

CHAPTER 7

Access to Land Resource: Dalits and their Livelihood Insecurity

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7.1 Background

Land is a broad indicator of socioeconomic status in an agrarian society like Nepal (The World Bank, 2006). It constitutes a fundamental productive asset (Ellis, 2000), the principal source of livelihood and power, a means of pride, dignity, prestige and a symbol of prosperity (CBS, 2002; CSRC, 2001; ICIMOD, 2000; Regmi, 1999; Upreti, 2004). Endowed with these characteristics being, and also a fundamental economic asset, it can reduce vulnerability and build resilience against poverty. Land is not only a productive agricultural asset, it may be of potential advantage in a local labor market (e.g. through increased bargaining power), and in international labor market (e.g. as a collateral to obtain loan for migration). Land ownership may serve as productive and entrepreneurial activities (both observed and unobserved) (The World Bank, 2006).

In Nepal, political and economic power was consolidated by the upper castes, interlinking it with the Hindu caste system. The priestly *Brahmans* were at the top of ritual order, with the *Kshatriya* (kings and warriors) just beneath them and in control of the political order; next came the *Vaishya* (merchants), and the *Sudra* (peasants and laborers) came at the bottom. Beneath them all were the occupational groups, considered as "impure", and untouchables, and today as *Dalits*⁷⁷. In the Hills, in-migrating

⁷⁷ The term '*Dalit*', is understood to refer to the untouchable or *Achhoot* or the term connotes in the sense understood by the Old Legal Code of 1854, "*Pani nachalne chhoi chhito halnu parne jat*" (caste from whom water is not accepted and

Hindus of Caucasoid stock made up the castes of priests and warriors. The middle rank was made up of indigenous groups-the Janjatis-generally of the Mongloid racial stock. Officially abolished in 1963, caste based discrimination, although diluted, remains in practice even today. The Dalits are not only at the very bottom of Nepali caste hierarchy, they are also economically poor. Their per capita income and HDI of Dalit is at 39.6 \$ (against the national average of 210\$) and 0.239 (against the national average of 0.325) (NESAC, 1998). Caste-based discriminations of over 200 forms are in practice against Dalits, and this discrimination is more entrenched in the country's less developed areas, especially in the Mid- and Far-Western regions (DFID, 2005).

7.2 Distribution of Land

The land distribution in Nepal is skewed and inequitable. The UNDP Human Development Report 2004 (HDR, 2005) reveals that the bottom 47 % of landowning households own 15% of total agricultural land, with an average size of less than 0.5 hectare (ha), while the top 5% owns more than 37% of land. The report of WINROCK International (2005), quoting CBS data, traces historical changes in landholding as follows: The number of

whose touch requires sprinkling of holy water) (Dahal *et.al.* 2002). The concept of Dalit, in general, is used to identify the vulnerable and poor groups who are put in the lowest rung of the status hierarchy (caste system). In most writings, the term is also used to identify a group of people who are “oppressed”, “suppressed” and “exploited”. Some tend to indicate the association of the term “Dalit” to the Nepali/Hindu word *Daldal*, meaning swamp. Those favouring these meanings see the Dalit as those people who are living in swamps, coming out of which is difficult and tedious, if not impossible. The swamp in question is a metaphor for the socio-cultural milieu in which Dalits are trapped throughout history (Bhattachan, 2005). Further, Upreti (2004) mentioned that the caste structure is based on Hindu Varna System which divides people into four categories according to their occupational activities viz., *Brahmin* (learned people, priest), *Chhetri* (warriors), *Vaishya* (trader and agriculturist), and *Sudras* (engaged in menial services). Originally, it merely meant the type of work one does but gradually it became hereditary. This hereditary transformation of Varna distorted into present complex and rigid caste system in Nepal. Although the untouchability and discrimination on the basis of caste was formally abolished or outlawed by the 1963 New National Code, Constitution of Nepal 1991, and Parliamentary Declaration of 2006 in the form of untouchability freed nation, it prevails widely in Nepalese society even now.

