

**Caste Based Discrimination and Untouchability (Offence and
Punishment) Act, 2068 (2011)**

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Act Number 4 of the year 2068 (2011)

**An Act made to provide for provisions on caste based discrimination
and untouchability**

Preamble: Whereas, acknowledging the principle that each person is equal in terms of rights and human dignity, it is expedient to provide timely provisions to protect the right of each person to live with equality, freedom and human dignity by creating an environment where no untouchability and discrimination prevails on the ground of caste, race, descent, community or occupation in the name of custom, tradition, religion, culture, ritual or any other name, to make punishable to the acts of untouchability, exclusion, restriction expulsion, contempt or any other discriminatory act that is against humanity, to provide restitution(compensation) to the victim of such acts, to keep intact the national unity by strengthening the relationship subsisting among general public and to create an egalitarian society.

Now, therefore, be it enacted by the Constituent Assembly in the capacity of the Legislature-Parliament pursuant to Article 83 of the Interim Constitution of Nepal.

1. Short tile and Commencement: (1) This Act may be called "Caste Based Discrimination and Untouchability (offence and punishment) Act, 2068 (2011).

(2) This Act shall be extended throughout Nepal and also applicable to Nepalese citizen residing outside Nepal having committed an offence pursuant to this Act against Nepalese citizen.

(3) This Act shall come in to force immediately.

2. **Discrimination**: Unless the subject or context otherwise requires; in this Act,

- (a) "Cast-based discrimination and untouchability" means the act as referred to in Section 4.
- (b) "Offence" means the act as referred to in Section 3.
- (c) "Public Place" means place used for public purpose such as governmental or non-governmental office, education or industrial institution, antique monument memorials, inn, tap, well, pond, Dais (*Chautari*), road or way, vehicles of public transport, graveyards, garden, religious sites of any kind or and this term includes any other places where products or services are sold or distributed publicly.
- (d) "Public Service" means governmental or non-governmental offices, public institutions, transport, industrial or educational institute, company, firm, shop, hotel, resort, lodge, restaurant, cafe, film hall or theatre and this term also includes any service or facility to be provided by any government or non-government agency for public use or utility.
- (e) "Public occasion" means publicly organized feast or party, worship ceremony, religious offering, birth ceremony, naming ceremony, marriage ceremony, death ritual and religious, social or cultural ceremony of any kind.
- (f) "Public-post holder" means a person holding the post where he/she is authorized by the constitution, other prevailing laws or the decision or order of the concerned body or authority or who has to fulfill public duty or obligation and this term also includes any incumbent officials or employee holding any position in public organization.

(g) "Prescribed or as prescribed" means prescribed or as prescribed in the Rules framed under this Act.

3. Restriction on caste based discrimination and untouchability:

(1) No one shall commit or causes to commit caste-based discriminations and untouchability.

(2) No one shall aid, abet or provoke anyone to commit caste based discrimination or untouchability or shall attempt to commit such an act.

(3) If anyone commits an act pursuant to Sub-sections (1) or (2) shall be deemed to have committed an offence pursuant to this Act.

4. To be deemed to have committed caste-based discrimination and untouchability:

(1) If any one commits or cause to commit any act as referred to in this Section on the ground of custom, tradition, religion, culture, rituals, caste, race, descent, community or occupation shall be deemed to have committed caste-based discrimination and untouchability.

(2) No one shall, on the ground of custom, tradition, religion, culture, rituals, caste, race, descent, community or occupation, commit or cause to commit the following act in public or private sphere (place) against a person by making caste based discrimination or untouchability.

(a) To prevent, control or restrict anyone in any way from entering, attending or participating.

(b) To expel anyone individually or collectively from public place or public occasion or to commit social exclusion or discrimination of any kind or to impose restriction on such act or to demonstrate any other kind of intolerant behavior.

(3) No one shall, on the ground of caste, race, descent, community or occupation, deprive a person of using or enjoying public service.

(4) No one shall, on the ground of caste, race, descent, community or occupation, deprive a person of organizing public occasion or performing any act to be organized publicly.

(5) No one shall instigate or provoke anyone to commit an act that causes caste-based discrimination or untouchability or abet any one to commit such act, or knowingly participate in such act.

(6) No one shall, on the ground of caste, race, descent, community or occupation, prohibit any one to carry on profession or business or compel any one to carry on any occupation or business.

(7) No one shall, on the ground of caste, race, descent, community or occupation, deprive or cause to deprive any one of performing any religious act.

(8) No one shall, on the ground of caste, race, descent, community or occupation, prevent or cause to prevent any one from producing selling or distributing any goods, services or facilities.

(9) No one shall, while producing, selling or distributing any goods, services or facility, produce, sell or distribute any goods, services or facility only for particular caste or race.

(10) No one shall, on the ground of caste or race, exclude any member of family or prevent him/her from entering in to the house or evict him/her from the house or village, or compel him/her to leave the house or village.

