

## The Role of Dalit Civil Society in Combatting Caste-Based Discrimination

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### Introduction

An estimated 260 million Dalits continue to face caste-based discrimination and practices of untouchability. According to available census figures of Dalits in India, Nepal, and Bangladesh, the Dalit population from these three countries alone totals 215 million. Bhutan, Pakistan, and Sri Lanka also have Dalits but they do not recognize caste on their census.<sup>1</sup> Lastly, the Dalit diaspora from these South Asian countries makes up a significant portion of the global Dalit population. In spite of the legal ban on caste-based discrimination and the practices of untouchability, Dalits continue to face prejudice on the basis of their birth in the lowest caste.

### Caste-Based Discrimination

Caste is a South Asian system that ranks social groups called castes (also called *jats* or *jatis*) based on their social status.<sup>2</sup> Their social status is determined by the Hindu notion of ritual purity and pollution. Higher status is associated with purity and lower status with pollution. According to the Upanishads, a sacred Hindu text, a person whose conduct in a previous life was pious is born into a higher caste family while a person with foul conduct is born into a lower caste family. Those in the lower castes are known as *Dalits*, or Untouchables, in the present day. It is believed that destiny determined their caste and their birth restricts membership in the caste. They are even forbidden to marry outside their caste. If a non-Dalit marries a Dalit outside their caste, the non-Dalit loses their higher caste designation and becomes a Dalit.

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<sup>1</sup> Surinder S. Jodhka, and Ghanshyam Shah, "Comparative Contexts of Discrimination: Caste and Untouchability in South Asia," IIDS Working Paper Series 4, no. 05 (2010). Accessed on May 24, 2019. <http://www.dalitstudies.org.in/uploads/publication/1473143682.pdf>.

<sup>2</sup> Bhimrao Ramji Ambedkar, "Caste in India: Their Mechanism, Genesis and Development," edited by Manoranjan Mohaty (Eds.), in *Class, Caste, Gender: Readings in Indian Government and Politics*, (New Delhi: Sage Publications, 2004), 132 - 153.

The caste system formally began around 3,500 years ago when King Manu codified caste rules, known as *Manusmriti*, or the Laws of Manu.<sup>3</sup> Hindus upheld the rules as the gods' words. As a result, Dalits could not find jobs even as cooks because they were forbidden to serve food to people of higher castes. If higher caste people consumed any beverage or meal served by Dalits, they became polluted and received the same treatment as that of Dalits. Dalits could not serve in temples or houses of higher castes because they were forbidden to enter these buildings due to perceptions of impurity. The *Manusmriti* also distributed social and political responsibilities based on caste. The responsibility of knowledge production and dissemination went to the highest caste, also known as *Brahmins*. *Ksatriyas*, were placed below the *Brahmins* and assigned with the responsibility as rulers and soldiers. The *Vaisya* were peasants, merchants, and craftsmen. *Sudra*, now known as Untouchables or Dalits, were assigned to serve the caste groups above them in the service sector that is considered impure. For this, Dalits worked in roles such as scavengers, cleaners, sweepers, leatherworkers, tailors, goldsmiths, blacksmiths, and fishermen.

Hindu rulers continued with Manu's caste rules. The rules provided a basis for adjudication of cases related to criminal, civil, commercial, and family matters. Even the British in India allowed caste rules to prevail on the family matters—marriage and divorce, adoption, joint family, guardianship, minority, legitimacy, inheritance, succession, and religious endowments. Nepal's first written law, the Civil Code of 1854, "sanctioned and privileged functions of the Brahmins as spiritual teachers and priests," and *Chhetris*, particularly *Shah* and *Ranas* "were members by birth of the highest legislative and judicial body." *Brahmins* were also employed at court as performers of the state cult or as advisers to *bhardari kausal* (a council of nobles). Royal descents were secured for the *Shah* and *Rana* clans of the *Chhetri* caste. In addition, the Code arranged the justice system structured in a hierarchical order with severe forms of punishment for *Sudra*. It applied the caste rules to law in all areas, including food and beverages, sex and marriage, and property rights. Lower castes faced greater punishments than higher castes for the same crime.<sup>4</sup> For example, as late as 1940, Tanka Prasad Acharya, a Nepali Brahmin, was imprisoned for protesting the autocratic regime as per caste-based justice. His four friends, who were non-Brahmin and charged with the same crime, were hanged and shot to death.<sup>5</sup> This law continued to dictate Nepali society until 56 years ago.

