Hindu religious ceremonies;
- Dalits are prevented from using public water taps reserved for upper-caste persons and from serving water to upper-caste persons;
- Dalits must wash their own dishes at tea stalls, restaurants and hotels; and
- Inter-caste marriage with a Dalit is extremely stigmatized.

Untouchability is widespread in Nepal, and detrimentally impacts the lives of Dalits. Discrimination and extreme poverty limit Dalits' educational and employment opportunities. In schools, Dalits are segregated from upper-caste students, and are discriminated against by upper-caste teachers and students. Dalits are virtually unrepresented in politics, the judiciary, government agencies and Nepal's armed forces. The literacy rate and life expectancy of Dalits is well below that of the national averages. Without the tools of social and economic advancement, Dalits are unable to improve their situation.

Although provisions of the Constitution and Civil Code have outlawed untouchability and caste discrimination, the necessary supporting legislation to give force to these provisions is lacking. Furthermore, knowledge of legal rights is extremely low amongst Dalits and other societal sectors who are poor and uneducated, and who struggle with the hand-to-mouth needs of daily life.

Dalits are not the only people who suffer racial discrimination in Nepal. Racial discrimination exists against Bhutanese refugees, over 97,000 of whom live in camps where their rights and health are severely threatened. Nepal has not fulfilled its legal obligations towards those refugees.

Finally, the Government of Nepal has filed a reservation to Article 4 of the ICERD. This reservation prevents Nepal from providing full protection to the Dalit, Bhutanese, and other victims of racial discrimination.

Under the ICERD, Nepal is obligated not to *engage in* or *permit* racial discrimination against Dalits (or Bhutanese). Nepal has breached its obligations to protect Dalits (and Bhutanese) from racial discrimination.

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Executive Summary*

*NGO Alternative Report  
Nepal's 14<sup>th</sup> Periodic Report under the ICERD  
(con't from previous page)*

*Nepal NGOs ask this Committee:*

1. To urge the Government to direct more money and effort to provide health care, housing, education, and community-run income generation programs for Dalits.
2. To urge the Government to enforce the anti-discrimination provisions of the Constitution and Civil Code. The Government should be urged to enact laws imposing significant fines and terms of imprisonment for those who practice racial discrimination.
3. To urge the Government to take steps to ensure the participation of Dalits in politics, the economy and education. Priority should be given to the appointment of Dalits in the political, administrative and judicial branches.
4. To urge that the Government initiate a legal literacy program to ensure that all people are aware of their rights under the Constitution, Civil Code and the ICERD.
5. To urge the Government to resolve the Bhutanese refugee crisis and to better protect the rights and living conditions of refugees in the camps of eastern Nepal.
6. To urge the Government to withdraw its reservation to Article 4 of the ICERD. Withdrawal of the reservation would allow Nepal fully to implement the ICERD, and to fully protect victims of racial discrimination.

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# Racial Discrimination Against Dalits (Untouchables) and others in the Kingdom of Nepal

## *Racial Discrimination in the Context of Nepal*

In the context of Nepal, racial discrimination exists on the basis of the caste status of the individual. There are four main caste groups which were originally distinguished by the type of labor performed by the members of each caste or group:

- (1) **Brahmins** are the group at the top of the caste hierarchy. Brahmins were traditionally priests and teachers.
- (2) **Kshetris** are below the Brahmins, were traditionally the ruling class, and were engaged in politics and army service.
- (3) **Vaishyas** are third in the caste hierarchy, and traditionally engaged in agricultural activities and trade.
- (4) **Shudras** are at the bottom of the caste system. Shudras traditionally performed hard labor, made artisan crafts, and performed services for the higher castes. ***Shudras are further divided into 'touchables' and 'untouchables.' Untouchables (known as Dalits) are the lowest in social rank. In Nepal, Dalits suffer the most from caste discrimination.***

Today, the labor distinctions are not as rigid as in the past. However, the plight of **Shudras** remains basically unchanged, especially those from the **Dalit (untouchable)** community. Under the caste system, Dalits have always been treated as inferior human beings. According to traditional caste rules, Dalits are not allowed to marry, touch, or enter the homes of persons of a higher caste. Furthermore, they are not allowed to acquire property, are forced to live on the fringes of upper caste settlements, are not allowed to enter Hindu temples, and are forbidden to perform Hindu rituals or receive an education. Caste rules dictate that if a Dalit were to touch an upper-caste person, the upper-caste person either has to take a bath or sprinkle himself with gold-treated water.