agricultural land holding in Nepal in 1961 was only 1.54 million households as compared to 3.364 million in Nepal i.e. a 118.5 % increase over the period of 40 years. Similarly the total area of landholdings in 1961 was 1.685 million ha compared to 2.654 million ha. in 2001 i.e. 57.5% increase in a span of 40 years. Between 1991 and 2001, the number of landholdings increased by 23 %, while the total area of landholdings increased only by 2.1%. In 1961, individual landholding above 3.0 ha per household concentrated in 8% of households who owned 53% of total cultivated land; in 2001 this number fell to only 2.9 % of the households owning land above 3.0 ha, thus accounting for 17.3% of the total cultivated land, which is almost one third of the total area under this category, as compared to 1961.

The aforesaid macro data alone does not explain the state of landlessness in disaggregated forms in terms of class and caste. These statistics vary greatly depending in their sources. One-fourth of the total households (1,037,785 households out of 4253,220 households) own none or less than 0.1 ha of land (CBS, 2002). They are considered to be agriculturally landless people. The UNDP Human Development Report 2004 states that there are 24.5 % landless people and 7% semi-landless people (owing less than 0.2 acres). Adhikari (2006) states that there are 287 thousand farm families who are practically landless or have less than 0.1 ha land. There are 2.5 million farm families whose land ownership is less than 1 ha. This data shows that one third of the population in Nepal is landless. According to *Badal Commission Report*, there were 50000 people who were totally landless in the early 1990s. According to CSRC (2001), there are 1.02 million landless families. In addition, there are 0.45 million *Haliya* (cultivators) families.

Among the landless and the semi landless, *Dalits* constitute 13.08 % of the total population while the indigenous nationalities constitute about 37 % of total population. A significant proportion of terai *Dalits* such as the *Chamar*, *Batar*, *Mushhar*, *Dushadh*, and *Dom* are also landless people. Similarly, Hill *Dalits* such as the *Kami*, *Damai*, *Sarki*, *Gaine*, and the *Badi* are also landless people (Dahal, 2002), but the hill *Dalits* castes are also called marginal cultivators due to their smaller landholdings (Adhikari, 2006).

Bhattachan (*et.al.* 2003) has noted that the *Dalits* in the Terai are synonymous of landlessness. Even if the terai *Dalits* do own some land either their land is infertile or is just what is occupied by the huts they live in. Dahal (2002) has noted that proportion of *Dalits* having no land or some marginal land (< 0.25 ha) to the non-dalits is considerably higher. The same report reveals that the average landowning per household among the *Dalits* is 0.12 ha of *khet* (irrigated land) and 0.225 ha of *Pakho* (dry upland). They found that untouchables (*Dalits*) have the lowest ratio of land holding (3%) as compared to other groups like the *Tagadhari* and the *Matawali*. The extent of land shortage is the highest among the untouchables (64%), compared to the *Taghadhari* and the *Matwali*.

Haliya system is a kind of semi-bonded laborer that is common in Nepal. The people under the *Haliya* systems, who are living miserable lives, belong to Dalit community. It is unofficially reported that the population of *Haliya* are around 300000 in Nepal, of whom 60000 are living in Mid- and Far-Western regions alone. Semi-bonded, caste-based exploitations and unfair wages are the common problems faced by the *Haliyas* (CSRC, 2004). There are 0.45 million *Haliya* (cultivators) families in Nepal. About 9 *Haliyas* in 10 have no citizenship certificate.

Similar to the *Haliya*, the other most deprived groups are *ex-Kamaiya* who mostly belongs to the *Tharu* community. Even though the state has abolished the *ex-Kamaiya* (a kind of bonded labourer system), the problem is far from being over. The *Ex-Kamaiyas* mainly lives concentrating in five districts of the western terai, such as Dang, Kailali, Bardiya, Banke, and Kanchanpur. The problem of *ex-Kamaiya* is still not resolved. The government policy is limited to distributing 0.15 ha to each *ex-Kamaiya* family which produces food barely enough to last for 1-2 months for a family with 8-9 persons. Consequently, their dependency for survival on the landlords remains essentially unchanged.

