

REPORT OF DALIT WOMEN OF NEPAL ON CEDAW CONVENTION

Review of Nepal – 71st Session

*Joint Submission by
Feminist Dalit Organization (FEDO)
and
International Dalit Solidarity Network (IDSN)*



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Background

The Government of Nepal submitted Sixth Periodic Report on the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) on 18th April 2017. The CEDAW Committee is scheduled to assess the report in October 2018. The delayed report submitted by Nepal was due on 2015. Considering the vulnerability of women in Nepal and delay by the Government in reporting, Civil Society's Alternative Report on CEDAW Convention was submitted in 2016¹. Following the government report, the civil society organizations are preparing shadow report alternative to the government report in 2018 for consideration for CEDAW Committee.

According to Census 2011, there are 1.8 million Dalit women in Nepal, which consists of 13% of the total female population of the country². Unique features of Dalit women's lives are characterized by exclusion through customary provisions of caste institutions based on the notion of purity and pollution, and patriarchy and gender discrimination. As a result of such exclusion and discrimination, they endure extreme forms of poverty, humiliation, and denial of social and economic rights and recognition as human beings. Dalit women like other women from minority communities or indigenous peoples, Madhesi³ and Muslims: they tend to remain invisible even in the alternative reports by the civil society organizations. Given the extreme and multiple level of discrimination and vulnerability of the women belonging to the Dalit community, this report is submitted as complementary document to further reinforce women's right and to highlight the problem of Dalit women and provide recommendation for protection of Dalit women's human rights. This report offers Dalit Women's perspective and to highlight areas where Nepal could make further advances in meeting its obligations under the CEDAW.

This report was prepared by Feminist Dalit Organization (FEDO) - a group of concerned Dalit women founded in 1994. FEDO was the first national-level non-governmental organization to represent Dalit women, advocate for their concerns and address their immediate needs. FEDO works on both caste and gender discrimination. It aims to promote Dalit rights, eliminate caste and gender discrimination and endorse justice and equity in Nepali society. It has established 56 district chapters and mobilized over 53,850 Dalit women in 2154 Dalit women's groups. FEDO is determined to end all kinds of discrimination and empower Dalit women to participate as full members of Nepali society.

¹Civil Society's Alternative Report on CEDAW Convention was submitted in 2016

² Central Bureau of Statistics, Government of Nepal. See http://cbs.gov.np/sectoral_statistics/population/caste_ethnicity

³ Madhesi refers to the people living in the southern plains of Nepal also known as Tarai who speaks Maithili, Bhojpuri, Abadh and other languages and follows culture and religion similar to North India.

The report was prepared in consultation with Dalit women belonging to political leaders from various political parties, civil society organizations, community leaders and experts. A series of consultation workshop were held in Kathmandu and other places to provide input to the report.

Article 1 and 2: Definition of ‘discrimination against women’ and duty of the State to eliminate of discrimination

Prevalence of the Problem

Dalit women include a section of women who belong to the so-called lower castes within the Nepali Hindu caste hierarchy and are being treated as untouchables. Dalit women are at the bottom of caste, gender, and class hierarchy in Nepal. Dalit women are Dalits of Dalit. They are “doubly Dalit” because they bear the burden of both caste and gender discrimination. As members of impoverished underclass, they suffer most severe forms of deprivation compounded by violence, sexual assault, and humiliation. Madhesi Dalit women endure additional forms of exclusion-based lingual, identity, and regional disparities. Dalit and women put together condense and portray multiple forms of discrimination, violation of human rights, and inequality in Nepal. Within the larger women population, the segment of Dalit women continues to experience severe and multiple forms of discrimination.

Article 18 of the Constitution of Nepal prohibits the discrimination⁴ based on caste and sex. The definition of discrimination, however, is generic. The existing definition of the discrimination fails to recognize indirect and invisible forms of discrimination, as well discrimination by non-state actors. Although the Constitution in its Article 24 also prohibits untouchability, it lacks provision for adequate reparation for the victims of discrimination and compensation for historical marginalization of Dalit communities. The Caste Based Discrimination and Untouchability (Offense and Punishment) Act 2011⁵ provides legal framework for punishment for caste-based discrimination and untouchability. This law, nevertheless, remain ineffective in practice as it does not have adequate measure for protection of victims and witness. Nor the punishment provision is adequate for gravity of crime. Dalit women both as women and Dalit faces discrimination at highest level but both the Constitution and the CBDU Act do not recognizes Dalit women as separate category and the distinct forms of discrimination that they experience.

⁴The Constitution of Nepal 2015.