These inhumane rules alienate the Dalit community from mainstream society and prevent Dalits from achieving social or economic advancement.

## *Casteism & the Law*

A new Muluki Ain (Civil Code) was enacted in 1963 which announced the elimination of the caste system for the first time. Furthermore, the 1990 People's Movement restored a multiparty democracy to Nepal, and in that same year a new 1990 Constitution was promulgated which contains several provisions prohibiting caste discrimination. ***However, the necessary laws and by-laws required to give strength to the provisions of the Constitution and Civil Code are severely lacking. The lack of specific legislation to punish those who violate the Constitutional and Civil Code prohibitions of caste***

***discrimination has allowed many of the unjust above-described practices to continue throughout***

*Nepal.* Because caste rules are still widely in practice, Dalits suffer severe discrimination and other violations of their human rights.

- *Dalits are denied political rights – the right to stand for election*
- *Dalits are denied civil rights – the right to marriage and choice of spouse, and religious rights*
- *Dalits are denied economic, social, and cultural rights (right to education, choice of employment, and equal participation in cultural activities)*
- *Dalits are denied rights of access to public places (hotels, tea stalls, restaurants, Hindu temples, and schools).*

### ***The Untouchables (Dalits)***

Dalits constitute 15-20% of Nepal's total population. Today, discrimination against Dalits is most visible in the remote areas of the western hilly districts and in the Terai region in the south. In large urban areas such as Kathmandu, Dalits have achieved a level of anonymity, enabling them to dodge caste rules to a certain degree. Discrimination and poverty have caused great harm to Dalits. For example:

- The literacy rate of the Dalit community is only 18%, whereas the national average is 48%, and the figure for the Brahmin caste is 58%. The literacy rate among Dalit women is 3.2%, versus 30% for non-Dalit women.
- 42% of Nepal lives below the poverty line, and 35% of people making up that figure are Dalits.
- The average life expectancy for Dalits is 42 years; the national average is 57.3; and the average for the Brahmin caste is 61.

These figures evidence a great discrepancy in the quality of life between Dalits and non-Dalits.

**One major problem facing Dalits is lack of education.** Dalits are prevented from attending school, because of the more important 'hand-to-mouth' problems of daily life, ignorance, low income, child labor, and discrimination from upper-class teachers and students. Due to the extreme poverty of their family, Dalit children must stay at home to help with household labor or to earn extra income through employment. Thus, Dalits are robbed of the tools of social and economic advancement.

***Furthermore, most Dalits are landless or do not own enough land to provide food or income for more than a few months a year.*** This forces Dalits to take menial, low paying and seasonal jobs which do not offer the opportunity for professional advancement or to rise above the poverty level. When they are unable to find work, they must take loans from landowners who charge usurious interest rates.

## *Recommendations for the Government of Nepal*

The Government of Nepal may take a wide range of measures to further the goals of the ICERD. We ask the CERD to ask the Government of Nepal to take the following actions, to bring Nepal into full compliance with the International Convention on the Elimination of All Forms of Racial Discrimination:

- The Government must direct more money and human effort to provide health care, housing and community-run income generation programs for Dalits.
- The Government must enact strict laws to enforce the anti-discriminatory provisions of the Constitution and the Civil Code of 1963. These laws should dictate significant fines and terms of imprisonment for those who discriminate on the basis of caste, especially for violent incidents of discrimination.
- The Government must establish programs to ensure the Dalit community's full participation in politics, the economy and education. Priority should be given to the appointment of Dalits in the political, judicial, and administrative branches.
- The Government must initiate a legal literacy program to ensure that all Dalits know of their rights under the Constitution, the Civil Code of 1963 and the ICERD.
- The Government must do everything within its power to resolve the Bhutanese refugee crisis and to better protect the rights and living conditions of those refugees living in the camps in eastern Nepal.
- The Government must withdraw its reservation to Article 4 of the ICERD to allow its full implementation and to provide full protection to victims of racial discrimination.



