

The Dalits of Nepal:

Acting for change



International Dalit Solidarity Network

Reaping the fruits of a long struggle?

After successful election to the Constituent Assembly in April 2008, Nepal's legislators have embarked on writing a new constitution. It is bound to be the birth certificate of a newborn democracy. But a quarter of the population hopes that the constitutional process will be much more than that. The Dalits of Nepal see the transition as a historic opportunity to end 2 000 years of caste-based discrimination and practices of untouchability.

Although Nepal still has 58 laws that discriminate against Dalits, the interim constitution and other recent legislation represent a more positive trend. Nevertheless, a huge gap between words and practice remains. Dalits are forced to live in segregated communities and are still denied access to the most sacred temples of their religion. Although caste-based untouchability has been banned since 1965, Dalits are humiliated daily by "upper castes" who will throw away any water that they have touched. And with the important exception of the Constituent Assembly, Dalits are either totally absent or grossly underrepresented in all organs of power in both the public

and private sector.

A new survey by the Indian Institute of Dalit Studies (IIDS) for the International Dalit Solidarity Network (IDSN) documents the continued discrimination. However, the report also highlights some reasons for optimism: the interim parliament showed a willingness to fight discrimination. Even though recent years' conflict caused extensive suffering among Dalits, they also experienced a decrease in discrimination in areas controlled by Maoists who now form the largest party in the Constituent Assembly.

A Regional Study

This fact sheet and the underlying study of Nepal's Dalits are part of a regional study on caste-based discrimination undertaken by the Indian Institute of Dalit Studies (IIDS) in association with the International Dalit Solidarity Network (IDSN).

The regional research covers four countries; Nepal, Pakistan, Bangladesh and Sri Lanka. The full reports are available at www.idsn.org and www.dalitstudies.org.in

The Nepal study's main findings and a number of recommendations from the Kathmandu Charter of Dalit Rights 2007 are highlighted in this fact sheet in the "Challenges and Recommendations" sections.

A Word about Wording

The system of 64 castes in Nepal dates back to the 14th century. The National Dalit Commission identifies 22 of these as Dalits. They have traditionally been referred to in a number of derogatory terms, including "untouchables". This fact sheet uses the term Dalit – ("broken people") – and "caste-based untouchability" as defined by the Dalit Commission.

As the International Dalit Solidarity Network rejects the concept of dividing people according to castes, "lower caste" and "upper castes" are used in inverted commas.

The challenge is to keep up this momentum. The new constitution must contain clauses that explicitly prohibit and punish any act of discrimination and the use of religion to limit fundamental rights. It must guarantee the right to freely choose employment and promise Dalits fair representation in public life. But the new leadership should also spearhead a nationwide change in attitude.

There are great precedents for this: South Africa's transition in 1994 from racial segregation to democracy marked the beginning of an intense battle against all kinds of discrimination, and spawned a constitution with, arguably, the most extensive protection of individuals' rights in the world.

A Marriage of Challenges and Chances

Manisha and Jhakondra grew up 200 meters from each other and went to the same village school, so falling in love was a natural thing. But Jhakondra is a Dalit and regarded as untouchable by Manisha's non-Dalit family. As a result, she was beaten in her sleep by her uncle while her father threatened to kill Jhakondra. In the end, the young couple ran away to India and got married. Following their return, Manisha's parents reported Jhakondra to the police for girl trafficking, claiming their daughter was only 16 years old.

When she proved that she was 18, the police chose to respect the constitution of Nepal and deemed the marriage between a Dalit and a non-Dalit to be perfectly in order. But in this part of the world, tradition is stronger than legislation. As Jhakondra's husband, Manisha has herself become a Dalit and untouchable. Her family says they regard her as dead.



Jakhondra and Manisha got each other in the end, but the price was high: Manisha's family regards her as dead because she married a Dalit man.

At the birth of a new era of democracy, Manisha now wants to become an activist for the rights of Dalits. But her experiences prove that the fight against widespread untouchability will be an uphill battle.

A study by Action Aid revealed 205 existing practices of caste-based discrimination, and the trend is confirmed by the present study by IIDS. Dalits are still barred from entering a number of Hindu temples in Nepal. If they are invited to festivals or weddings at all, they are frequently forced to eat separately. Dalits live in segregated housing and are often not allowed near the communal water pumps.

