Caste-based discrimination in Nepal: a local-level perspective from Dadeldhura District

Background

Practices of caste-based discrimination in Nepal date back to the prehistory of the South Asian subcontinent. Many were formally encoded in the Old Civil Code (Muluki Ain) of 1854; the first codified law governing civil matters in Nepal. The Code identified four varnas or castes which were positioned in a strict social hierarchy. The hierarchy followed Hindu religious scripture and customary practise, specifically the Manusmriti – an influential document from the 1st century CE – and divided human beings into four varnas, which were ascribed with the traditional roles of Brahman (intellectual), Kshatriya (warrior), Vaisya (trader) and Sudra (manual worker). This categorization was in accordance with the inter-generational inheritance of occupation. The Sudras were at the bottom of the hierarchy and the Manusmriti prescribed a number of socio-economic and political methods of discrimination upon the Sudras, including physical punishments as well as strict direction for people from the other three categories to avoid touching them. The Sudras, or people of the lowest caste category, are now more commonly known as Dalits – a politically coined term translating as ‘broken, oppressed or crushed’ – or ‘untouchables’. Dalits are a heterogeneous group belonging to several ethnic and linguistic communities across Nepal. In 2011, the National Dalit Commission listed 26 different Dalit categories in Nepal comprising nearly 13 percent of the total population.

In contemporary Nepal, caste still plays a determining role, regulating many aspects of peoples’ everyday life, including birth, marriage and death, as well as other key economic, social, cultural and political engagements. A renowned Dalit intellectual described the system as, “Chopping off of the population into fixed and definite units, each one prevented from fusing into another through the custom of endogamy”. Nepal’s predominantly rural and traditional social structures have maintained caste as a dominant marker in day-to-day life of its citizens, which has led to discrimination, domination, inequality and disparity, primarily because of lack of access to resources by the lower castes. Caste practices have even over time become part of the social ordering of other religious and ethnic communities as well.

This Field Bulletin looks at the prevalence of caste-based discrimination in Nepal from the perspective of Dadeldhura, a hill district in the Far Western Region comprising a Dalit population of around 20

1 The four castes of varnas are 1) Tagaddhari, ‘sacred thread wearing’, 2) Matawali ‘liquor drinking’, 3) Pani nachalne choi chhito halnu naparne ‘touchable low castes’ and 4) Pani nachalne choi chhito halnu parne ‘untouchable low castes’.
2 For more information please refer to: http://www.britannica.com/EBchecked/topic/363055/Manu-smriti
4 For more information please refer to: http://www.minorityrights.org/?lid=5652
5 Dr. B.R. Ambedkar. For more information please refer to: http://www.c-s-p.org/flyers/978-1-4438-0989-4-sample.pdf
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percent⁸. Its findings are based on observations and interviews with local government officials, security personnel, civil society members, Dalit rights activists and the public. The Field Bulletin aims to illustrate how caste-based discrimination manifests itself at the local level and its impact on the day-to-day life of members of the Dalit community. Finally, it highlights some initiatives undertaken by the government and civil society to combat caste-based discrimination and places particular emphasis on the challenges pertaining to the effective implementation of the laws against caste-based discrimination.

**Manifestation of caste-based discrimination in Dadeldhura District**

A 2011 UN study in Nepal revealed that caste-based discrimination is often viewed as a social rather than a criminal issue. The study cites that district-level officials of the District Administrative Office (DAO), Government Attorney Office, as well as district police representatives argued that the practice of caste-based discrimination should be considered as a dispute within the community and to be settled through negotiation⁹. The reasoning was that it would affect the ‘social harmony’ that has allowed Dalit and non-Dalit communities to live together for centuries¹⁰. But how then, in practice, does caste-based discrimination manifests itself at the district level:

**Discrimination in the public sphere** takes a number of forms, ranging from denial of access to public water taps and temples to discrimination in government offices. Discrimination in the public sphere has often been successfully confronted by Dalits in villages where they make up a significant percentage of the population. However, as a local NGO member noted, “The discrimination in the public sphere is a distressing situation that persists, also in the district headquarters”¹². Caste-based discrimination in government offices, especially by lower-ranking government officials, was reported to be commonplace, and may result in Dalits avoiding the use of government services. Members of the Dalit community mentioned that there are government officials with a “mind-set” of implicit caste consciousness. They believed that this may have serious implications for their access to or receipt of government services. Seeking legal remedy in these kinds of cases was perceived to be nearly impossible.