# **Nepal's Violations of Articles 1 to 7 of the Convention on the Elimination of all forms of Racial Discrimination**

## **Article 1**

*Article 1(1) – Definition of “racial discrimination”*

- ***Violation of prohibitions of “racial discrimination”***

The Government of Nepal has engaged in and permitted “racial discrimination”, as defined in article 1(1), against the *Dalit (untouchable)* people in Nepal. The Government of Nepal has engaged in or permitted distinctions, exclusions, restrictions, or preferences based on the race, colour, descent or national or ethnic origin of Dalit people.

The purpose or effect of these distinctions, exclusions, restrictions or preferences has nullified or impaired the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural and other fields of public life of *Dalit* people in Nepal.

## **Article 2**

*Article 2(1)(a) -- Government must not engage in or permit racial discrimination:*

- ***Army service:***

Few Dalits serve in the army. Those Dalits who serve in the army face numerous forms of discrimination.

- ***Sanskrit University:***

Nepal established a Sanskrit University where about 645 students learn Sanskrit. In the past, Dalits were prohibited from studying at that University. However, after receiving pressure from Dalit rights organizations, in 1998 the University stated that it would begin to admit Dalits. **Nevertheless, no Dalit students are enrolled at this University.**

- ***Law Enforcement:***

In Nepal, Dalits suffer discrimination in that they are forced to wash their own dishes when they eat at tea stalls, whereas members of other castes are not required to do so.

On May 29, 1999, in Sindhupalchowk, Bhotenamlang VDC, **two Dalit men were arrested, violently beaten and fined a large sum by the local assistant sub-inspector for refusing to wash their dishes at a tea stall. Furthermore, a social worker that voiced support for the two Dalits was also beaten and forced to sign a paper stating that he would pay the Dalits' fines if they did not pay them.** Representatives of Dalit rights organizations protested and forced the police to apologize and pressured the government to take action against the culprit. However, it appears that relocation of the involved police personnel has been the only “punishment.” **(The Dalits were forced to pay Rs. 20,000 -- approximately as a fine, and Rs. 20,000 for compensation to the owner of the tea stall).**

***Article 2 (1) (b) – Government may not sponsor, defend or support racial discrimination:***

- ***The Government Supports Discriminatory Groups:***

The government of Nepal has violated Article 2(1)(b) by supporting the World Hindu Federation which favors casteism and the practice of denying Dalits entry to Hindu temples. Furthermore, the government's Election Commission allowed Shiva Sena, a Hindu extremist group which included in its manifesto that anyone who kills a cow should receive capital punishment, to register even though other religions in Nepal do not consider the cow a sacred animal.

***Article 2(1)(c) – Government must amend laws that create or perpetuate discrimination:***

- ***Discrimination in Daily Life:***

‘De jure’ racial discrimination no longer exists in Nepal. However, caste discrimination and untouchability is still widely practiced in various aspects of daily life, especially in the remote western districts.

***Article 2(1)(d) -- Government must enact & enforce legislation to prohibit race discrimination by any person, group or organization:***

- ***Necessary Laws and By-Laws:***

The government has not enacted the necessary laws or by-laws to give proper force to the provisions of the Constitution and the Muluki Ain (Civil Code) of 1963 which outlaw caste discrimination and the practice of untouchability, and allow discrimination victims to seek redress in the courts. **These same criticisms were voiced by CERD members upon review of Nepal's 9<sup>th</sup> to 13<sup>th</sup> periodic reports in 1998. To date, the government has still not enacted such laws or by-laws.**

- ***Nepali as Official Language:***

Article 6.1 of the 1990 Constitution provides that Nepali is the language of Nepal and that the Nepali language shall be the official language. However, Article 6.2 states that all the languages spoken as the mother tongue are the national languages of Nepal. These two Constitutional articles create legal confusion for people fighting to have their indigenous languages recognized in the nation's courts and administrative offices.

***Article 2(1)(e) – Government must encourage integrationist and multiracial organizations:***

- ***The Human Rights Commission:***

The Commission still has not been established, even though over three years have passed since Parliament approved the Commission's creation. On 13 July 1999, the Supreme Court issued a writ of mandamus directing the government to form the Commission as soon as possible.

- ***Committee for the Upliftment of the Oppressed, Backward, and Dalit People:***

This Committee is charged with operating Dalit research, training, evaluation and monitoring programs. However, this Committee has been ineffective because persistent government instability has prevented implementation of many of the Committee's programs.

