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**Promotion and protection of all human rights, civil,
political, economic, social and cultural rights,
including the right to development**

Written statement* submitted by the Asian Legal Resource Centre, a non-governmental organization in general consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[25 August 2014]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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NEPAL: Council should exert pressure to abolish Haliya practice, a form of slavery

1. There are an estimated 3 million Dalits who have been facing the problem of untouchability and caste-based discrimination in Nepal. In Nepal, 76% of the population depends on agriculture, and land is their major survival asset. However, 9% of the elite hold 47% of the cultivable land. On the other hand, 67% of poor people have ownership of only 17% of the arable land, and 33% of the poor have no land at all. Out of the total landless people in the country, 43% are Dalits.
2. A kind of discrimination that Dalits suffer in Nepal in the far-western regions is called Haliya and Khali. This system of discrimination is essentially the same as Haruwa and Charuwa practices in the Terai region. Haliya are the agricultural laborers who work for grains, a maximum of 15-20 kilos of rice and the same amount of wheat annually. Khali are the people who also work as agricultural laborers, and they are paid in grains during the harvest. They go to pick up their payment directly in the field.
3. These practices are carried out in violation of the government mandated minimum wage. Many grandchildren are still working for a pittance to pay loans – some in cash, and some as a piece of land – that their grandparents took from rich elites decades ago. Most of the ancestors who took the loan are dead already. These systems can be called agricultural bonded labor but a better description would be to call them a modern form of slavery in Nepal.
4. As per the data of Ministry for Peace and Reconstruction, there are 19,159 Haliyas in 11 districts of the far and mid-western regions who were freed on 11 January 2011. As per the Ministry record, of the Dalit population in the far-western region, 9.6% are Haliyas and 13.4% are Khaliyas. If we rely on this data, there are estimated 37,954 Haliyas and 52,844 Khaliyas in the far-western region alone. This data doesn't include Haruwa and Charuwa from the Terai, who also face the same realities as the Haliyas. The government of Nepal doesn't have complete data for Haliyas, as the identification process is still incomplete.
5. The government has done well to address and eliminate the practice of Kamaiya system. But the government has not prioritized the issues of Haliya, Haruwa, and Charuwa. These communities have been working on the same land for more than 50 years. They do not have ownership over these lands. Neither the Squatter Problem Resolve Committee nor the Declaration for the Haliya Libration could address their problems. The government has maintained its silence and has been directly and indirectly supporting this kind of slavery.
6. The law allows Kamaiyas from Terai and Haliyas from the hilly region to live with a landlord, but in practice, due to caste-based discrimination, Dalits are not allowed to live together with non-Dalit landlords. They live separately in a small hut.
7. Article 2 (Kha) of Kamaiya Labour Prevention Act, 2058 states "Kamaiya labor means Bhaisawar, Gaiwar, Bardiwar, Kekwar, Haruwa, Charuwa, Hali, Gothalo, Kalmaries or any other type of practices as such." If we follow this definition, Haliya should be freed along with Kamaiyas, but this has clearly not been the case.
8. On 19 June 2008, Haliyas put forward 11 demands to the government and political parties. When the government did not address their demands, Haliyas carried out an 11-day protest program in Kathmandu. Thereafter, the government called for a meeting on 5 September 2008, wherein a five-point agreement was drafted between the government and the National Haliya Federation. The government endorsed the agreement on 6 September 2008 in Parliament.
9. The Supreme Court has also directed the government of the Nepal to introduce a law for the rehabilitation of Haliyas. But the government has been turning a deaf ear to the needs of Haliyas. The government cites a lack of budget and dithers even on Haliya identification; rehabilitation seems like a stretch too far at present.