This all happens in a country that Parliament declared an "untouchability free State" in 2006. But perpetrators of discrimination have enjoyed impunity, even when they – as in the case of teachers and health professionals – are employed by the State. For this reason, Dalits are asking for two sets of reforms: the new constitution must secure stiff penalties for discrimination as well as compulsory compensation for victims; and an awareness campaign must sensitise all sectors of society to make this message heard. Not just at police stations, but also in the homes of people such as Manisha's and Jhakondra's parents.

14

Number of Dalit castes (out of 18 surveyed) that experience opposition to inter-caste marriage between non-Dalits and Dalits. 10 also report opposition to marriage between different castes of Dalits.

(IIDS Survey, 2007)

The Invisibles Strike Back

Gomati Nepali's world is a complex one. The 28-year old mother of three is a sex worker. But as a community leader from the Dalit caste of Badis, she is also trying hard to help others avoid ending up in the same trade. High on her agenda is equal access to land which is seen as a way out of poverty. This could make Badi women less likely to become targets of trafficking to brothels in India.

Until recently, however, one important detail made this whole sequence of development impossible: land ownership demands citizenship that traditionally has been given according to the father's name. As most children of Badi sex workers have unknown fathers, they were unable to

obtain citizenship – and land – in their own country.

Protests by Badi rights activists outside Parliament have now ensured that Nepalis can use their mother's name to obtain citizenship. But this victory only marks the beginning of a fight against invisibility so pervasive that it is entrenched in the national census of 2001.

Officially, the Dalit population comprises 15% of the population. But Dalit intellectuals estimate it at closer to 25%. The discrepancy has many causes among which are: Dalits hiding their identity due to fear of persecution; poor training of enumerators; and lack of recognition of some Dalit castes.

The invisibility runs through all spheres of public and private life. Dalits are underrepresented at every level of government. They hold no positions of leadership in scientific and professional organisations, civil society organisations, media and the industrial and commercial corporate sectors.



Gomati Nepali, 28, is "untouchable" yet dominant caste men come to buy sexual services from her. Customers also fathered her three children. Now she fights for the rights of her community.

48%

48% Proportion of Dalits who report that their complaints are ignored by prejudiced police officers.

(Dalit Human Rights Organization 2005)



Nepal
4,5 million or
15-20 percent of
the total population

Gore Sunar is trapped in debt bondage and will never get out of it. After his death his nephew will be responsible for paying back the loan – something Gore wasn't able to do in a lifetime.

Dalits are also invisible in central committees of all political parties. But the elections for the Constitutional Assembly ushered in some change — partly based on a quota system, Dalits secured 49 out of 601 seats.

This is 8,2% and still way below even their official proportion of the population. But it's progress and carries the hope for a better future that is also present in Gomati Badi's life: While she continues her fight against prostitution, her three children are passing their grades in school, having successfully broken the pattern of exclusion that often has prevented Dalits from getting an education.

Trapped by Tradition and Poverty

Gore Sunar sold his entire existence to four local farmers in return for four loans in order to afford the bare necessities of life – a marriage; an ox to plough with; some spending money; and a piece of land that in itself constitutes the fourth loan.

25 years after taking the first of these loans, the 55-year old farm worker has given up any hope of paying the money back. Instead, he will spend the rest of his days toiling for the four creditors, having effectively mortgaged his only saleable asset – hard work. In two cases, he must bring his own ox to plough the landlord's land. In all cases, he does any work he is asked to do out of fear that refusal will result in the loans being called in.

When Gore Sunar dies, his nephew will inherit these obligations as he has no sons. Similar fates are all too common in Nepal. And the practice of bonded labour is a typical example of the combination of cultural practices and widespread poverty that drives much of the country's caste-based discrimination.



77%

Proportion of Dalits who own less than 3 ropanis (just over 1 500 m²) of irrigable land.

(Household survey by TEAM Consult, 1996).