***Article 2(2) – Government must take concrete measures to ensure adequate development and protection of certain racial groups:***

- ***Training on Racial or Ethnic Sensitivity:***

Neither teachers, students, government officials, judges nor national law enforcement officials receive government sponsored training on racial or ethnic sensitivity or on the obligations of the ICERD.

- ***Lack of Special Provisions for Dalits:***

Article 11.3 of the Constitution provides that special provisions can be made for women, children, and any economically, socially and educationally backward communities or classes. Accordingly, a provision has been made for women to comprise 5% in competing political parties for national elections. However, no provisions have been made for Dalits to be represented in national elections.

## **Article 3**

***Article 3 -- Government must prohibit & eradicate racial segregation & apartheid:***

- ***Refugees:***

Nepal maintains an open and free border with India, which is also plagued with a similar form of caste discrimination. Also, Nepal has an open and unregulated border with the Tibetan region in the North. These two open borders have created a large influx of refugees into Nepal from both Bhutan and Tibet, with Bhutanese refugees creating the most pressing problems.

**Currently over 100,000 Bhutanese refugees live in Nepal, more than 97,000 of whom live in seven UNHCR organized camps in Jhapa and Morang districts.** Another 30,000 or so live in Jalpaiguri and Darjeeling districts of North Bengal. There are probably many others in the Indian states of Arunachal Pradesh, Assam and Sikkim. So far, there have been at least seven rounds of ministerial talks between Nepal and Bhutan to try and resolve the refugee crisis. However, nothing close to a solution has resulted. **The Bhutanese refugee issue is not only the problem of Bhutan, but also of Nepal, India and Bengal. This problem can only be solved with the joint co-operation of all such affected countries.**

- ***Segregation of Dalits:***

According to traditional rules of the caste system, Dalits were forced to live on the outskirts of ‘upper-caste’ settlements. **This segregation of Dalits continues today. Many Dalits live on the outskirts of villages in rural or suburban areas which are underdeveloped and lack sanitation facilities and a clean supply of drinking water. Dalits also face segregation in schools, many public places and in the army service.** Although the government has initiated programs to develop the poor, rural areas of Nepal where most Dalits live, none of these programs have been aimed specifically at the Dalit community to eliminate these forms of caste-based segregation.

## **Article 4**

***Article 4(a) – Government shall declare an offense punishable by law all promotion or dissemination of racist ideas or practices:***

- ***Lack of Specific Legislation:***

The Constitution and the Civil Code of 1963 make the practice of untouchability in public places punishable by law. However, the government has not enacted specific criminal legislation to make these provisions effective at curbing the practice of untouchability in daily life. The practice of untouchability is prevalent in Nepal.

- ***Declaration of Nepal as a Hindu Kingdom:***

The Constitution declares that Nepal is a Hindu Kingdom, even though many Buddhists live in Nepal, and even though the practice of untouchability and caste discrimination originated from the Hindu religion. In this way, the government itself promotes the dissemination of racist ideas.

- ***Nepal’s Reservation to Article 4:***

The Committee should urge the government of Nepal to withdraw its reservation to Article 4 of the Convention in order to give full effect to the provisions of Article 4.

## Article 5

### *Article 5(a) – Guarantee of equal treatment before tribunals:*

- *Language:*

- ➔ The Supreme Court of Nepal recently ruled that indigenous languages of Nepal shall not be recognized in courts and government offices. Nepali and English are the only recognized languages. This has caused a direct and immediate setback to the already disappearing indigenous languages of Nepal, whose existence is vital to the preservation of the distinct cultures of different ethnic groups.
- ➔ Ethnic groups are unable to file petitions in their mother tongue, and non-Nepali/English speaking people are effectively barred from serving on juries and it is difficult for them to seek assistance or information from government ministries.
- ➔ The Dalit caste is directly affected by this situation because, as a result of discrimination and poverty, they do not have equal access to education (see Article 5(e)(5)) and are thus prevented from learning Nepali and English.

- *Legal Aid:*

Although the government has created a provision for legal aid, there is very little awareness of this right. Many Dalit people are not aware of this right due to lack of education and the pressing ‘hand-to-mouth’ problems of daily life.