The caste system formally ended in India and Nepal in the 1950s, only 70 years ago. In India, the post-Independence Constitution of 1950 "replace[d] the system of separate personal law with a uniform civil code".<sup>6</sup> It prohibited discrimination based on caste and

<sup>3</sup> Ahuti, *Nepalma Barnabyabastha ra barga-sangharsha*. (Pulchowk, Lalitpur: Samata Foundation, 2004); Marc Galanter, "Law and Caste in Modern India," *Asian Survey* 3, no. 11 (1963), 544-559, <https://www.jstor.org/stable/3023430>.

<sup>4</sup> A Hoffer, *The Caste Hierarchy and the State in Nepal: A Study of the Muluki Ain of 1854*, 2nd ed. (Kathmandu: Himal Books, 2004).

<sup>5</sup> Mitra Pariyar, "Caste Discrimination Overseas: Nepali Dalits in England", *Global Nepal: Religion, Culture, and Community in a New and Old Diaspora*, ed. D.N. Gellner & S.L. Hausner (Delhi: OUP, 2018), 404 -34.

<sup>6</sup> Galanter, "Law and Caste in Modern India."

the practices of untouchability. In 1955, India also enacted the Untouchability (Offences) Act, which was amended in 1976 and renamed as the Protection of Civil Rights Act, specified penalties for practicing untouchability. In Nepal, however, it was only in 1963 that the caste system was removed from law books. In 1990, the Constitution of Nepal made caste-based discrimination punishable, but in practice it was only symbolic. In 2011, Nepal passed a law calling caste-based discrimination a crime against the state.

Yet, Dalits face as many as over 200 different forms of caste-based discrimination and practices of untouchability even today.<sup>7</sup> In rural South Asian societies, Dalits live a life as actual or perceived untouchables. Traditional restrictions on cooking or serving higher castes still apply. In some parts, they are not even allowed to drink milk and walk on the roads that lead to Hindu temples. In cities too, Dalits face widespread discrimination. Dalits are denied renting houses or apartments by higher caste landlords. Many higher caste people do not share apartments with them. Dalits are also barred from purchasing houses or lands in settlements dominated by higher caste residents.

Caste-based discrimination has even migrated to Western countries along with the South Asian diaspora. Many research studies have found that South Asian Hindu higher caste immigrants in countries such as Australia, the United Kingdom, or the United States have retained caste-based discrimination and practices of untouchability.<sup>8</sup> They forbid their children to marry outside their caste. They do not share apartments or rooms with Dalit compatriots. In 2014, Dr. Mom Bishwakarma reported that he was denied sharing an apartment by a non-Dalit compatriot in Australia for his lower caste status. The United Kingdom has even passed a law that bans caste-based discrimination among its citizens after similar cases were reported and documented there.

As a result, Dalits lag behind in all Human Development Indicators, including health, education, and income. For example, the life expectancy, adult literacy, and per capita income of Nepal's Dalits, who make up 14% of Nepal's 27 million people, are 67.19, 52.27, and 755 as compared to 73.26, 81.89, and 1,247 of the most privilege group as per the Nepali Census of 2011.<sup>9</sup> In India, the life expectancy, the highest education index, and the income quintile index of Dalits, who make up 17% of India 1.21 billion people as per the Census of 2011, are 49.8, 26.2, and 55.8 compared to 57.1, 67.5, and 73.4 of the Hindu high caste.<sup>10</sup>

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<sup>7</sup> K.B Bhattacha, K. Hemchuri, Y. Gurung, and C.M. Biswakarma, *Existing Practices of Caste-based Untouchability in Nepal and Strategy for a Campaign for its Elimination* (Kathmandu: ActionAid Nepal, 2003).

<sup>8</sup> Pariyar, "Caste Discrimination Overseas."

<sup>9</sup> United Nations Development Programme, "Nepal Human Development Report 2014," [http://www.hdr.undp.org/sites/default/files/nepal\\_nhdr\\_2014-final.pdf](http://www.hdr.undp.org/sites/default/files/nepal_nhdr_2014-final.pdf).