⁵Caste Based Discrimination (Offense and Punishment) Act 2011

Critical Areas of Concern

- The Constitution does not recognize multiple discrimination against the Dalit women based on gender, caste, and language.
- The definition of discrimination does not include the indirect and invisible forms of discrimination faced by Dalit women.
- The discrimination against Dalit women by non-state actors in private and public sphere is not recognized by the Constitution.
- Legal protection of and compensation to the victims of caste and gender based discrimination and inadequate punishment for the perpetrators have led to continuing violation of human rights of Dalit women.
- The CBDU Act outlawed caste-based discrimination in public and private spheres. However, due to the lack of awareness and sensitivity among the stakeholders, and the lack of ability of Dalit women to invoke the justice system, the implementation of the Act remains weak.⁶Non enforcement of the law against caste-based discrimination and untouchability to protect Dalit women's rights have resulted in further discrimination.

Recommendations

1. Adopt comprehensive definition of discrimination to include the indirect and invisible forms of gender and caste-based discrimination in both private and public sphere by state and non-state actors.
2. Provision for adequate punishment for perpetrators of the discrimination against Dalit women should be made in the law.
3. Discrimination resulting from the ineffective implementation of provisions of CBDU Act should be recognized and necessary action should be taken to concerned authorities for such omissions.
4. Measures for protection of the Dalit women who fall victims of discrimination and witness be made explicit. Provision for compensation for the victims should be made by the law.

⁶See, OPENING THE DOOR TO EQUALITY: Access to Justice for Dalits in Nepal, Office of the High Commissioner for Human Rights (OHCHR) in Nepal, December 2011, page 65-71.

Article 3: Gender Equality

Prevalence of Problem

In line with the Comprehensive Peace Agreement (CPA) 2006⁷, the Constitution of Nepal 2015 guarantees the equality and non-discrimination on the "grounds of origin, religion, race, caste, tribe, sex, physical conditions, disability, health condition, matrimonial status, pregnancy, economic condition, language or geographical region, or ideology or any other such grounds."⁸ Further the Constitution adopts in its' directive principles of "embracing the norms and values of fundamental rights and human rights, gender equality, proportional inclusion, participation and social justice⁹." Further, CBDU Act 2011 was celebrated for the ending of caste based discrimination and untouchability. Despite the constitutional and legal promises for gender equality and end of untouchability, the implementation of this law remains ineffective. Because of the intersectional discrimination against Dalit women based on caste, untouchability and gender, guaranteeing them the exercise and enjoyment of human rights and fundamental freedoms on a basis of equality with men remains unfulfilled.

The Constitution also envisioned National Women's Commission for working towards gender equality as a constitutional body. In similar vein National Dalit Commission is formed for protection and promotion of Dalit rights. Both the Commissions, however, more often, remain oblivious of concerns of Dalit women. In the working of these Commissions the upper caste women or general category of women and the Dalit men become main constituencies. The representation of the Dalit women in these Commissions is negligible and their agenda are limited by resources that the Ministry of Finance control.

The government of Nepal has adopted the Gender Equality and Social Inclusion (GESI) policy to inform the programme and plans of various Ministries. The Ministries also have established GESI Unit and focal point for supporting the work of planning, budgeting and monitoring the ministerial programme to promote GESI. Nevertheless, the GESI policy and Unit responsible for the task has been of cosmetic in nature and failed to inform programme that address the problems of Dalit women. There is no standardized monitoring system and disaggregated data to track the records for how Dalit women has been targeted and benefited from the government programme.

Inclusion and representation of the Dalit women in government are keys to access decision-making that can lead to gender equality. For the promotion of inclusion in civil

⁷Comprehensive Peace Agreement, 2006.

⁸The Constitution of Nepal 2015. Article 18 (2) Right to Equality.

⁹ Ibid. Article 50 (1) Directive Principles/

service, the government introduced reservation for various marginalized groups in Nepal including Dalits. Although the introduction of reservation policy in the civil service in 2007 was expected to bring about positive outcomes, a recent study shows reverse result and discouraging trend in the inclusion of excluded groups in the civil service. A comparison of representation of different groups in bureaucracy between 2006 and 2012 depicts that there is a negligible increase of Dalits in bureaucracy¹⁰. Of the total 83,000 personnel in Nepal's civil service, only 0.8 percent are Dalits, a disproportionate figure considering that they make up 13 percent of the national population. Studies show that most Dalit occupy lower level assistant positions in bureaucracy with limited authority. Dalit women's representation in officer-level government service is virtually non-existent¹¹.

