

State of the World's Minorities and Indigenous Peoples 2014 - Nepal

Publisher [Minority Rights Group International](#)

Publication Date 3 July 2014

Cite as Minority Rights Group International, *State of the World's Minorities and Indigenous Peoples 2014 - Nepal*, 3 July 2014, available at: <http://www.refworld.org/docid/53ba8dddb.html> [accessed 10 September 2014]

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Constituent Assembly (CA) elections were held in November, restarting the long-delayed constitutional drafting process in post-conflict Nepal. The Nepali Congress emerged as the winner, with the Communist Party coming in close second. The Maoists – previously the leading party – secured only a small portion of seats and dropped to third place. The previous CA was elected in 2008 but was dissolved in 2012 amidst political stalemate, stalling on questions concerning federalist structures and the accommodation of Nepal's significant ethnic and linguistic diversity. Participation of minority and indigenous representatives in the constitutional drafting process will be central to ensuring the future protection of minority and indigenous rights in the country.

The results from the voting, however, revealed negligible representation for Dalits, with only two candidates elected. The winning Congress Party did not even nominate a single Dalit candidate. This represented a reduction compared to the representation secured in the 2008 elections. For Durga Sob, President of the Nepal NGO Feminist Dalit Organization (FEDO), the results were a clear setback: 'Without the presence of Dalits in the CA, who represent 20 per cent of the population, the constitution-making process will not address the many serious human rights violations and impediments to development faced by Dalits due to caste discrimination.'

As reported by the UN Special Rapporteur on the rights of indigenous peoples, representatives from indigenous communities (known as *Adivasi/Janajati*) continued to protest their inability to directly choose their representatives in the CA. As all representatives are chosen by the respective political parties, there continues to be no mechanism to ensure adequate representation of indigenous representatives selected through their own decision-making processes. According to the Lawyers' Association for Human Rights of Nepalese Indigenous Peoples (LAHURNIP), representation has been further hindered by the use of provisions in the Interim Constitution to bar indigenous political parties from registration on the basis that they could pose a threat to social harmony on the basis of ethnicity. The Supreme Court issued a directive order in April to the government to study civil society demands to improve indigenous representation.

The Supreme Court also issued a show-cause order for the construction of power lines in April after indigenous communities filed a writ-petition. The Nepal Power Development Project, funded by the World Bank, is constructing a high-voltage power line expected to affect more than 100,000 mostly indigenous people in the Sindhuli District, in the process clearing a large swathe of forest. According to LAHURNIP, the project was initiated without the free, prior and informed consent of affected communities, and is in contravention of World Bank project guidelines. Peaceful community demonstrations have been met with violent responses from the police, with severe injuries sustained by protesters. In October, the World Bank ordered an investigation of the project, set to take place after April 2014.

Further efforts towards reconciliation in post-conflict Nepal were seen in March, with the President's approval of the Ordinance on Investigation of Disappeared People, Truth and Reconciliation Commission. While the creation of such a commission could potentially bring justice for grave human rights violations, amnesty provisions for perpetrators were in contrast to international standards and sparked deep concern among human rights organizations. Two weeks later, the Supreme Court suspended the ordinance pending further review. A valid commission, however, could take important steps towards justice for the victims of the conflict, many from minority and indigenous communities, and combat ongoing impunity.

The government sought to eliminate exploitation of minority women and girls in June, when it officially abolished the *kamlari* system of bonded domestic slave labourers. Most often drawn from the marginalized Tharu indigenous group, girls suffer exploitation and abuse at the hands of their owners, including sexual violence, and are vulnerable to exploitation by traffickers. Civil society groups working against bonded labour in Nepal welcomed the abolition, but further implementation of existing laws and prosecution of those responsible will be crucial to ending the practice. The government move was prompted in part by protests against the police for refusing to investigate the case of Srijana Chaudhary, a 12-year-old *kamlari*, who had died following burn injuries.

Nepal hosts over 20,000 Tibetan refugees and most continue to lack proper documentation, rendering them effectively stateless, denying them the right to own property, or access to education or legal employment. In September, the Tibetan community in Nepal decried authorities for cremating the body of a Tibetan monk who had self-immolated in protest against Chinese rule in Tibet. Authorities kept the body of Karma Ngedon Gyatso for a month, refusing to release it for traditional ceremonies, despite the pleas being made by community and rights groups, before the cremation was carried out in secret.

Hate crimes and hate speech against minorities, including particularly Muslims, Dalits and lower-caste groups, persist in Nepal. There is no clear legislation criminalizing hate speech, though there are provisions for such legislation in the Interim Constitution. The Caste Based Discrimination and Untouchability Act 2011 criminalizes any discriminatory acts on the basis of caste, as well as customs, tradition, religion or culture, including through media of various forms. Implementation of the Act has lagged, however, with many Dalits still subjected to hate crimes and violent attacks. In July, after Maya Sarki, a Dalit woman, reported her attempted rape by an upper-caste man in Morang district, a mob of 60 people attacked her in retribution, smearing her with black soot and garlanding her with shoes – insults intended to affirm her outcast status. At the same time, Manoj Biswokarma, a Dalit rights activist and journalist for a local weekly paper who had supported Sarki, was also physically and verbally abused. Two journalists videotaped the attack, posted the film on YouTube and wrote articles supporting the attackers. The National Human Rights Commission

condemned the assault and the district court subsequently fined the perpetrators, but Sarki and the journalist have filed an appeal for more severe sentencing.

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