<sup>10</sup> Vani K. Borooah, Nidhi Sadana Sabharwal, and Sukhadeo Thorat, "Discriminatory Behaviour: Theories Methods and Policies," IIDS Working Paper Series 7, no. 1 (2013), accessed on May 24, 2019, <http://www.dalitstudies.org.in/uploads/publication/1516791930.pdf>

## Dalit Civil Society vs. Caste-Based Discrimination

Dalits have long formed civic organizations and mobilized to advocate for policy change. The origin of Dalit civil society can be traced as far back as 1873 when Dalit Leader Jyotirao Phule founded *Satya Shodhak Samaj* (the Society of Truth Seekers) in India. This organization mobilized to educate, protect, and liberate Dalits from the cycle of caste-based discrimination. In 1924, Dr. Bhimrao Ramji Ambedkar started an organization named *Bahiskrit Hitkani Sabha* (Excluded Welfare Assembly) to support the moral and material progress of Dalit students. In Nepal, the origin of Dalit civil society can be traced back to the 1940s, when Bhagat Sabhajit Bishwakarma started an organization named *Vishwa Sarvajan Sangh* (World People Organization) in 1946; Saharshanath Kapali formed *Tailors Union* in 1947; and Jadubir Bishwakarma established *Nepal Samaj Sudhar Sangh* (Nepal Social Reform Organization) in 1947. In both India and Nepal, these organizations sought social reforms to end caste-based discrimination and practices of untouchability. They persuaded progressive higher caste people to publicly dine together with Dalits. They also organized programs for Dalits to enter temples and fetch water from public wells in mass. Such programs were symbolic and intended to raise awareness in communities against practices of untouchability.

In the 1990s, the economic liberalization of India and Nepal paved the way for a widespread emergence of non-political, non-religious, non-profit, and non-governmental organizations (NGOs). This was also the case for Dalit organizations. Several Dalit NGOs were founded in the 1990s and took the space of Dalit civil society in both India and Nepal. India currently has several hundred organizations working for Dalit rights. These organizations are active under the national networks such as the National Campaign on Dalit Human Rights and the Human Rights Forum for Dalit Liberation. In Nepal, Dalit NGOs work together through the Dalit NGO Federation. Currently, the federation has approximately 400 member organizations. Most of these organizations in Nepal and India have a South Asian transnational level network called Asia Dalit Rights Forum (ADRF).

Pervasive emergence of Dalit NGOs created opportunities for Dalits to shift the framework of their struggle from social reform to human rights.<sup>11</sup> These newly established organizations mobilized Dalit communities to invoke international human rights instruments such as the Universal Declaration on Human Rights (UDHR), the Convention on the Elimination of All Forms of Discrimination Against Women, and the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD). In 2001, Dalit NGO delegates from South Asian countries, particularly India and Nepal, participated in the World Conference Against Racism in Durban, South Africa. They tried to include caste as a form of discrimination in the Durban Declaration but failed due to resistance from the Indian government. Nonetheless, the advocacy of Dalit NGOs in Durban successfully posed to international human rights advocates that Dalit rights

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<sup>11</sup> Luisa Steur, "Dalit Civil Society Activism," Seminar A Journal of Germanic Studies 633 (2012), accessed on April 5, 2019, [https://www.researchgate.net/publication/281968098\\_Dalit\\_Civil\\_Society\\_Activism](https://www.researchgate.net/publication/281968098_Dalit_Civil_Society_Activism).

are human rights. As a result, the Western donor countries changed their policy towards an explicit caste-based or Dalit rights approach. They provided assistance to Dalit NGOs to strengthen their organizational capacity, monitor violation of Dalits human rights, and empower Dalit communities socioeconomically and politically.

Dalit NGOs have widely used human rights principles, conventions, and instruments to demand equal opportunities for participation in decision-making and access to public resources at national levels. They have successfully mobilized to allocate funding for Dalit empowerment and protect or secure quotas in bureaucracies and parliaments. At the grassroots level, Dalit NGOs have successfully mobilized landless Dalits to launch land rights movements to claim land and other natural resources. Because the caste rules forbid Dalits to own land, a majority of Dalits are either landless or hold nominal amount of land. The National Land Rights Forum and Land Rights Federation have been actively mobilizing for Dalit land rights. Their mobilization successfully secured a constitutional commitment for the distribution of land to Dalits in Nepal.