In addition, the other types of farm and household laborers include permanent farm workers, daily workers, periodic and semi attached laborers (like the *Haliya*, *Charuwas*, *Gothalas*, and the *Kamlaris* (young girls working as domestic help that is common among the Terai *Tharus*). From a gender perspective, men enjoy greater

power in terms of land ownership rights with 92% of land owned by the male population (UNDP HDR, 2005). Women have less than 10 % ownership rights on land, though they constitute more than 51 % of Nepal's total population.

According to the 2001 Census, most Dalits households (76%) own farm land, including rented-in land. More than 70 % of *Dalits* and non-Newar/Thakali Janajatis in the Hills reported owning some farmland. However, in the Tarai, only 68 % of Janajati and 63 % of the *Dalits* households own agricultural land. Moreover, nearly 79 % of the Musahar do not own any land, and 41 % of the Muslims are landless. Terai *Dalits* have the highest proportion (28%) of households that are solely dependent on rented-in land for doing agriculture. The Hills have very few landless households, but the size and quality of the land varies significantly between the caste and the ethnic groups. Food self-sufficiency is much lower among the *Dalits* and the *Janajati* groups than among the *Brahmans*, the *Chhetris* and the *Newars* (The World Bank, 2005).

7.3 Why Dalits are Landless?

The data above reveals that the Dalits are landless, and their problem is acute. The reasons behind the landlessness of the Dalits are two fold: Historically, the Dravid people were defeated in war by the Aryan people, their skill and knowledge exploited and who were forced to migrate to different parts of the country and survive by selling their skill and knowledge to the community and nation. The vanquished Dalits were treated as untouchables by their Aryan conquerors. Now, Dalits are found living scattered everywhere. They have been trapped into bonded service providers to serve the big landowners and to live by their traditional caste based occupation by them. Such technology resulted in economic growth and capitalist development in other countries, but the Dalits' traditional caste based occupation still does depend on the use of traditional techniques for giving them their subsistence and livelihood. Lacks of modernization in caste based technology of the Dalits and a failure to orient into the market is responsible for their continuing backwardness. The traditional products of Dalits are unable to compete with the product of the multinational companies, and, hence, they can provide them little more than

subsidiary sources of livelihoods. Dalits became dependent on land for their livelihoods as suppliers of agricultural tools, but with no land of their own (Roka, 2007) Historical distribution of land vividly reveals that thousands of hectares of land were granted to military chiefs, royal family members, royal priests, and to other influential persons under Birta land-grant system. In Nepal, land has always been used as a powerful means to influence the politics. But the Dalits have failed to qualify under such elite category (Sharma, 2004).

7.4 Livelihoods of Dalits

This section describes first the livelihood strategies and outcome; and secondly livelihood institutions and policies for the *Dalits*.

7.4.1 Livelihood Strategies and Livelihood Outcome

The livelihood of *Dalits* is miserable due to their landlessness. Landlessness describes a person who is dependant on agriculture, but has got no land in his/her name or in the name of any other of his family member. Self-sufficiency in food is much lower among the *Dalits* than among the *Brahmans*, the *Chhetris* and the *Newars* (The World Bank, 2005). According to a survey report (TEAM Consult 1998), about 50% of the households surveyed had food deficiency. Dahal *et.al.*(2002), quoting Sharma *et.al.* (2002), has also noted that 21% of Dalit households produce food grains lasting less than 3 months, 19.6% lasting from 4-6 months, 15.4% lasting for 1 year, and only 5.1% produced surplus food grains. Food deficiency by geographic region among the Dalits shows that the highest proportion of Dalits which suffers from food deficiency (46.6%) lives in Terai, followed by Hill Dalits (43.3%) whereas the Dalits living in the mountain have food deficiency (10.3%) in the least. Annual income of the *Dalits* compared to the Matwali and other so-called higher caste groups is one of the lowest. Likewise, the expenditure incurred on items such as, clothing, education and medicines is also found to be the lowest among Dalit groups. More than 54% of their populations' practices agriculture, followed by service (15.7%), non-farm wage earning (14.2%), and farm wage earning (6.1%), and others. The main economic activity for the