Critical Areas of Concerns

- Dalit women are the most vulnerable group who face untouchability and gender based discrimination in compounded ways. Due to the enduring practices of untouchability on the part of so-called upper caste men and women, the Dalit women are barred from accessing water, public space, temples and others.¹² They are excluded in social processes and prevented from freely marrying with other caste. The untouchability also affects Dalit women's access to education, health care and services for overcoming poverty. Gendered untouchability is impediment to attain right of equality of Dalit women in Nepal.
- Untouchability related discrimination against Dalit women often remain unreported to the concerned officials. Police is the first point of contact to take the First Information Report (FIR) and to investigate the cases. Even when there is no report by the victims, the police can take action as a matter of *suomotu* obligation¹³. The Police nevertheless, are reluctant to file the formal FIR and investigate cases of caste-based discrimination against Dalit women. They often informally encourage

¹⁰Awasthi, G. D. and R. Adhikary (2012). Changes in Nepalese Civil Service after the Adoption of Inclusive Policy and Reform Measures. Kathmandu: Support to Participatory Constitution Building in Nepal (SPCBN)/UNDP.

¹¹See PradeepPariyar, 2017. Dalits in civil service. In Kathmandu Post.

<http://kathmandupost.ekantipur.com/news/2017-03-28/dalits-in-civil-service.html>

Published: 28-03-2017 09:21. See also Tamrakar, T. (2006). Dalit mahilakasamajik, arthiktatharajnitikadhikarsanrachhyankalagiarachhyan. In *Nepal ma Dalit Mahila*, pp. 57-94. Kathmandu: Feminist Dalit Organization.

¹²Bhattachan, K. B., T. B. Sunar, et al. (2009). Caste Based Discrimination in Nepal New Delhi, Indian Institute of Dalit Studies.

¹³A circular to that effect was issued by the Ministry of Home to al CDOS on 2070/05/04 (20 August 2013).

for mediation. This has created a situation where equal access to justice for Dalit women is severely hindered.

- For the lack of identification of Dalit women as a separate category facing peculiar situation, GESI programme remains ineffective. GESI has no specific target to reach out to Dalit women nor does it have system of monitoring with disaggregated data.
- Rhetoric of inclusion in the government bodies remained an elusive promise to Dalit women. Their representation in the civil service, security forces and other public arenas are minimum. This is caused both by lack of effective government initiative and the highly vulnerable situation of Dalit women.

Recommendations

1. Reinforce the existing law for attaining equality. Hold the police and relevant authority accountable for not filing the FIR and not initiating the investigation for discrimination cases.
2. Establish an Equality Commission for proactively promoting gender and social equality and practically abolish caste system,
3. Reform GESI programme with specific target to women by social groups including Dalit women and install a robust system of monitoring with gender and caste/ethnicity disaggregated data.
4. Ensure proportional representation of the Dalit women in National Women's Commission and National Dalit Commission. Provide necessary autonomy to these commissions to function for monitoring the cases of caste and gender based discrimination against Dalit women and recommend the government for action.

Article 4 – Special Measures

Prevalence of Problem

Nepal's Constitution has adopted policies of proportional representation, affirmative action, and other programs of economic development for Dalits. Despite the constitutional provision and increasing gender inequality¹⁴, Nepal has not initiated comprehensive programme for taking special measures to reduce the gap between male and female. The special measure undertaken by the government is limited to setting up of the quota in the civil service. The government also does not recognize diversity within the women. Women belonging to Dalit community, indigenous peoples, Madhesi and religious minorities remain invisible.

¹⁴The Human Development Index 2015, UNDP.

Critical Areas of Concerns

- The Constitution states making “special provisions by law for the protection, empowerment or advancement of the women lagging behind socially and culturally, Dalits, Adibasi, Madhesi, Tharus, Muslims, oppressed class, backward communities, minorities, marginalized groups, peasants, laborers, youths, children, senior citizens, sexual minorities, persons with disability, pregnant, incapacitated and the helpless persons, and of the citizens who belong to backward regions and financially deprived citizens including the KhasArya.” Despite the fact that it highlights “women lagging behind socially and culturally”, in actual practice, it has favoured dominant KhasArya community for inclusion.
- A narrow understanding of affirmative action, which practically only mean quota in certain places has kept the issues of Dalit women untouched. Even when the quota system is implemented, they are often arbitrary and do not necessarily enable the representatives from Dalit and other disadvantaged women.
- There is no targeted and time-bound plan for reducing the inequality and uplifting the situation of Dalit women.
- The need for disaggregated data by gender/caste/ethnicity in order to set the correct parameters for the “quota” system and to enable an appropriate monitoring of the success of the special measure at stake has not been acknowledged by the concerned ministries of the government.
- A system of consultation with the Dalit women's associations prior to the necessary reform of the “quota” system and other plan for special measures is not in place.

Recommendations

1. Expand the definition of affirmative action beyond quota to include wide range of special measures required to address the situation of Dalit women for advancement of Dalit women in political, social, economic and cultural fields.
2. Ensure proportional representation of Dalit women at all levels of governance including executive, legislative, judiciary, bureaucracy, security forces, political bodies to enable their access to decision making.
3. Initiate targeted and time-bound programme for reducing the inequality by devising a range of affirmative action policies, programmes and budget for attaining equal status of Dalit women at par with general women and men.