Menial work such as ploughing the land is considered to be of low social status. Members of "higher castes" would lose their status if they were seen behind a plough. Instead, they employ Dalits. Many of these are bonded labourers, trapped in debt like Gore Sunar. Often their initial loan is "no more than the average family in the industrialised world would spend on a restaurant meal", as Adam Robertson and Shisham Mishra state in *Forced to Plough*. But according to this survey of bonded labour from 1997, the only way for the victims to escape is to sell all their possessions and typically make their families homeless in the process. Hence the system "violates the United Nations Supplementary Convention on the Abolition of Slavery (1956) to which Nepal is a signatory," says the survey.

As in the case of Gore Sunar, the problem is linked closely to the extensive landlessness of Dalits. Lack of land also means lack of access to credit and total dependency on landlords to deliver wages and food. This predicament is compounded by a lack of education that makes it difficult for Dalits to take even the worst cases of abuse to court.



Stranded on the Wrong Side of the Gap

If the Dalits of Nepal constituted a nation of their own, their living conditions would be similar to those found in the least developed countries in the world, while the richest caste – the Brahmins – would be on a par with the national average in the regional super power of India.

This was revealed in a survey in 1996 (by the Nepal South Asia Centre) that fed into the Human Development Index of the United Nations Development Programme – widely considered the best indicator of overall living conditions around the world. Nepal scored 0,325 on a scale from 0 to 1 or just a third of the 0,96 enjoyed by Canada which came out on top. But hidden within the national average are some differences of almost similar magnitude. “Occupational castes” – which are mainly Dalits – scored only 0,239 or just over half of the 0,441 reached by the Brahmins. The underlying economic inequalities make Nepal the country in South Asia with the largest gap between rich and poor as measured by the Gini coefficient.

These glaring differences between the haves and the have-nots in Nepal were reflected in all spheres of life in the 1996 survey. While 58% of the Brahmins were literate, only 23,8% of the “occupational castes” could read and write. This gap was hardly surprising given that the two groups attended school for an average of 4,6 and 1,2 years respectively. While a Brahman would expect to live for 60,8 years, a Dalit could only count on 50,3 years.

The difference in living conditions has a number of reasons and many of them are caste-based. Historically, Dalits have been assigned the lowest paying jobs. And even when they advance to jobs done traditionally by other castes, the discrimination often continues through less pay for similar work.

Access to land is another major – and often caste-based – reason for the inequalities. With land comes self-sufficiency and access to credit while the landless are forced to toil for others and often have no access to credit. The present study by IIDS

suggests that it is in the interest of all castes in the

country to fight the inequalities: “Nepal’s poverty will not be eliminated without eliminating poverty of Dalits.” The report concludes that this can not be done without addressing the land issue. It strongly encourages both national players and international donors to participate in this process.

10,5

Number of years that a member of the “occupational castes” (who are mainly Dalits) must expect to live shorter than a “high caste” Brahman. Life expectancy is 50,3 and 60,8 years respectively.

(Nepal’s Central Bureau of Statistics, 1996)

8

Number of Dalit castes (out of 18 surveyed) who report that the government and NGOs do not support Dalits to form cooperatives

(IIDS Survey, 2007)

Cutting Out the Tongues of a Nation

7 Number of Dalit castes (out of 18 surveyed) that have felt ignored when they provide modern skills. (IIDS Survey, 2007)

There was a time in the history of Nepal when education of Dalits was banned in religious scriptures: if untouchables were caught reading, their tongue should be cut; if they should listen, melted lead should be poured in their ears. This is all according to the Manusmriti, one of the main Hindu scriptures that also contains the basis of the caste system.

More than 2 000 years later, most people would recognise the inherent prohibition of progress as a waste of potential and human resources. But, by effectively keeping a huge number of Dalit children out of the education system, Nepal is still cutting out the tongues of the nation.

The extent of these lost opportunities is underlined by one of the latter years' most encouraging statistics in Nepal: over just one decade – from 1991 to 2001 – the literacy rate of Dalits doubled from 17 to 33,8%. This is still among the worst in the world and well below the national average of 53,7%. But what matters is the trend: Dalits took full advantage of the opportunities offered by the introduction of free primary level education and other investments in the education sector.