majority of Dalits is as wage laborers. In addition to this, caste-based traditional work such as iron smithy, leatherworks; tailoring etc are also important economic activities pursued by the Dalits for their survival. Even today many Dalits groups living in the rural areas of Nepal sticking to their traditional 'Bali' and 'Khan' system with their clients for sheer survival.

Excluding the land, the other major source of livelihood for the Dalits is from sale of their traditional caste-based wares. Historically, Dalits have been practicing their traditional caste occupation and selling their products to their clients to make a living. In case of the Kami⁷⁸ group, they make new agricultural tools and household utensils of iron, such as sickles, knives, axes, hoes, spades, shares (plough tips) and nails. A gold smith or Sunar makes gold or silver ornaments on demand from their high caste clients' clients. Parkis are the basket weavers who make a variety of storage baskets and floor mats from bamboos. The Chunara black smiths group of the Far-western Nepal make utensil of woods. Damai⁷⁹ men and women work as tailors and make dresses for their clients and get paid in cash and kinds. The Sarkis⁸⁰ are leather workers who make shoes and other products from the skin of the dead cattle. Badis make nice earthen pipes for smoking purposes. At same time, Badis are singer and dancers traditionally. Badi girls and women are said to practice prostitution to make their living. The Gaines play on their traditional instrument, Sarangi and sings song to their tune. Chamar are the leather workers of the Terai. They make shoes and dispose off the dead animals from the houses of their clients. The Tantis are weavers and the Doms and Halkhors are sweepers, who clean public streets and toilets in the government and individual households. Dhobis are washer men by

⁷⁸ The term Kami was increasingly viewed as a negative term so people in this caste group started referring to themselves as Bishwakarma, which has some in contemporary parlance to be understood as referring to the historically known as Kami.

⁷⁹ The Damai group is also called Pariyar. Historically, its exact origins are unknown; it is likely that the term came from the South Indian surname Periyar.

⁸⁰ Historically, when calling to people within caste groups with respect, the term Mijar was used. This term then came to replace the term Sarki itself and now is used in contemporary parlance to refer to the group of people who had historically known as Sarki.

profession and work for cash only. Chamar women also work as Sudenis or midwives. Though caste-based occupation is gradually changing now, this is still a major source of livelihood for the Dalits even today. As Dalits have little land of their own and are among the least educated people to train them in the modernization of their skill is the single most important alternative for them to strengthen their economy in the coming days.

According to Sharma et al (1994), cited in Dahal et al (2002), one of the main economic activities of majority of Dalits is wage laborers. The groups more involved in this activity are: Damai, Sarki, Gaine, Hudke, and Badi. Battachan et al (2002) also identified the main activity of the Dalits for survival is non-agricultural activities (51%), mostly wage laborer. Dependency on wage labourer has a direct correlation with the land holding position; the landless and those holding less than 5 ropani of land have no better option than to work on daily wage labour and agriculture side by side, because only one would not be sufficient for survival. So, Dalits have adopted multiple resource tapping strategies for their survival these days.

In addition to farm and household work, there are other sources of economy such as service, business, wage labor, remittances, etc open to people in Nepal. According to TEAM Consult Report (1998), cited in Dahal et al (2002), the mean income from service is found lowest among untouchables. The highest mean annual income group is made up of the Tagadhari (Rs. 33,130), followed by the Matawalis (Rs. 30,300) and the Untouchables (25,910). On the other hand, income from labour was found to be the highest among the Dalits, (72.4%), followed by Matawali (42%) and the Tagadhari (24.8%). In the Nepali society, the wage labor is done only by those who cannot make a living otherwise.

