

HELVETAS Swiss Intercooperation, Nepal

Guideline to deal with Caste-based Discrimination and Untouchability, 2012

HELVETAS Swiss Intercooperation Nepal (hereafter HELVETAS Nepal) fully respects and pursues the principle of protecting every individual's rights and human dignity equally. Caste Based Discrimination and Untouchability guideline is developed for the use of its staff and management.

This guideline will be applicable in case of staff to staff, staff to partner's staff and staff to community member and other stakeholders.

Our implementing partners are expected to respect the main elements of this Guideline to deal with Cast-based discrimination and Untouchability by developing their own policy and procedure if does not exist already.

1. Definition:

HELVETAS Nepal will follow the same definition as defined in the Section 4 of the Cast-Based Discrimination and Untouchability (Offence and Punishment) Act, 2068.¹

2. Grievance Hearing Committee

The Grievance Hearing Committee will be formed as follows to deal with any complain

- HRM coordinator
- SFP of PO
- The responsible Team Leader
- Legal Officer (as required)

¹Section 4 : (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 cast, 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.



The Country Director can add or change the composition of the committee as per the nature of the complaint. However, there will be at least three members in the committee as per the decision of the Country Director.

"Grievance" means a complaint registered pursuant to Sub-section (2), of Section 4 of this Guideline.

3. Provisions related to Grievance:

- 3.1 Staff of HELVETAS Nepal and its partners shall not discriminate to any individual or group/s regarding and referred to in Section 4 of the Cast-based Discrimination and Untouchability (Offence and Punishment) Act, 2068.¹ This provision nevertheless does not restrict the organization for applying positive discrimination policy to empower the vulnerable.
- 3.2 Each individual staff of HELVETAS Nepal and its partner should take initiatives to make observation, control and eliminate the behavior related Caste-Based Discrimination and Untouchability in HELVETAS within organization and in programme areas.
- 3.3 If any staff, members of the HELVETAS willing to lodge a Grievance relating to Cast-based Discrimination and Untouchability may lodge such Grievance in a prescribed manner as referred to this guideline.
- 3.4 In case, a Grievance is received pursuant to Foot note: ¹ Section 4, the Grievance Hearing Committee shall register and issue the receipt.
- 3.5 In case, a Grievance is lodged by both the victim and other (perpetrator), an action shall be taken only in the complaint lodged by the victim.
- 3.6 In case, anyone lodges a Grievance in the Grievance Hearing Committee or/and in any other Government Complaint Hearing Body, action shall not be taken in the Grievance to Grievance Hearing Committee.

4. Complaint Procedures

- 4.1 If any staff of HELVETAS Nepal are found committing any of the aforementioned offences mentioned referred to in ¹ section 4 or assisting anybody in doing such acts, the victim may inform his or her immediate supervisor or the respective Team Leader (TL) either verbally or in writing about the case. The supervisor or TL will investigate the case and try to resolve the problem by informing PO from the very beginning of the case.
- 4.2 If the victim is not satisfied with the decision of his or her supervisor or TL or if discrimination persists despite supervisor/TLs' intervention, or if the oppressor is a TL or TL himself/herself is victimized, the victim shall directly inform the Grievance Hearing Committee in writing. The Grievance Hearing Committee can also be addressed directly, if the victim doesn't dare (for whatever reasons) to contact the supervisor/TL. S/he may file a written complaint with details of the incident, her/his signature and the date to the Grievance Hearing Committee. With the consent of the victim, her/his close and trusted person or witnessed can also submit/forward the complaint based on the available evidences, to the committee. The complainant shall explain the situation/incident clearly in the application such as examples of discrimination experienced or observed.
- 4.3 After receiving the complaint, the committee will immediate inform the perpetrator, the supervisor/TL of the concerned project or the Country Director (CD) of HELVETAS Nepal or the assigned person about the complaint. All the persons receiving such information should maintain confidentiality of both the perpetrator and the victim.



- 4.4 The Grievance Hearing Committee shall initiate necessary investigation into the incident openly or confidentially. The committee shall maintain essential confidentiality considering the nature of the incident, the victim's security and her/his self-respect.
- 4.5 The complaints can be made against the perpetrator(s) either verbally or in writing.
- 4.6 Both parties have the right to be accompanied by a person of their choice as witness. This person may be present at the questioning of witnesses and may also ask supplementary questions. Any costs incurred by the accompanying person are to be covered by the responsible project/PO.
- 4.7 Neither party may be dismissed while the investigation is being carried out. Nor may negative consequences occur professionally because of the proceedings. The right is reserved to implement sanctions arising from the proceedings as well as carry out justified dismissal.