**Discrimination in the political sphere** is mainly manifested by a lack of opportunities for meaningful political participation. Members of the Dalit community mentioned that Dalit participation in political parties is generally low and most people interviewed did not express interest in party politics. Those who became member of a political party expressed disappointment regarding the discriminatory practices that take place within the party structures. Some believed they have been provided access to

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⁸ Information provided by districts’ statistics office based on 2011 Census data.
¹⁰ Ibid.
¹¹ The term ‘Upper Caste’ is a common usage in Nepal. However, the UN RCO does not officially endorse or accept this term and only uses it in this Field Bulletin because its common usage facilitates a common understanding.
¹² An interview with NGO staff working on Dalits’ rights, April 2013.
the party only because of the quota system which guarantees seats for Dalits, Janajatis and women, and were doubtful whether they would have been provided access without the affirmative action\textsuperscript{13}.

The government Ward Citizen Forums have Dalit representation; however, interviewed Dalits did not perceive their participation as meaningful. They noted, for instance, that their contribution to Village Development Committee (VDC) Council meetings is not taken into account. They feel that VDC authorities and other political leaders in general do not consult Dalits when it comes to any decision making\textsuperscript{16}. An exception to this trend is that some Dalit women were found to be holding substantial positions in local Para Legal Committees.

**Discrimination in the private sphere** is for instance represented by inter-caste marriage which has resulted in a number of disputes and/or displacements of Dalit families in the district. This is particularly harmful as inter-caste marriage is perceived as an effective way of reducing caste-based discrimination and increasing social mobility of Dalits. Despite a government decision in 2009 to provide financial incentives to encourage inter-caste marriage, interviewees felt that the government has not yet fully embraced the notion of developing social fabrics between Dalit and non-Dalit communities\textsuperscript{15}. The Dadeldhura DAO has disbursed financial incentives to altogether 11 inter-caste married couples but many interviewed in the Dalit community remain sceptical regarding the safety of inter-caste couples. A Dalit woman noted that she would never allow her son or daughter to marry a non-Dalit – the reason being her fear of possible tensions with the bride’s family and the larger non-Dalit community\textsuperscript{16}.

**Discrimination in the employment sphere** was perceived to be a less significant manifestation of discrimination by local interlocutors because, to an increasing extent, it is being overcome by various coping mechanisms, particularly in larger Dalit communities. Except for a decreasing number of people who are still continuing the traditional caste-based occupations such as iron work, tailoring and shoe making, many Dalits have started to work in traditionally non-Dalit occupations. For example, a meat shop run by a Dalit in Jogbuda VDC – where the percentage of the Dalit population is high – is well accepted by non-Dalits. Others engage in seasonal migration to India, the men working mainly as unskilled labourer, such as masons or security guards, whereas women are predominantly engaged in household work.

\textsuperscript{13} Interview with Dalit students, including a member of local level committee of a political party, February 2013.

\textsuperscript{14} Interview with a Ward Citizen Forum member in Alital VDC, February 2013.

\textsuperscript{15} Rs. 100,000 incentive for inter-caste marriage was included in the budget of 2009/2010. The Dadeldhura DAO has disbursed financial incentives to 11 inter-caste couples since the incentive was announced as per the DAO records until 3 April 2013.