- *Refugee Laws:*

- ➔ **The laws and courts of Nepal have yet to explicitly address the issue of specific legal provisions for refugees.** The foreign policy of Nepal is based on the U.N. Charter and international law whereby Nepal is bound to grant refugees basic rights, even though it has not succeeded to the 1951 Refugee Convention or its 1967 Protocol. Refugees in Nepal are also entitled to basic human rights such as religious freedom, freedom from exploitation, cultural and educational rights, and the right to criminal justice.
- ➔ Because Nepal already recognizes the human rights of refugees in practice, the enactment of refugee laws would greatly benefit the country and would improve Nepal’s image in the international community.

***Article 5(b) -- Right to security of person; protection against bodily harm whether by government, or any individual or group:***

- A Police Sub-Inspector arrested, beat and fined two Dalit men for refusing to wash their dishes at a tea stall (see page 5 of this report).

***Article 5(c) – Guarantee of political, electoral, suffrage rights:***

• ***Standing for Election:***

According to Article 113.3 of the Constitution, political groups are not permitted to register with the Election Commission if they are organized on the basis of religion, language, ethnicity, etc. **However, this provision is not applied evenly to all such groups.** For instance, the National People's Liberation Front, a party based on ethnic politics, was denied registration in 1992. Yet, in the 1999 elections, Shiva Sena, a Hindu extremist group which included in its manifesto that anyone who kills a cow should receive capital punishment, was allowed to register by the Election Commission despite the fact that there are many non-Hindu religions in Nepal which do not consider the cow a sacred animal.

• ***Equal Access to Government and Public Service:***

- ➔ Upper-caste people (Brahmins and Kshetris) hold roughly 90% of all public service positions. Most of the remaining 10% of the positions are held by those from other ethnic groups, but there are very few Dalits.
- ➔ **Although approximately 3.7 million Dalits live in Nepal, their representation in politics and government agencies is practically non-existent. Due to discrimination and lack of education, there is little chance for Dalits to enter government positions.**

• ***Army and Police Service:***

- ➔ **Relatively few Dalits serve in the army because of deeply ingrained rules and traditions of the caste system and the practice of untouchability.** When a Dalit person applies for entry into the army, he is often rejected once his caste status

becomes known, despite his physical or educational qualifications. Upper-caste people (Brahmins and Kshetris) hold most army positions.

➔ **Dalits who manage to gain entrance into the army face many forms of discrimination daily.** At meals, Dalits are forced to sit at separate tables or outside of the mess hall and to wait in separate queues to receive food. Also, they are not allowed to touch the tap to get water.

Recent Incidents of Caste Discrimination in the Army
<ol style="list-style-type: none"><li><b>1. Abuse of Dalits.</b> A Dalit from the Damai (tailor) caste was subjected to extreme humiliation when he was applying for entry into the army. When his caste became known by the interviewing officer, a sentence stating “Tailor brother, go to your home and beat your drum” was written across his stomach.</li><li><b>2. Dalit Expelled from School.</b> One officer who taught in an army-run school recognized the intelligence of the son of a Dalit serviceman and allowed this boy to enroll at the school. However, after a short time the same officer expelled the student because the officer received so much pressure from other teachers and administrators.</li><li><b>3. Dalit Post Transfer.</b> One Major in the Nepalese army received a transfer to another post after he allowed a few Dalit servicemen to eat with the other servicemen.</li></ol>



**Article 5(d)(4) – Right to marriage & choice of spouse:**

• **Inter-Caste marriage:**

Although inter-caste marriage is no longer illegal, it is still highly discouraged and heavily stigmatized according to the ‘de facto’ rules of the caste system.

**Article 5(d)(7) – Freedom of religion:**

• **Religious Rights:**

**Dalits are not permitted to enter many Hindu temples throughout the country or to take part in religious ceremonies, even though most Dalits are Hindus.** Additionally, many of Nepal’s laws have been drafted according to the Manu Smiriti (Hindu code of conduct). For instance, killing a cow results in punishment equal to that for killing a

human being and may bring a sentence of life imprisonment. This law directly discriminates against any persons who are not Hindus and do not consider the cow a sacred animal.