Article 5 – Stereotyping and cultural prejudices

Prevalence of Problem

Stereotyped image of Dalit women created by the upper caste discourse in Nepal largely views Dalit women in three ways.

- The first is as agency-less beings who are victims of violence by Dalit men. Due to the age-old bondage and servitude, Dalit women are considered as not able to have their voice, desire and therefore, an action to overcome the situation. The stereotype of Dalit women as powerless victims with no agency, makes them vulnerable in the eyes of men in general and upper-caste men in particular. This stereotype also affects negatively the self-esteem of the Dalit women themselves.
- The second stereotype is that Dalit women's bodies are impure, unsacred and unfeminine in contrast to the lighter skin upper caste women. Dalit women engaged in the lowly tasks of cleaning and sweeping, and serving the upper caste. As Dalit women such as those from Badi community were historically forced to live with sex work, a general stereotype are created for Dalit women as promiscuous without chastity. Dalit women are suspected for being witches and have evil eyes. This kind of gendered casteist discourse exists in binary opposition to upper caste identity as sacred group who are pure. There is no upper caste Brahmin/Chhetri women's identity without stereotyped Dalit women.
- The third image is a loud and angry Dalit women. Dalit women as members of impoverished communities sustain themselves from wage labour. They are not protected and nurtured by their husbands in home. Unlike upper caste women, they can fight and talk back their male counterparts, remarry if they do not like the relationship. Because they can and do speak their frustrations to Dalit and non-Dalit, they are often labelled as loud mouthed and verbally abusive in nature. Extension of this stereotype to the educated politically active Dalit women who voice for their rights is that they are relegated and dismissed simply as angry Dalit women.

Because of the construction and the institutionalization of these stereotypes against the Dalit women, the society in general treats them in discriminatory ways. The cultural prejudices are ingrained in the everyday socialization of Dalits and non-Dalits and

reflected in their attitude and behaviour. These cultural prejudice and image created by upper caste mis-represent and deprive Dalit women of their agency and dignity¹⁵.

Critical Areas of Concerns

- Negative stereotypes of the Dalit women are perpetually transferred to new generations through upper caste family socialization, education and religious beliefs. Despite the fact they obtain modern education and take the responsible roles in public life, a large section of non-Dalits acts with these beliefs and internalized biased attitudes. These cultural beliefs are buttressed by Hindu religious ideology.
- The stereotype against the Dalit women is also reproduced due to the power hierarchy. In order to keep the upper caste status, which goes along with upper class, requires existence of lower caste and impure caste women. There is a need for addressing the power structure both in terms of ideology and authority.
- There is no concerted effort on the part of the government to fight against reproduction of such prejudices by the state and non-state actors. Instead of acting proactively against this, the school curriculum and media are generally contribute the reproduction of prejudices.

Recommendations

1. National Women's Commission and the National Dalit Commission should undertake a comprehensive inquiry into the root causes of cultural prejudices and gendered casteist discrimination against the Dalit women and provide concrete recommendations for action to the government.
2. Develop legal procedures for identification of gendered-casteist prejudiced speech and treatment against the Dalit women and punishment.
3. Develop policy guidelines and programs through media to stop propagation of racial and descent-based prejudices and segregation by state and non-state actors.
4. Reform educational curricula and textbooks and implement transformative training for school teachers, police, community and religious leaders, political activists, bureaucrats and local representatives to provide information on Dalit human rights, remove language that humiliates Dalit women and men.

¹⁵Tamrakar, T. (2006). Dalit Mahila ka Samajik, Arthik tatha rajnitik adhikar sanrachhyan ka lagi arachhyan. Nepal ma Dalit Mahila. FEDO. Kathmandu, Femenist Dalit Organization: 57-94.

Article 6 – Prohibition of Trafficking and Prostitution

Prevalence of Problem

Dalit women are extremely vulnerable to sexual exploitation and often victims of trafficking and forced sex work. According to ILO/IPEC report, 10 to 12 thousand women and children from Nepal are trafficked and sold every year. They are mostly trafficked to India and other countries for forced sex work. There are about 1,200 cabin, dohori and dance bar, massage parlors where more than 50,000 people work. Studies shows that more than 80% of the workers are female and upto 20% of the sex workers are girls belonging to 12-15 years age. A recent comparative media analysis conducted by AATWIN, reveals that about 21% of the cases reported related to Dalit women¹⁶.