10. The Ministry for Peace and Reconstruction formed a Census Collection Team to collect data of freed Haliyas. But, the data was not collected for over two years, and when the data was collected, it was not collected properly. This resulted in slow or late rehabilitation of Haliyas. The identification of Haliyas has also been affected due to slow data collection. As a result, there are Haliyas with identification, but without proper rehabilitation and relief packages, and Haliyas who are yet to be identified. Thus, shoddy data collection has affected the Haliya population as a whole.
11. There have been many problems with the identification process. Freed Haliyas have been categorized into four levels: those who have neither a house nor land, those who have a house but no land, those who have land but no house, and those who have both a house and land. The monitoring team has classified Haliyas as having house and land even if they have a plastic roofed shack or a thatched roof hovel strung together on public land. Furthermore, the team identified Haliyas as having cultivable land even when this land is not fit for any cultivation.
12. Landlords have been asking for repayment of their loan with interest, even after the government has waived both the loan and its interest. The landlords have been using threats and hiring musclemen to get their money back. The landlords have also been using agricultural laborers from outside the region. This move has been made in order to snatch the chief source of livelihood from the freed Haliyas, so they do not have any income to feed their families. This has forced the Haliyas back to their landlords, begging the landlords to take them back as enslaved Haliyas.
13. Nepal has ratified the Universal Declaration of Human Rights 1948, International Convention on Civil and Political Rights 1966, International Covenant on Economic Social and Cultural Rights 1976, International Convention on Racial Discrimination 1965, Convention on Elimination of Discrimination against Women 1979, International Humanitarian Law 1949, and Anti Slavery Convention 1926. The International Labour Organization Convention, number 29 and 111, has provisions against bonded labor and punishment. But Nepal has not respected these international conventions and laws.
14. With the continuation of this form of slavery in Nepal, the country has been violating international conventions and mechanisms. The country has also been violating existing domestic laws. Kamaiya Labor (Elimination) Act, 2001, is one such law that is being violated.
15. Furthermore, the government of Nepal has been violating the Interim Constitution; Article 29 of the Interim Constitution has provisions against slavery. As per the Article, nobody should be abused in the name of such agricultural practices and traditions.
16. Article 30 of the Labor Act also provides for an end of the feudal land system and announced the beginning of a scientific land reform system in Nepal. It also contains specific provisions to provide land and socio-economic security management for Kamaiyas, Haliya, Haruwa, and Charuwa.
17. Though the government of Nepal “freed” the Haliyas on 6 September 2008, it was done without sufficient preparation and research. This lack of groundwork on the part of the government has resulted in Haliyas being cheated, doubly.
18. As per the Land Reform Act, 1964 (Fourth Amendment, 1996), those who have been tilling the land should receive half ownership of the land if the landlords want to sell their lands. But, what has happened in reality has been that the provision saved the landlords from giving half the portion of their lands to supposedly freed Haliyas. The government’s act of “freeing” the Haliyas has ultimately helped the elite landlords. And, the Haliyas have been cheated, yet again.
19. Though the Haliyas have been freed on paper, they have not tasted freedom in reality. It has been 6 years since the government declared Haliyas free. But Haliyas have merely been removed from the lands in which they were working and the roofs under which they were residing. The government has not provided any land, place to live, or alternative employment opportunities. The government has still to introduce a law against Haliya practices, or bring programs targeted for Haliya liberation.

20. The lack of a law banning the practice of Haliya outright, and the lack of proper program planning and implementation, has affected thousands of Haliyas and their families, putting them at risk. They do not have anything other than identification cards provided by the government.

21. Haliyas now have no option but to go back to their landlords and resume being Haliyas. And, once Haliyas have returned to their landlords, they cannot afford to speak against any injustices that the landlords have or will inflict on them. The condition of Haliyas in Nepal has, in fact, gotten worse since their “freedom”.

22. The Asian Legal Resource Centre (ALRC) requests the Council to urge the government of Nepal to complete the identification process of Haliyas, rehabilitate them promptly, and introduce effective plans and policies to assist them. There is an urgent need to provide land, alternative employment, housing, education, and health facilities for the Haliyas and their families. Freed Haliyas especially need cultivable land, as agriculture is the only skill they can depend on for their survival. Furthermore, the ALRC requests the Council to government to prosecute the landlords who still abuse Haliyas.

23. It is a form of slavery that should be abolished; Nepal cannot claim itself to be democratic while a fraction of its population still lives as slaves.