**Article 5(e)(1) -- Guarantee of choice of employment and favorable work conditions.**

• **Choice of Employment and Favorable Work Conditions:**

Even literate Dalits cannot open a restaurant or receive low level government positions because they cannot serve water to upper-caste clients and co-workers according to the rules of untouchability.

**Case Study on Dalit Employment Opportunities**

“Economic opportunities available to the majority of low caste people are low remuneration jobs which usually require unskilled manual labor, and have little organization or union to protect them. Other employment fields from which ‘untouchables’ are restricted are those jobs which require contact with water or milk/milk products [many higher caste people refuse to take water or milk that was handled by untouchables] . . . Given the dwindling scope of many of the traditional skills, the caste discrimination in employment may inevitably lead to further depression of the . . . Dalit community, unless these attitudes are changed or the laws of the nation are enforced more rigorously” (*Children and Traditional Caste Employment in Siraha District, Nepal, Save the Children U.S., 1999*).

• **Equal Pay:**

Bhutanese refugees in the refugee camps of eastern Nepal often agree to work for lower than normal wages, thereby causing unemployment problems for local people and exploitation of the Bhutanese refugees.

• **Language Barriers:**

Dalits have not had equal access to education (see Article 5(e)(5)). Thus, Dalits do not have the opportunity to learn Nepali or English and can only speak in their mother tongues.

This further prevents Dalits from obtaining many types of employment, especially in the government sector.

***Article 5(e)(4) – Right to public health, medical care, social security & social services:***

• ***Health and Medical Care:***

- ➔ Studies have shown that the average life expectancy of a Dalit person is 42, whereas the national average is 57.3, and 61 for the Brahmin (highest) caste.
- ➔ A study carried out by ActionAid Nepal in 1993 of Dalit women in a certain project area showed that 90% of those women suffered from uterus prolapse.
- ➔ Because so few Dalits are educated, they rarely implement family planning measures or sanitary living habits. Furthermore, their living and working conditions further destroy their health.
- ➔ Because Dalits are prevented from using sanitary water sources that have been reserved for upper-caste community members, they are often compelled to use unprotected water sources.

• ***Social Services:***

Contrary to Article 5(a)(1), the indigenous languages of Nepal are not recognized in the courts and administrative offices. Dalits are largely uneducated and are in many ways precluded from learning Nepali and English. Therefore, it is very difficult for Dalits to access administrative agencies in order to take advantage of social services.

***Article 5(e)(5) – Right to education & training***

• ***Education:***

Even though primary education is free, the more important ‘hand-to-mouth’ problems of daily life, ignorance, low income, child labor, and discrimination from teachers and upper caste students prevent many Dalit children from attending school.

### Case Studies on Dalit Education

1. “Of the total Dalits, only 18% are literate. Among non-Dalits, 46% are literate. The literacy rate among Dalit women is 7% against 30% in the case of non-Dalit women” (*Terai Dalits: A Case Study of Selected VDC's of Saptari District of Nepal, ActionAid Nepal, 1998*).
2. “The cost of a primary education, especially economically and sometimes socially, can be quite high for the poor. Even if there are no ‘official’ fees, there are tuition fees, exam fees, as well as costs for notebooks, pencils and uniforms which keep the more indigent children out of the schools . . . [Also] someone in the family has to take responsibility for the earning capacity of the child, as he or she will not be able to fulfill their earning capacity while they are in school”. (*Children & Traditional Caste Employment in Siraha District, Nepal, Save the Children US, 1999*).

### *Article 5(e)(6) – Right to equal participation in cultural activities*

#### • *Dalits Mixing with Higher Castes.*

Dalits are prohibited from mixing with higher castes during Hindu religious ceremonies and are prohibited from entering Hindu temples even though most Dalits are Hindu.

### Recent Temple Entering Incidents

1. At the Kalika temple of Gaunsahar VDC, traditionally upper caste Hindus sacrifice five goats. **However, this practice is prohibited for Dalits.** A Dalit rights organization staged a protest on March 28, 1999. An assistant district officer arrived and produced a letter declaring that Dalits were prohibited to perform sacrifices and warned the Dalit protestors that “Any Dalits attempting to perform rituals will become the victims of bullets.”
2. In Ward No. 7, a Magar community prohibits Dalits and women from entering the Dholamandali temple and worshipping. **The practice of offering a female goat at the temple is prohibited to Dalits. Even a goat that has been kept by a Dalit is not allowed to be offered until a higher caste person has kept the same goat for at least 7 days.** On 27 April 1999, a group of Dalits held a protest at this temple. Standing in a queue to worship, the Dalits were charged and hit with stones thrown by a group that included the chairman, vice chairman and the members of the local Village Development Committee. The police remained silent observers. Apparently, a Dalit rights organization filed a case in the district court.