Entry into human trafficking is often compelled by harsh economic circumstances, domestic violence and family dysfunction. Devastating earthquake in 2015 has dramatically increased the cases of trafficking of women and children from the disaster affected region¹⁷. The lack of education among the Dalit girls and children makes them further vulnerable to the traffickers.

Critical Areas of Concerns

- The implementation of anti-trafficking law by the government is ineffective and inconsistent. Due to the lack of coordination among the government bodies, the trend of trafficking of Dalit girls and women is increasing. The coordination with the governments of SAARC countries also need to be made effective.
- The causes of cross-border human trafficking, domestic and sex work and prostitution are complex and intertwined with economic, social as well as legal issues. There has not been a systematic inquiry into the phenomenon to understand the complexity and inform the policies accordingly. The targeted approach to consider both particular geographic areas is prone to human trafficking and social group specific intervention needs to be designed.
- The support to survivors of the human trafficking in terms of rehabilitation to the society is not systematic, including availability of shelter homes and counselling. The

¹⁶Alliance Against Trafficking in Women and Children in Nepal (AATWIN), Human Trafficking and Transportation: 5 Years Comparative Media Analysis from 2012 to 2016 of seven national daily newspapers.

¹⁷ Ibid.

cases for Dalit women are more acute as there are no targeted programmes to address their problems.

Recommendations

1. Effectively implement anti-trafficking law to stop the trafficking of women and children for sex work. Given the relatively higher degree of trafficking incidents report from among the Dalit community, additional effort is needed to put in place to combat the situation.
2. Establish shelter home and rehabilitation centers with necessary facility for counselling and skill training to reincorporate the survivors in the society.
3. Ensure coordination with the SAARC countries and at the international level for preventing the trafficking in accordance with international standards.

Article 7 – Political and Public Life

Prevalence of Problem

Dalit women were severely underrepresented at the political and decision-making level of the state institutions as compared to other social groups in Nepal. For the first time in the history of Nepal, Dalit women were included in 2007 when the interim parliament was reinstated in the aftermath of violent political conflict with Peoples' Movement II. Despite the fact that they are not able to obtain representation in proportion to their population, Dalit women's representation in CA 2008 went up to 25 out of 50. The most recent elections for Legislative Assembly, Provincial Assemblies and Local Bodies were held in 2017 in which there are 18 Dalit women.

The new federal structure has established a total of 753 local bodies¹⁸. Altogether 7,710 Dalits were elected in different posts in the local level. This would mean that their representation has reached 22% of the total far beyond the size of their population of 13.3%. Out of the total Dalit representatives 88% comprises Dalit women. This dramatic rise in the Dalit women's representation in local bodies, however, is due to the policy adopted for reserving a seat in each ward for Dalit woman as a member¹⁹. While the election law was being enacted a provision of having two women at the ward level was made and later on it was agreed to have one Dalit woman out of two women.

¹⁸Following the provisions of new Constitution 2015, federalization of the country restructured its administrative units into 7 provinces within which there are 753 local bodies. The local bodies comprise of 6 Metropolitan City, 11 Sub Metropolitan City, 276 Municipality and 460 Rural Municipalities. Each local bodies are further divided into wards with total 6557 wards in the country. Each ward elects four members and a chair person. Out of four ward members, one seat is reserved for Dalit women.

¹⁹ Local level Election Act 2017.

There is a provision of having one ward chairperson, four ward members. There are total of 6,557 Dalit women members at ward level represented through reserved quota.²⁰

While the number of Dalit women has exceeded far beyond the expectation, their representation is largely limited to Ward member. Dalit women members were not able to secure even a single seat as Mayor or Chairperson of Village Council or Ward Chairperson. However, out of 276 municipalities there are eight Dalit women elected as vice-mayor, likewise, out of 460 rural municipalities another 8 Dalit women have been elected as vice chairperson. This is not proportionate to the size of their population however, it can be considered a remarkable representation. The high number of Dalit women representatives as ward members who have little decision making authority and roles appears to effectively give illusion of inclusion. The majority of them lacks skills and knowledge necessary to influence the relevant political process.

In later political development starting with coalition in parliamentary and provincial elections, two major left political parties; Nepal Communist Party (UML) and Maoist Center have unified to one party- under the name of Nepal Communist Party. The new party recently formed its Central Committee consisting of 441 members. Despite the fact that the political parties in power promises for inclusion of marginalized and excluded, the representation of Dalits in the party central committee is dismal. There are 13 Dalits with 4 Dalit women in the committee to have 3% share of Dalits. The lack of representation of Dalits in the political parties is directly linked to the outcomes of representation in political bodies.