5. Provision of assistance for lodging complaints and carrying out investigations:

In course of its investigation into the complaints received in line with the procedures, the Grievance Hearing Committee may take the required assistance from the local residents, institutions, representatives of the civil society, administration, other local-level institutions and expert in the protection of rights and empowerment of HELVETAS Nepal's employees, partner agencies, other stakeholders or socially excluded community and those who have become the victims of caste-based discrimination and untouchability.

6. Time Duration: A complaint shall be lodged within one months of the last incident to the supervisor/TL or Grievance Hearing Committee. The complaint recipient shall initiate the investigation process within 3 working days and complete the whole probe into the matter within 15 working days if the case concerned with in HELVETAS Nepal staff. However, the case concerned with partner agencies/stakeholders and communities, the maximum time period would be double and triple respectively.

7. Execution Procedures

- 7.1 The Grievance Hearing Committee shall call the victim, the perpetrator; those involved in the incident and eyewitnesses to a meeting or visit the incident site in order to begin the investigation process. The complaint concerned with partner agencies/stakeholder and community, the partner organization or community members committee will be inform and if required/requested work together/support for the investigation and resolve the issue.
- 7.2 The Grievance Hearing Committee may form a sub-Committee for Investigation in the case. The sub-committee has to search and investigate the case, visit the incident site, prepare a written description of those party and witnesses.
- 7.3 After the investigation of the case, the Sub-Committee has to be submit its report to Grievance Hearing Committee with recommendation. The Grievance Hearing Committee will submit its report, which includes its findings, recommendation/s for decision with evidences and procedures, to the Country Director of HELVETAS Nepal or the assigned person by the Country Director.
- 7.5 Based on the investigation report, the Country Director, or assigned person or his management team shall take its final decision on the matter within two weeks.

8. Action & Punishment: Keeping in view the extent of the offence and its economic, social and psychological impact on the victim, following action/s will be taken against the



guilty depending upon the magnitude of misconduct, (If HELVETAS Nepal's staff is found to be on the wrong side of the law).

1. Apologies to the victim
2. Making her/him alert against the offence in written form
3. Warning her/him with threat of dismissing from the job
4. Halting her/his promotion
5. Dismissal from the job

Note: So far as its employees are concerned, HELVETAS Nepal will play a role in maintaining a "zero Degree Tolerance."

10. Obstacles/False Complaints: In course of investigation, if anyone is found creating obstacles to the probing process, or if the complaint itself is found to be false with malicious intentions, this will be treated under major violations of this policy and the wrongdoer will be punished. It will be the duty on the part of all the concerned employees and stakeholders to extend their support and cooperation to the committee during the investigation. The same actions will be taken against, and punishments meted to them as well.

11. Appeal: If the complainant is unsatisfied with the way her or his complaint has been handled by Country Director; s/he has right to go as per legal provision of Nepal. The District Judicial Office is responsible Government legal authority to deal such case; therefore this guideline will not contradict if victim wants to file such case in legal way.

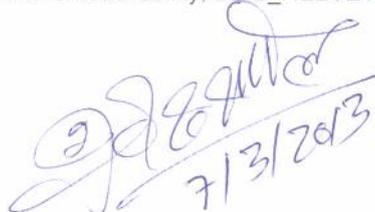
12 Others:

This guideline will become effective from 1st of January 2013 after its presentation to the Team Leaders' Meeting and the approval of the Country Director. This guideline will be made available to all the employees both in English and Nepali form. This will be an integral part of the HELVETAS Nepal employment contract and the contract of the partner agencies. During the time of performance appraisal with partners and public hearing and Audit with stakeholders and community, this will be a discussion topic to review the behavior of partners and community members against the agreement contract.

HELVETAS Nepal will always remain highly sensitive towards the caste-based discrimination and untouchability and effortful in making an end to this social evil.

HELVETAS Nepal partners, stakeholders and beneficiaries should be fully briefed and orient about this matter by applying following measures

- *Prioritizing susceptibility towards this matter while selecting employees for HELVETAS Nepal, its partner agencies, target group and stakeholders.*
- *Educating stakeholders about HELVETAS Nepal's 'Caste-based Discrimination and Untouchability' or getting them oriented about it in a more effective manner.*
- *Prioritizing this matter during the plan formulation, its execution and measurement of achievements.*


7/3/2013