7.4.2 Livelihood Institutions and Policies

Services from the Dalits in their traditional skills are utilized in an ongoing patron-client relationship. Receiving the services of the Dalits craftsmen are mostly the so called high caste Hindu groups. The ethnic groups, and some Dalits as well. This system is known in different parts of Nepal by different names, such as *Bali Ghare*

Pratha in eastern Nepal or the *Khalo-Pratha* in western Nepal and the *Khan* system in the Terai. The services of the Dalits are paid mostly in kind (grains) and only sometimes in cash, depending upon the amount of landholding and the number of the family members in the client family. In addition, each craftsman also gets his traditional share of food, vegetable, cloth, etc on social and festive occasions such as marriage and other rituals in the client's house. The client-craftsman relationship can be a temporary or a permanent one. Normally, this kind of client-craftsman relationship has to be renewed every year.

Haliyas are bonded agricultural laborers attached to their landlords both from customs and because of outstanding debts that have not been repaid, many a time going back generations. The haliyas are usually made of castes like the Kami, the Sarki, and the Damai. They work for their landlords to be able to pay off either loan they took and may be somebody from their ancestors took, and no matter how hard they work their landlords will find one or other reasons to keep the haliya bonded. During the off season in agricultural calendar, the haliyas, who are not needed in the fields, migrate to other parts of country, some times even to another country in search of other works. However, they have to return when landlords want them to return. However, they have to report to their landlords once the agricultural season starts or whenever their landlords want them to return. The life of haliya is totally controlled by his landlords and has to work as per whip of landlords. Though haliyas are usually landless, yet some have land of their own which is often mortgaged. This is usually true of the hill haliyas than their Terai counterparts.

Haliyas have worked as bonded agricultural labourers for the last hundred years and more. They continue to do this work even today in order to pay off their loan. Haliyas from Darchula have served the longest (105 years) of the bonded state, and are still engaged as agricultural labourers going back four generations or more. However, even after putting up hundreds of years of service, their debts remain still outstanding. In Darchula, each household has to pay, on an average, 11 thousands rupees.

Owing to these social and economic facts, the haliyas today are among the most impoverished communities in the Far Western Development Region of Nepal with a low literacy rate, poor health status, and sanitary conditions, and a low no social dignity.

Skewed and inequitable distribution of land has resulted in the formation of the various agrarian classes, enjoying different forms of power and agrarian social relations described by the patron-client, super-sub ordinate, a relationship of antagonism, mutualism, domination, exploitation, and discrimination (Thapa, 2000). This mechanism is regulated or maintained through the use of economic, social, and coercive power (Thompson *et.al.*1994). These agrarian relations are further distorted by the existing caste system. For example, the *Haliya* people are facing an additional caste-based discrimination from untouchability. The peasant community, especially from the excluded and disadvantaged groups, is facing greater hardship to eke out their subsistence. Contrary to this, land elites or landlords are getting richer at the cost of the landless labor. Upreti (2004) also notes the dominant form of power relation in rural Nepal is still the patron-client or superior-subordinate relationship, illustrating it with a case of the *Guthi*⁸¹ land. For example, *Koirala* families of the privileged class have since several decades maintained a land-based patron-client relationship taking advantage of the various regulations, laws and threats to use power. The tenant farmers and poor people were made socially and economically to depend on them. Indeed, owner-tenant relationships in this case are characterized by two opposite tendencies: cleavage (confrontation over *Guthi* land ownership resulting in hostility, suspicions, and a deep-seated political division between the two groups) as well as interdependence placing them in a complementary role of each other. Further, peasants and poor people are still being exploited by feudal landlords and power brokers.

⁸¹ *Guthi* is a form of institutional land ownership of religious and charitable nature which has compounded the problems of land tenure and taxations. The state or *Birta* owners of the lands established religious and charitable institutions, such as temples, monasteries, school, hospital, orphanages, and house for the poor (Regmi, 1999a).