(11) No one shall, on the ground of caste race, descent or community, prevent a person of marriageable age pursuant to prevailing law from getting inter-caste marriage; or shall deny to perform naming

ceremony for the person born from such marriage or compel or cause to compel for divorce.

(12) No one shall, by dissemination, publication or exhibition of audio visual materials, articles, pictures, figure, cartoon, poster, book or literature or by any other means, denote hierarchical supremacy of a person belongs to particular caste or race or commit an act that justifies social discrimination on the ground of caste or race or transmit the views based on caste- supremacy or hatred or use derogatory words or indicate thereof, by his/her conduct, gesture or behavior, or instigate or abet or cause to do so in any manner that promotes caste based discrimination.

(13) No one shall, on the ground of caste, race, decent or community, deny anyone to provide employment or discriminate in remuneration or cause to do so.

5. Complaint: (1) A person who finds that someone has committed or is going to commit an offence as referred to in section 4, may lodge a complaint in nearby police office as prescribed.

(2) Notwithstanding anything contained in Sub-section (1), if any one commits an offence as referred to in Section 4 outside Nepal, complaint shall have to be lodged in near by police office of the area where the victim resides or of the district where the defendant resides.

(3) If the concerned police office fails to register the complaint lodged pursuant to Sub-section (1) or (2) or fails to precede the complaint as per prevailing law, the concerned person may complain to National *Dalit* Commission or local body in prescribed manner.

(4) The National *Dalit* Commission or local body shall forward the complaint received pursuant to Sub-section (3) to the concerned police office in prescribed manner.

(5) After receiving the complaint pursuant to Sub-section (4), the concerned police office shall make an inquiry in to the complaint and

shall initiate necessary proceeding on such complaint as per prevailing law.

6. Cooperation may be sought in the investigation of the case:

While making investigation of any case under this Act, the investigating authority may seek cooperation as per necessity from *Dalit* community, local leaders, civil society or representative of organization working for the right and empowerment of victim of the caste-based discrimination or untouchability.

7. Penalty: (1) The following penalty shall be imposed on the person who commits the following offence;

(a) Whosoever commits an offence pursuant to Sub-section (2), (3), (4), (5), (6) or (7) of section 4 shall be liable to the punishment of imprisonment for a term from Three months to Three years or the fine from One Thousand Rupees to Twenty Five Thousand or the both.

(b) Whosoever commits an offence pursuant to Sub-section (8), (9), (10), (11), (12) or (13) or section 4 shall be liable to the imprisonment for a term from one month to One year or the fine from Five Hundred Rupees to Ten Thousand Rupees or the both.

(c) Whosoever aids, abets or instigates anyone to commit caste-based discrimination or untouchability or attempt for such act shall be liable to half of the punishment prescribed to the principal offender.

(2) If a person holding public post commits an offence pursuant to Sub-section (1) shall be liable to the punishment of an additional Fifty percent to the punishment as mentioned in that Sub-section.

8. Penalty to person causing hindrance or obstruction: If a person hindrances obstructs in the inquiry or investigation of an offence

punishable under this Act, the court may, on the basis of the report of the investigating authority may impose him/her half of the punishment prescribed to the offender.

9. Restitution: (1) if a person is convicted for the offence pursuant to this Act, the court may order the offender to provide restitution to the victim from Twenty Five Thousand to One Hundred Thousand Rupees.

(2) Besides the restitution pursuant to Sub-section (1), if the offender is found to have made harm or loss to the victim, the court may, on the basis of such harm or loss, order the offender to provide medical treatment cost or reasonable cost of additional damage or harm to the victim.

10. Limitation to file case: (1) Case shall have to be filed for the offence pursuant to this Act, within Three months from the commission of the offence.

11. Government of Nepal to be plaintiff: Government of Nepal shall be plaintiff in the case filed pursuant to this Act and such case shall be deemed to have included in the Schedule-1 of the Government case Act, 2049.

12. Summary procedure to be followed: Any case pursuant to this Act shall be proceeded and disposed by following the procedure as provided in Summary Procedure Act, 2028.

13. Penalty to be imposed as per prevailing law: If an act considered as an offence pursuant to this Act is also an offence pursuant to other prevailing law, it shall not be deemed to have created any obstacle by any matter written in this Act in order to file a suit in such offence pursuant to prevailing law.

14. To be in accordance with this law: The matters set forth in this Act shall be governed by this Act and other matters shall be governed by the prevailing law.

15. **Duty to extend Co-operation**: It shall be the duty of all concerned to co-operate in the investigation of the case pursuant to this Act.
16. **Power to frame Rules**: The Government of Nepal may frame necessary Rules to implement the objectives of this Act.
- 17 **Repeal**: Number 10a of the Chapter of Decency (*Adal*) of *Muluki Ain* (General Code) is, hereby, repealed.

NEPAL LAW COMMISSION