Dalit NGOs commonly agree that South Asian Hindu societies cannot achieve their development goals unless they eradicate the practice of caste-based discrimination. However, the NGOs have not yet been able to include caste-based discrimination explicitly in international human rights instruments or development agendas. The United Nations has passed many international treaties that prohibit discrimination on the basis of race, ethnicity, gender, and age; however, there is no international convention and human rights instrument that explicitly recognizes caste as a form of discrimination inhibiting progress in human development. The UDHR, the ICERD, and the World Conference against Racism, Racial Discrimination, Xenophobia, and Related Intolerance do not recognize caste-based discrimination. Dalit activists forcefully refer to provisions of “descent,” “social origin,” and “birth” in these treaties and human rights instruments. The Sustainable Development Goals (SDGs) have the most pressing universal goal of “leaving no one behind,” but they also miss caste on this list “of age, sex, disability, race, ethnicity, origin, religion or economic or other status.”<sup>12</sup>

Lacking a comprehensive study, opinions vary on why Dalit NGOs have been unable to influence international human rights treaties. Dalit delegates from Nepal, India, and Bangladesh argue that resistance from South Asian governments, particularly India and Nepal, has prevented the inclusion of caste in international treaties. India and Nepal have long maintained that caste is a domestic matter and have formally outlawed caste-based discrimination. Change in practice requires changes in people’s mindsets and their behavior, which can only happen gradually. This position has been held since Mahatma Gandhi blocked BR Ambedkar from raising the issue of caste at a second roundtable meeting with the British in the 1931.<sup>13</sup>

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<sup>12</sup> General Assembly resolution 70/1, *Transforming our world: the 2030 Agenda for Sustainable Development*, A/RES/70/1, (21 October, 2015), available from [undocs.org/A/RES/70/1](http://undocs.org/A/RES/70/1).

<sup>13</sup> Arundhati Roy, *The Doctor and the Saint: Caste, Race, and Annihilation of Caste, the Debate Between B.R. Ambedkar and M.K. Gandhi* (Chicago: Haymarket Books, 2017).

On the other hand, independent researchers, such as David Mosse and Luisa Steur of the School of Oriental and African Studies at the University of London, argue that Dalits lack influential international networks and advocacy groups to take their agenda to international forums.<sup>14</sup> Dalit NGO representatives also agree that they are not professional lobbyists. The ADRF's grassroots mobilization is active mostly at the South Asian transnational level. While Dalits have the International Dalit Solidarity Network (IDSN) headquartered in Europe, most of its members come from Dalit NGOs in South Asia that are focused on local mobilization and advocacy. Program Officer level staff, who are contact persons for managing grants, represent the European donor organizations that are members of the IDSN.<sup>15</sup> As a result, their international advocacy has reached out only so far to present shadow reports such as the Universal Periodic Review of Human Rights and they have only managed to have references to caste made in the concluding observations.

### **Conclusion and Recommendations**

Dalit NGO activists, development professionals, and academics agree that caste is a development challenge for much of South Asia. Eradication of caste-based discrimination in society is necessary for achieving development goals, and preserving human rights and human dignity. Dalit NGOs have utilized international conventions on human rights such as the UDHR and the ICERD to advocate the treatment of Dalit rights as human rights. Framing their agenda within the human rights framework has also provided them powerful development tools to fight caste-based discrimination. However, ICERD has neither any explicit provision with reference to caste-based discrimination nor officially recognized the caste system. Internationally agreed development goals, such as the SDGs, also do not perceive caste as barrier for progress in human development. These instances indicate that Dalit voices are not heard enough in international forums as a result of their insufficient policy advocacy. To remedy this, I would like to draw two policy recommendations from a quick analysis of existing practices of caste-based discrimination and Dalit policy advocacy.

First, Dalit NGOs or Dalit civil society must improve their policy advocacy and focus on raising their voices through cooperation with international development organizations and human rights forums. The analysis shows that Dalit mobilization and advocacy are mostly focused at grassroots levels in their countries and with local governments. Now, the population of the Dalit diaspora in the developed world is rapidly increasing. Dalits can mobilize both their diaspora and human rights organizations in developed countries to engage with government representatives, who can eventually advance Dalit rights in international institutions.

Second, Dalit civil society must work to strengthen their capacity for international policy advocacy. Dalit civil society activists admit that they do not have adequate capacity to

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<sup>14</sup> David Mosse, "Caste and Development: Contemporary Perspectives on a Structure of Discrimination and Advantage," *World Development* 110 (2018), doi: 10.1016/j.worlddev.2018.06.003.

<sup>15</sup> Stuer, "Dalit Civil Society Activism."

successfully play the roles of professional lobbyists. Yet, they have also worked to build networks with international universities and prominent human rights organizations. For example, the Indian Institute of Dalit Studies has partnered with universities in the United States to organize an international conference on caste in their efforts to reach out to international development organizations. Dalit civil society organizations must make use of these connections and send younger generations of activists to international universities for study and training. This investment in the future will help the movement develop a greater capacity to make change and raise Dalit voices globally.

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