Critical Areas of Concerns

- Dalit women's political representation is limited to ward level member with no authority and decision making power.
- As majority of the Dalit women represented as ward member live as wage labourers, it is difficult for them to sustain their lives by working as volunteer member of local ward. Nor have they been provided with necessary knowledge and skills to enhance their political engagement.
- The reservation of a seat for Dalit women at ward level member was done in an arbitrary fashion. This has at surface shows a high level of inclusion of Dalit women while they get marginalized in lower positions without meaningful access to decision making. Further arbitrary reservation decision goes against the principle of proportional presentation. This has de facto excluded the Dalit men from adequate representation

²⁰www.election.gov.np/

- There are several social, economic and cultural barriers for Dalit women to actively participate in the political activities in Nepal. As they engage in public life, new and direct forms of discrimination, prejudices and treatment have surfaced.
- The situation of Dalit women are not covered adequately by media. Dalit representation in the Nepalese media is very limited due to the lack of Dalit journalists. The mainstream media often reproduces image of Dalits as victims, backwards and in need of welfare rather than explaining their needs in engaging in the public life.

Recommendations

1. Ensure proportional representation of Dalit women at all levels including executive, legislative, judiciary, bureaucracy, security forces, and political parties.
2. Enhance capacity of Dalit women representatives at the local government for effective functioning and intervention to advance Dalit women's issues.
3. Adopt legal and educational measures to remove social, economic and cultural barriers for effective participation of the Dalit women in political and public life.

Article 10 – Education

Prevalence of Problem

Current educational figures on female Dalits shows a persistent gap in the goal and the performance of the government. According to 2011 Census, average literacy rate in Nepal is 65.97 percent, with 75.21 percent for male and 57.53 percent for female. Dalits' literacy rate (6 years and above) is 52.4% compared to the national average of 65.9% and 34.5% for Tarai/Madhesi Dalit.²¹ Women from all Dalit groups have lower literacy rates compared to the national average and their male counterparts. Literacy rates of Dalit women are 45.5% while women from Musahar and Dom community are at the bottom, with 17.4 percent and 17.9 percent literacy rates²², respectively.

The Government of Nepal has ensured free secondary education to all children including free text books and up to Rs.450 a year to all Dalit students. However, primary school education is still unaffordable for households below the poverty line. Only, 24.7%

²¹Nepal Social Inclusion Survey (NSIS)2012, Central Department of Sociology/Anthropology, Tribhuvan University, Nepal

²²National Census 2011, Central Bureau of Statistics, Nepal.

http://cbs.gov.np/sectoral_statistics/population/caste_ethnicity

of Hill Dalits and 11.8% of Tarai/Madhesi Dalits complete 8th grade which is far behind the national average (41.7%). Dalits comprise only 1.6% of those with a SLC and above and only 0.8% of those with a Bachelors' degree²³.

Children from Dalit communities face discrimination at school by teachers and peers. Due to the prejudiced mindset, teachers provide less care for Dalit children, who are not permitted to drink water, are addressed in a rude manner, and are placed in separate lines etc. Ultimately, their learning achievements become slow, often leading to dropout. In turn, low educational attainments have a multifaceted impact on the socio-economic and political life of Dalits, and a barrier to human development.²⁴

Critical Areas of Concern

- Because of the gendered, casteist and patriarchal mindset, Dalit girl children are discouraged to join the school. If they join school, they are treated by the teachers and parents in discriminatory ways that they are forced to drop out. Teachers in Nepalese schools are formed largely from upper caste males who have not internalized the value of caste and gender equality for wellbeing of all.
- There is a lack of gender friendly physical environment in the school including toilets. Many of the schools are destroyed by 2015 devastating earthquake and the government's rebuilding programme is very slow.
- Apart from the meagre scholarship, there is no additional support to Dalit girl students, including hostel, additional classes, mentoring and counselling.

Recommendations

1. Develop time-bound plan for providing universal quality education for Dalit girls at all levels of education as recommended by the CEDAW in 2011.
2. Adopt additional affirmative action measures including mentoring, hostel facilities, and extra classes to enable the Dalit girls.
3. Introduce legal and administrative measures to mitigate gender-caste based discrimination in educational institutions.
4. Ensure representation of Dalit women at all national educational mechanisms, agencies, councils and committees, teachers' body.

Article 11 – Employment

²³Ibid.

²⁴Nepal Human Development Report 2009, UNDP

Prevalence of Problem

Historically, lack of ownership of agricultural land and dependency on traditional service-based occupation are major characteristics of Dalit economy. In this context, Dalit women have always carried out agricultural work and domestic labour for higher caste landowners. Large numbers of Dalit women work as farm and other wage labourers and often are forced into the most demeaning jobs. The deprived economic situation of Dalits has made Dalit women extremely vulnerable to sexual exploitation, and they are often victims of trafficking and forced sexual labour. While able-bodied Dalit men can go outside the village for wage labour, Dalit women continue to be left behind in the village to work as labour force to be supplied to landowning class for farm work. The economic dependency on the landowning class who can employ Dalit women as labourers makes them most vulnerable to denigration and physical and verbal abuse.