***Article 5(f) – Right to access to any place of service intended for use by general public, such as hotels, restaurants, cafes, etc.***

• ***Dalits and Water Sources:***

Dalits are not allowed to use taps and wells reserved for higher caste people and must often walk very far to fetch water or to draw water from unsanitary sources.

• ***Tea Stalls and Restaurants:***

Dalits are forced to wash their own dishes and the stall owner is careful not to touch Dalits when serving them and taking their money.

• ***Hotels:***

Dalits are not allowed to enter hotels or, if allowed to enter, they must wash their own dishes outside of the building.

• ***Cowsheds:***

Dalits are often not allowed to enter cowsheds for fear that they will contaminate the milk of the cow.

• ***Cremation Sites:***

Lower caste people must be cremated downstream from the cremation sites of upper caste people. This practice can even be observed in Pashupatinath temple in Kathmandu.

• ***Schools:***

Many Dalit children drop out of school at a very early age due to discriminatory treatment. Dalits are not allowed to touch the water pitcher and are not allowed to eat with the higher caste students. Even in the classroom, Dalit children are often forced to sit in separate areas.

## Article 6

### *Article 6 – Right to remedies*

- *No public knowledge of remedies.*

The general public in Nepal is not sufficiently aware of the protections against racial discrimination provided by the Constitution, the Civil Code of 1963 and the ICERD. There are few lawsuits alleging racial discrimination filed in the courts.

- *Legal Aid.*

Although free legal aid is available, most people are unaware of such assistance.

## Article 7

### *Article 7 – Government shall adopt immediate & effective measures to combat prejudices leading to racial discrimination:*

- *Training*

Neither teachers, students, judges nor government officials receive training on preventing racial discrimination, on racial sensitivity or on human rights issues in general.



## References

1. Children and Traditional Caste Employment in Siraha District, Nepal, Save the Children U.S., 1999.
2. Committee on the Elimination of Racial Discrimination, Fifty-Third Session, 3-21 August 1998.
3. The Constitution of the Kingdom of Nepal 1990, His Majesty's Government, Ministry of Law, Justice, & Parliamentary Affairs.
4. Country report for United Nations Convention on the Elimination of Racial Discrimination, Vishwakarma, 1994.
5. Human Rights Yearbook 1993: "Highlight of the Year: Untouchables in Nepal," INSEC, Kathmandu.
6. Report of Symposium to Launch Country Report on U.N. Convention on Elimination of All Forms of Racial Discrimination 1994, Dalit Welfare Organization, 1995.
7. The Status of Dalits in Nepal at a Glance, Dalit Welfare Organization, 1994.
8. Terai Dalits: A Case Study of Selected VDC's of Saptari District of Nepal, Prof. Hari Bansh Jha, 1998.

## Special Thanks

- Dr. Krishna B. Bhattachan
- Dilli Prasad Bhattarai, National Project Coordinator, (ILO)
- Mr. Padma Lal Bishwakarma
- Mr. Moti Lal Nepali and the Dalit Welfare Organization
- Feminist Dalit Organization (FEDO)
- Save the Children U.S.
- Mr. Malla K. Sundhar
- Mr. Padma Ratna Tuladhar
- Mr. Hari Vishwakarma of ActionAid Nepal
- Mr. Gopal 'Chintan' Siwakoti and INHURED International; Putalisadak, Kathmandu, Nepal
- Prof. George E. Edwards and the Program in International Human Rights Law (PIHRL), Indiana University School of Law, Indianapolis, Indiana, U.S.A.
- Dean Norman Lefstein of Indiana University School of Law – Indianapolis, Indiana, U.S.A.
- International Studies Program of Indiana University, Purdue University at Indianapolis, Indiana, U.S.A.
- Graduate Studies Office of Indiana University, Purdue University at Indianapolis, Indiana, U.S.A.