Owing to the facts and figures cited above, the situation for Dalits is miserable and vulnerable. I agree with the conclusions of Cox (1994), cited in Dahal et al (2002) 47 p:

"..... untouchables are caught in a vicious circle of economic cycle. They are unable to receive an education that would qualify them for a well paying professional position. This means that most of them end up working in their traditional caste occupation and/or as unskilled laborers, usually for a limited income. Consequently, they are unable to support their own children with adequate education and the whole cycle repeats itself."

7.5 Loss of Livelihood- Livelihood Conflict

Ohlsson (2000) has used and defined the term livelihood conflict to describe a loss of livelihood due to scarcities of arable land and land irrigation water. Poverty results from a loss of livelihood, which in turn, is often caused or exacerbated by environmental degradation. Though, empirically, it has been difficult to demonstrate the link of poverty to environment factors, in and by themselves, thus is strong reasons for conflict. It has been argued that loss of livelihood often constitutes a missing link in explaining the current conflict pattern, and that an exposition of it will bring out the correlation between poverty and environment.

The same report has also noted that while poverty may be near endemic in certain societies, the loss of livelihood makes a rapid transition from a previous stable condition of relative welfare into a condition of poverty or destitution. It is a rapid process of change, resulting in a sudden fall into poverty, which is more than endemic condition of poverty, this creates a potential for livelihood conflict.

The common feature of livelihood conflict is that the rank and file of the armed militias around the world are recruited from the cohorts of young men who have seen a rapid devaluation of their expectation as a result of the loss of their family livelihood, and from being forced to accept a much more lowly situation in society than they were entitled to as dignified men (Ohlsson, 2000). Young

women became harder victims from the loss of their livelihoods. It is reflected at the rate of school drop outs and in their taking up subsistence agriculture again. The loss of livelihood in subsistence agriculture mainly undermines the social security of women, their dependent and ageing family members.

Land scarcities denote the social effects emerging from the combined impacts of i) environmental degradation, shrinking of the imagined environmental 'resource pie', which is the arable land or an aquifer; ii) an unequal resource access that allows powerful segments of population to indulge in the process of 'resource capture', resulting in an ecological marginalization and loss of livelihoods for a large, but weaker sections of the population. The end result of this vicious circle has increased social inequalities, a rapid increase in the numbers of the economically marginalized people, passing a direct threat to their livelihoods. The conflict mechanisms set in motion by this process lead to relative deprivation and the strengthening of bonds along ethnic, linguistic, national or regional lines in almost all societies which do not come into full steam until their livelihoods are directly threatened in a dramatic process of change (Ibid).

The case of Rwanda proves the validity of livelihood conflicts approach in two ways: It constitutes the first full-blown genocide after the Holocaust, and Rwanda was experiencing among other hardships a widespread poverty and loss of livelihood among its people, as a result of environmental scarcity. Environment scarcities became acute in the 1980s as an effect of soil degradation, and continuing high population pressures and inequitable land distribution. The resulting scarcity of arable land led to a high rate unemployment, leading to dissatisfaction among the poor peasantry, mostly in the southern region. The socioeconomic crisis converged with power rivalries for the opportunities among internal opposition groups, threatening legitimacy of the regimes. In a series of linked events, the author notes how environmental scarcities had not only influenced the

strategies and tactics of the political and military actors, but also amplified the political violence (Ibid).

According to Rizal (2006), a key factor triggering peasant war in the 20th century was subsistence desperation, the perception of revolutionaries that they had nothing more to lose and nowhere else to go. For example in China, Mexico and Vietnam, subsistence crisis and struggle for land by peasant cultivators followed years of deprivation, marginalization and abuse of dominant political interests. Bourguignon and Morrison estimate that inequality in land distribution accounts 17% of income inequality. The case of South Asia reflects very well that throughout the long period of agricultural modernization, and development has corresponded to a process of income concentration. Recent research by Denninger and Squire based on a sample from 108 countries led to the conclusion that ‘an unequal income distribution is a strong determinant of future growth. On the contrary, unequal distribution of property assets, in this case land distribution, tends to reduce long-range growth and generate violence’.