Critical Areas of Concerns

- Majority of Dalit earn their livelihood from elementary occupation in the informal sector. Dalit women labour force is out of the arena of formal labour law regime. There is no way for them to voice for labor rights. Dalit women continue to receive lower wages than their male counterparts.
- A section of Dalit males is involved in their traditional occupation such as ironwork, goldsmith, tailoring, shoemaking, bamboo crafts, etc. Dalit women often work in assisting in these jobs with their male family members. The wages they receive in lieu of their traditional work is not fair. Further their traditional work is often stigmatized as impure work and social respect is denied.
- One out of 12 male Dalits engaged in professional/technical jobs, and only one out of 25 females. For women from Madhesi Dalit communities it is only 0.8% compared to their hill counterparts. Due to the segregation practice, the Dalit community has been denied the right to earn a livelihood by running their own business, i.e. tea-shop, dairy or a small hotel.

Recommendations

1. Distribute agricultural land to landless especially female-headed Dalit households for supporting their livelihood.

2. Ensure proportional participation of Dalit women in formal and organized sector labour regime.
3. Adopt affirmative action plans to expedite the enhancement of entrepreneurial and income generating skills and credit access to Dalit women.
4. Adopt and implement law that can monitor the discrimination against Dalit women and punish the perpetrator in the work place.

Article 12 – Health

Prevalence of Problem

Data disaggregated by gender, caste and ethnicity to give picture of Dalit women is very scanty. But available data depicts that Dalits fall behind in all major health indicators. For example, under-five mortality in Dalit group is 90 deaths per 1000 live births compared with an all Nepal level of 68. Nepal has immunization coverage of 83% where as immunization rates for Dalits are 13 points below the average. In 2011, around 31.0 percent of children under five have a low weight-for-age ratio. Disaggregated results across ethnic and caste groups depict that the proportion of underweight children is highest among Madhesi Dalits (36.3 percent) and Hill Dalits (33.9 percent), with the exception of Madhesi caste groups (41.2 percent). This clearly indicates that there are problems with access to nutritious food for Dalit groups among others. Many Dalit women suffer from uterus prolapse in the rural areas and their morbidity rates are high. Child marriage, early pregnancy and reproductive health issues are other problems faced by Dalit women.

Critical Areas of Concerns

- Dalit women still faces many difficulty in accessing health services. The target set by the second Long-term Health Plan of Nepal, 1997 to 2017 stipulated to provide basic health care services to 90% of the population within 30 minutes of walk. The progress however has only been made up to 58%. For the Dalit, only 39.7% of Hill Dalits have access to health facilities within 30 minutes of walking distance. 55.5% of people in Nepal cannot afford medical treatment but even less Dalits - 60.5% of Hill Dalits and 66.1% of Tarai/Madhesi Dalits.²⁵
- Despite the progress in accessing clean drinking water and toilet, Dalits still lag behind in both facilities. For example only 14.1% Tarai/Madhes Dalit have access to safe drinking

²⁵Nepal Social Inclusion Survey (NSIS) 2012, Central Department of Sociology/Anthropology, Tribhuvan University, Nepal

water and only 5.5% have access to the improved toilet facilities, compared to 30.6% of Hill Dalit and 41.7% of the national average. Dalit women are affected worse by these situation.

- Dalit women and Dalit population in general also experience discrimination while receiving health services. 43% of Tarai/Madhesi Dalits and 14.6% of Hill Dalit experience discrimination when receiving medical treatment in local health services. Approximately, 72% of women experience problems in accessing health service,²⁶

Recommendations

1. Provide quality universal health services to all women free of cost or in minimum cost. Implement health insurance policy to cover the cost of those who are not able to bear the cost.
2. Devise mechanism to identify discrimination in providing health care services and prosecute the offenders discriminating against Dalit women in their access to reproductive health services.
3. Train Dalit women and girls as health volunteers or auxiliary nurse midwife delivering health care in local level.
4. Provide targeted scholarship to Dalit girl students for medical and health science studies.

Article 13 – Economic and Social Benefits

Prevalence of Problem

Human Development Index (HDI) values by major ethnic and caste groups show that Dalits rank along the bottom of hierarchy with 0.434 and Brahmans/Chhetris with highest value at 0.538. Disaggregation by region shows that Hill Dalits have value of 0.446, while Madhesi Dalits fall at the absolute bottom with value of 0.400²⁷. Approximately 42% of Dalits fall below the poverty line in Nepal, which is 17% point higher than that of the national average (25.2%). Also, an average per capita consumption in Nepal is NRs.23, 106, followed by Hill Dalit 25,298 per annum. Whereas, among the Dalits of both Hill and Madhesi origin, every two in five persons are below poverty line²⁸.