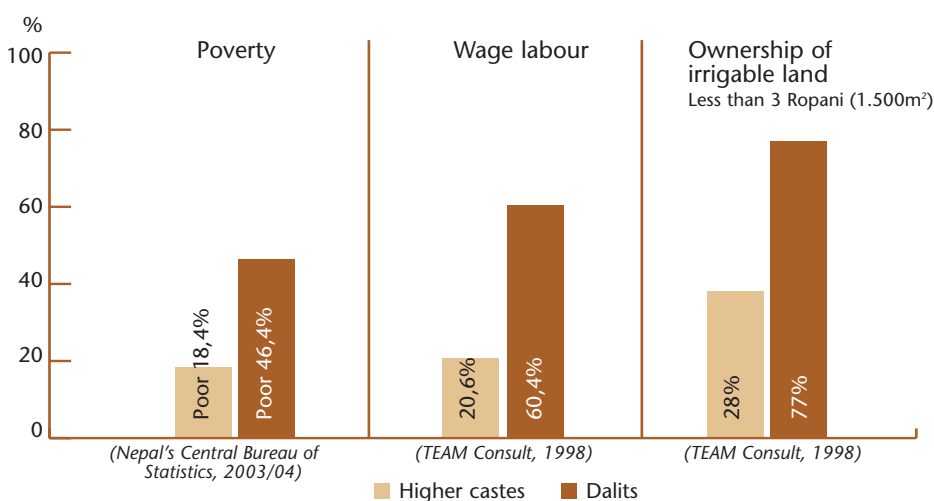
This happened despite the fact that Dalits still face massive challenges if they make it to the usually far-away school. They are often forced to sit in the back benches and are presented with a curriculum full of discriminatory language and stories about their culture and lifestyle. In many schools, Dalit children are not allowed to eat with non-Dalits. Some teachers will consider any water touched by Dalits as unclean.

These conditions add to a widespread despondency among Dalits that keeps some children out of school. Others have chosen to make the most of the opportunities offered. This all suggests a massive untapped potential that a poor nation can hardly afford to ignore. But unfortunately, the treatment of Dalits as ignorant is not confined to education.

Human development					
Caste	Life expectancy (years)	Adult literacy (%)	Mean years of schooling	Per capita income (US\$)	Human development index
Nepal average	55,0	36,72	2,254	1,186	0,325
Brahmins	60,8	58,00	4,647	1,533	0,441
Chettri	56,3	42,00	2,786	1,197	0,348
Occupational castes*	50,3	23,80	1,228	764	0,239

* "Occupational castes" are mainly Dalits
(Nepal South Asia Centre 1998, based on various sources)

At election times, political parties will rather bribe Dalits with alcohol and meat than discuss politics or offer them tickets for candidature in proportion with their share of the population. And in the economical sphere, discrimination even hits the sources that feed the nation: 11 out 18 castes surveyed in the IIDS study reported that Dairy Development Centres do not buy milk from Dalit sellers.



CHALLENGES AND RECOMMENDATIONS

Untouchability and Descent-Based Discrimination

Dalits are victims of caste-based discrimination from non-Dalits as well as other Dalits in their internal hierarchy. Despite Parliament's declaration of Nepal as "an untouchability free State" in 2006, the IIDS study documents that the practice is still widespread. There is denial of entry to religious sites, including participation in events; resistance to inter-caste marriage; refusal by non-Dalits to handle water touched by Dalits or to buy their milk; discrimination in access to public water supply; and discrimination by health officials.

Recommendation:

The new constitution must state that untouchability is an abomination that is contrary to the constitution and must be abolished and prohibited in public as well as private places. Effective means must be devised to end impunity and ensure that untouchability is treated as a serious social crime and a crime against the State and humanity. There must be stiff penalties and compulsory compensation for the victims. The National Dalit Commission should be provided for in the constitution as a powerful and proportionally inclusive institution.

State, Caste and Human Rights

Caste-based untouchability was officially banned in 1963. The constitution of 1990 made it punishable to discriminate against Dalits in public presence and in the use of public facilities. The interim constitution of 2007 added a number of specific areas where discrimination is banned. But few Dalits can pursue discrimination in court – partly because of poverty and illiteracy, partly because Dalits are often dependent on the discriminators, ie landlords. A number of provisions in the interim constitution regarding increased equality for Dalits have not been translated to law and practice. Dalit representation in political life is negligible, but the establishment of the National Dalit Commission in 2002 has made their issues more visible.