\textsuperscript{16} Interview with a Dalit woman in Puntura, February 2013.
Legal framework against caste-based discrimination

Nepal has an extensive legal framework for criminalizing caste-based discrimination. The new Civil Code (*Muluki Ain*) was introduced in 1963 to formally abolish the previous *Muluki Ain* of 1854 and the caste-based discriminations which it had enshrined. However, it is not clear that such steps effected any real change in the lives of ordinary Nepalis. The Constitution of 1990 outlawed caste-based discrimination and caste-based discrimination was made a punishable criminal offence in 1991 with an amendment to the new Civil Code. The 2006 Comprehensive Peace Accord also included commitments to end discrimination based on caste⁷ and the Interim Constitution of 2007 prohibits discrimination in any form and ensures the right against untouchability, entitling the victim to compensation⁸. The Caste-based Discrimination and Untouchability (Offence and Punishment) Act of 2011 – hereafter referred to as the Caste-based Discrimination and Untouchability Act – clearly defines caste-based discrimination in both public and private spheres as a criminal offense. Nepal has also ratified all of the main international human rights treaties, including the International Convention on the Elimination of All Forms of Racial Discrimination⁹.

Despite this extensive framework, access to quantitative data on caste-based discrimination is difficult to obtain as systematic records are not available. Though local interlocutors reported a declining trend of caste-based discrimination, representatives of civil society organizations pointed out that significant amount of incidences still occur; however, the majority of incidents are not officially registered. Apparently, records of the DAO and police show no single report regarding caste-based discrimination in the last two and a half years¹⁰. Some government officials, including the Chief District Officer, acknowledged that caste-based discrimination may occur in the district but that incidences may not always be duly processed in the legal system. Dalit community leaders and representatives of Dalit welfare organizations believed that more than half of all incidences of caste-based discrimination go unreported. They argued that a lack of information on the legal provisions, lack of ability to seek legal remedy and lack of trust in the justice system are principle reasons for the majority of the incidences to go unreported. Those that are reported are usually not addressed according to the formal procedures as legally provisioned. This trend mirrors closely the national level; for instance, the National Dalit Commission listed only fourteen cases of caste-based discrimination across the country between 2010 and 2011¹¹, while the 2013 INSEC Human Rights Year Book recorded only one case during 2012¹².

In Dadeldhura District, even the case related to inter-caste marriage and subsequent displacement of a married couple (see text box), which received national media attention, had not been recorded under the Caste-based Discrimination and Untouchability Act. The 2013 INSEC Human Rights Year Book affirms that the Dadeldhura police did not register a complaint of the abovementioned incident¹³. While this may indicate that victims do not approach the appropriate bodies for legal remedy, Dalit civil society leaders argue that, in the majority of cases, the police are reluctant to report such incidences under the Caste-based Discrimination and Untouchability Act. A local Dalit activist noted that there was only one case filed for legal remedy pertaining to caste-based discrimination in the last four years in the District.

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¹⁷ The Nepal 2006 Comprehensive Peace Accord Article 3.5.
¹⁹ The International Covenant on Civil and Political Rights (ICCPR), International Covenant on Economic, Social and Cultural Rights (ICESCR), Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), amongst other.
²⁰ The District Administration Office and police office were able to provide records only for the years 2011 and 2012 but stated that there were no such reports of such instances before that period either.
²² The Human Rights Year Book 2013, INSEC, pg 547.
Court. According to him, the case could not be successfully tried due to lack of evidence to substantiate the claim, which further undermined the local Dalit community’s faith in the justice system.

**Initiatives to address caste-based discrimination**

A commendable initiative of the Government of Nepal was the enactment of the Caste-based Discrimination and Untouchability Act in 2011. The Act, however, needs to be more efficiently implemented in order for it to effectively protect the rights of Dalits. The amendment in 1991 of the new Civil Code 1963 is also considered as an important step for eliminating caste-based discrimination in Nepal. The amendment has made provisions of punishment for discrimination on grounds of caste, religion, colour, class or work.