²⁶Nepal Demographic Health Survey 2011

²⁷UNDP (2014). Nepal Human Development Report 2014. Kathmandu: United Nations Development Program.

²⁸Nepal Living Standard Survey 2010.

In the absence of land ownership and professional/technical employment, Dalits are dependent on elementary occupation and wage labourer in informal sector. They are also engaged in traditional occupation of providing iron work, tailoring, leather work and other services to non-Dalit. The system in which they are engaged in providing their services is traditionally referred to as *bali-gharepratha* or *riti-bhagya* in Nepal, which means they get return in kind/grain in lieu of their services. The terms of payment are highly unfair to Dalit. Dalit women work in the fringe of this Dalit economy of poverty.

Dalits are also engaged in the system called *haliya*. *Haliya* is a name for a person who ploughs land of landlord/moneylender to repay the debt. In this exploitative agrarian labour system, males plough the field for at least two seasonal plantations and provide other physical labour in the farm; women are expected to work as domestic help, including firewood and fodder collection, dish-washing, and cleaning, besides helping the ploughman in the farm.

Critical Areas of Concerns

- Landlessness among Dalits is the root cause of the economic poverty and source of exploitative labor relationship. There are 36.7% hill Dalits, 41.4% Madhesi Dalit who do not have land and those that do hold land have very small landholdings. Landlessness made Dalits economically vulnerable and dependent on landlords. Dalit women suffer the first in these exploitative relationship.
- The government has initiated Freed Haliya programme. However, this remained ineffective due to lack of adequate resources and sustainable rehabilitation plans as well as will to implement the programme in good faith.
- There is inadequate support provided to Dalit women and women from other marginalized groups to cope with and overcome the situation. The support needed would include credit, skill training and social security allowances and benefits.

Recommendations

1. Take immediate steps to provide agricultural land to Dalit especially female headed Dalit households.
2. Adopt plan and policies to guaranteeing employment opportunities, vocational training and micro-credit support for entrepreneurship of Dalit women.
3. Address the women's concern in the Freed *Haliya* programme for their appropriate rehabilitation of Dalit women member of the household.
4. Ensure equal wage for Dalit women. Adopt legal measure to punish the discriminatory practices.

5. Women's commission together with NDC and NHRC should take proactive initiatives for protecting and promoting ESCR of Dalit women.

Article 16 – Marriage and Family Life

Prevalence of Problem

Discrimination faced by Dalit women engaged in inter-caste marriage is one of the major issues of human rights violation in Nepal. Although inter-caste marriage is legally accepted, socially it remains unacceptable. Almost 90% of Nepalese do not engage in an inter-caste marriage. Within Dalits or otherwise, couples formed by inter-caste marriage have experienced a range of discrimination. Discrimination based on prejudices against inter-caste marriage and social non-acceptance not only violates the individual freedom of choice but also, by extension, violates the right to family, dignity, as well as social relations.

The studies reveal that the violence and atrocities in relation to inter-caste marriage include physical assault, beating, and social boycott, forced eviction from village, forced separation, and verbal abuse. Further they are subject to marriage separation, false accusation of crime, domestic violence, and forced eviction from the village verbal abuse, humiliation and physical assault/abduction.

Although all women involved in inter-caste relationships are vulnerable to discrimination, Dalit women in particular appear to face higher degree of discrimination and violence. Dalit women married to high-caste males face higher intensity of discrimination by their in-laws and neighbours as well as by husbands. The chance of breaking up of marriage is also higher in this combination. False accusations and forced eviction from the settlement are also generally high for Dalit females.

Critical Areas of Concerns

- Despite the legal provision to punish the discrimination based on caste and untouchability, the discrimination against the women married to non-Dalits has not been stopped. There are very few cases that have been reported and perpetrators punished from such discrimination.
- The government introduced scheme of providing Rs. 100,000 incentive to promote inter-caste marriage with Dalits in 2009. The scheme however is been pulled out without any explanation and consultation with stakeholders by the government recently. Nor any evaluation of the impact of the scheme was carried out.

- There are also reports that relevant authorities themselves were facilitating process of separation of inter-caste marriage with Dalits. There is a need for inquiry into inter-caste marriage and discrimination against Dalit women.

Recommendations

1. Adopt legislative measures to inquiry into inter-caste marriage and induced violence and discrimination against Dalit women and develop provisions for appropriate punishment for perpetrator.
2. Adopt programme and policy to protect the victim and provide rehabilitation support.
3. Evaluate the cash incentive for inter-caste marriage and reinstate the incentive with necessary revision and refinement for effective integration.