Recommendation:

Legal provisions must secure representation of Dalits in all structures of the state (elected as well as appointed and including the security forces and the bureaucracy) in proportion to the population in the country. An accurate census should establish the correct number of Dalits. Special provisions should be made in the constitution to address Dalits' problems and ensure Dalits are not disadvantaged by autonomous states in a federal system. The new constitution must ensure that the fundamental and human rights of Dalits are not violated in the name of social norms and values.

The entire justice system should be completely restructured and made more sensitive towards caste discrimination. As Nepal is adopting the policy of privatisation and liberalisation, human rights should also bind the private sector and NGOs and INGOs.

Economic and Social Status of Dalits

An average Dalit earns only 41% of the income of an average member of the highest earning castes. The vast majority of Dalits does not own land or livestock, the two most important capital assets in rural Nepal. Only 3% owns more than one hectare. Working as labourers, Dalits – and most particularly the women among them – are paid less than non-Dalits.

Recommendation:

The new constitution must guarantee Dalits access to employment of their choice and priority in the economic sector, including practice of affirmative action. Land ownership should be ensured through radical land reform. The state must take seriously the Right to Development for which it has voted in United Nations forums. This includes access to credit and government subsidies. Recognising the difficulties faced by Dalits in the education system, the age limit for Dalits should be five years higher than for other candidates applying for positions in both the public and the private sectors.

Discrimination in Political Sphere

Despite increased representation of Dalits in the recently elected Constituent Assembly, they are still underrepresented in relation to their proportion of the population. There are no Dalits in leadership positions in a wide range of scientific, professional and civil society organisations. Few of the political parties have made provision for the representation of Dalits. They typically have none or just one Dalit in their governing bodies and their programmes have little focus on social change. The study reveals caste-based discrimination right down to community-based organisations that have little focus on helping Dalits out of poverty.

Recommendation:

The Constituent Assembly must ensure that Dalits are represented properly and consulted during the crafting of the new constitution. Dalits must either be allowed to set up “sectional” parties (by revoking the present ban on parties that exclude people from membership on certain grounds) or secured representation in existing parties through proportional representation guaranteed by the constitution.

Discrimination in Education

Discrimination and outright prohibition of education of Dalits meant that possibly fewer than 100 people were literate by 1950. Remnants of this attitude are still visible in discrimination at schools, at times perpetuated by teachers. Expansion in the education sector had led to a literacy rate of 33,8% among Dalits by 2001. But this is still low compared to the national average of 53,7%. Only 0,4% of Dalits – against a national average of 3,4% – have a Bachelor’s degree.

Recommendation:

The right to education should be incorporated in the constitution and be enforceable in court. Provisions should be made for scholarships for Dalits. To secure the necessary radical change in discriminatory attitudes, the government should ensure or encourage at least one male and one female teacher from the Dalit community in all schools. Discriminatory phrases, stories and assertions in text books and syllabuses should be removed immediately.

Bonded Labour and Multiple Discrimination Against Dalit Women

Nepal has a number of discriminatory labour practices. Some are based on a caste-based division of labour. In other instances, Dalits are trapped in debt bondage and will work entire lives for lenders who are usually also their landlords. Dalit women are often sexually exploited by non-Dalit men and become victims of trafficking, typically to brothels in India. Problems in inter-caste marriages include the bride being abandoned after their first sexual relations, rejection by parents and boycott by the communities. Even inter-caste marriages among Dalits of different status cause problems. Other discrimination faced by women includes payment of dowry, forced covering of faces with shawls and battering following charges of witchcraft.

Recommendation:

All kinds of bonded labour and exploitation established by the feudal land-use system should be abolished. The victims must be rehabilitated by providing them with land. The constitution must guarantee the right of an individual to marry the person of her or his choice. Prevalent social evils such as dowry, child marriage and polygamy should be punishable. The State should ensure Dalit women’s right to equal participation regarding marriage and divorce as well as control over financial assets of the family.