In Dadeldhura, a district task-force was recently formed to develop an action plan for the implementation of the Caste-based Discrimination and Untouchability Act. The CDO, as Chairperson of the ‘Caste-based Discrimination Coordination Committee’, noted that the task-force was requested to submit an action plan by April 2013. According to one of its members, a draft guideline has already been developed which will be finalized and submitted to the CDO as soon as possible. As part of the government integrated mobile services teams, which travel to more remote VDCs in the district to provide government services, the DAO had organized activities to raise awareness on caste-based discrimination. According to the police, they have been conducting outreach activities to encourage Dalits to approach the police in instances of suspected caste-based discrimination.

Also, a number of local NGOs and media have been conducting various programs to improve the socio-economic conditions of Dalits in the district. For example, Dalit organizations and a group of Dalit youth launched a campaign to regain access to the Singsthan temple in Jogbuda where, in 2005, Dalits’ access to puja was restricted. Following the campaign, uninterrupted access to the temple has reportedly been enjoyed by the Dalit community. Advocacy campaigns and legal aid support for Dalits are being conducted by Dalit welfare organizations across the district. Print and electronic media have been highlighting issues of caste-based discrimination and drawn the attention of government officials to incidents of caste-based discrimination. However, as some interlocutors mentioned, most of these initiatives were one-off projects which does not guarantee a longer-term or sustainable impact.

**Conclusion**

The various legal measures and social campaigns that have been organized in Nepal in recent years appear to be gradually changing the attitude and behaviour of both Dalit and non-Dalits towards caste-based discriminatory practices. These changes, however, have not yet resulted in concrete improvements in the Dalit community’s economic standing. As a 2011 UN report noted, ‘the variation in human development is much greater between caste and ethnic groups than between regions and sub-regions’. The report stated that, “With caste automatically passing to the next generation, the rigid assignment of low paid, low status professions, perpetrated by poor levels of education and inadequate health care and living conditions, condemn Dalits to live in severely vulnerable circumstances”.

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24 Interview with a representative of a Dalit NGO in Dadeldhura, April 2013.
26 Interview with Dadeldhura CDO, April 2013.
27 Interview with a task-force member in Dadeldhura, July 2013.
28 Different district line-agencies provide services such as citizenship registration, voter registration, health check-ups, veterinary and agriculture support through these mobile camps under the leadership of the DAO.
29 An interview with a Dalit youth group in Jogbuda VDC, February 2013.
The issue of caste-based discrimination appears largely to be regarded as a problem for the Dalits community itself. It does not seem to be considered a challenge to the overall development of Nepal by people with decision-making power. Violations of Dalit’s human rights will remain a reality for the Dalit community as they lack awareness of existing laws or capacity to pursue legal remedies due to difficult and lengthy processes. An effective enforcement of laws and international standards would play a pivotal role in eliminating caste-based discrimination. However, indirect and intrinsic discrimination is complicated to bring within the legal framework. Besides legislative measures, empowerment of Dalit communities through education has become an important intervention for eliminating caste-based discrimination in Dadeldhura District. In addition, significant increases in resources for data gathering, counselling, legal assistance and access to socio-economic support are required to reduce and eliminate the asymmetries Dalits face in their access to development gains.

Disclaimer: This field bulletin is prepared after short field study and also using secondary data as much as possible. The information presented in this field bulletin does not imply official endorsement or acceptance by the United Nations. Although RCO aims to confirm all information independently, occasional factual inaccuracies can occur.
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Map:
Nepal: Dalit Population in Dadeldhura VDCs

Legend:
- District Headquarter
- Administrative Boundary
- International
- Development Region
- District

Dalits Population size in VDCs:
- 259 - 668
- 740 - 1247
- 1700 - 2289
- 3954

Map Data Source(s):
- CBSS, 2001, UN RCO
- FOA data
- Gadeda, OIST, ESRI, UNOCHA, CIDA, FOD

Disclaimer:
The boundaries and names shown and the designations used on this map do not imply official endorsement or acceptance by the United Nations.

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