Most of youths belonging to the Dalits, Indigenous people, the Madheshis and people from other remote areas have joined in the current Maoist insurgency. It is a fact that various kinds of socioeconomic inequalities, discrimination and exclusion are fertile breeding grounds for a growing insurgency and violence in Nepal. Though there is no empirical evidence to suggest relationship of livelihood conflict to loss of livelihoods in the existing violence, livelihood conflicts associated with discrimination and economic vulnerability of people might be one of the major causes to explain the ongoing insurgency and political violence. The youths joining in the insurgency might have been motivated by a desire to revolt against the social structure and inter-personal relationship, and by their economic deprivation.

7.6 National and International Provisions Against Bonded Laborers

This section describes the following national and international instruments that the state has to follow in relation to agricultural and non-agricultural laborers.

- In July 2002, bonded labor was banned by the government of Nepal with the provisions that anyone violating the ban will be jailed up to 10 years. However, even despite this, the study shows that Haliyas are still working for their as bonded laborers for their landlords.
- Nepal has failed to meet its international commitments. Having ratified the Slavery Conventions (1926) and Supplementary Conventions on the abolition of Slavery, the Slave Trade and Institutions and Practices similar to Slavery (1956), Nepal has done very little to live up for the spirits of these conventions. The fact that Haliyas are still bonded by debt to their landlords proves the failures of the government to act effectively.
- Although, the Labour Act, 1992, essentially addresses the question of labor in the organized sectors but it is silent on the caste-based discrimination practised in the work places. People from the marginalized or the 'untouchables' castes, especially from the rural areas, are highly discriminated against and excluded from local decision making processes. These castes are prohibited to change their customary occupations and their customary, traditional roles. Even though the State has taken initiatives in the New Civil Code of 1963, the Constitution of 1990, and the Interim Constitution of 2007, and to remove all Caste based discriminations and to declare Nepal as an Untouchability Freed Nation in the recent Parliaments' Declaration 2006, caste discrimination is still in practice in different forms and is far from being effectively implemented.
- The Labor Act, 1992, has made provisions of minimal wage and conditions of work in the industrial sectors. But,

it does not include the agricultural sector, except in the case of some government land.

- A Recent in 2064, Supreme Court Verdict (Paramadesh) states that it is illegal to keep a Haliya in Nepal. There is also a provision of punishment, if anyone is found to keep such bonded laborers as a Haliya.

7.7 Provisions from Human Right Perspectives

Livelihood is one of the integral components of the Universal Declaration of Human Rights 1948. Under this international instrument, all people have the fundamental rights to dignified livelihood and labour protections. The human rights of all persons to get livelihood includes the following universal, indivisible, interconnected and interdependent human rights.

- The human right to work and receive wages that contribute to adequate standards of living.
- The human right to a standard of living adequate for the well-being, health and life of a person.
- The human right to freedom of association.
- The human right to protection from forced labor.
- The human right to adequate, safe working environment.
- The human right to reasonable limitation of working hours, rest and leisure.
- The human right to freedom from discrimination based on race, sex or status, in all aspects of work, including hiring and promotions.

The aforesaid provisions of human rights are still denied to the Dalits in Nepal, and are being violated everywhere.

Right to food as a human right is enshrined in the International Covenant on Economic, Social and Cultural Rights (ICESCR) - an

international law signed by 150 States. In 2004, Food and Agriculture Organization (FAO) issued Guidelines by providing the Right to Food in it. Right to food is seen as being linked to food production, and to overcoming its scarcity. Such an emphasis, however, can be held correct so far as it links production of food by the poor to meet their own needs. Marginalized people without sufficient access to land, pastures or fishing grounds lack access to food, because they cannot produce enough on their marginal resource base. The Right to Adequate Food is, therefore, not only a question of the availability of food. Deprived people like the Dalits are devoid of the means of food producing resources especially land, in the context of Nepal's agrarian society. In fact, right to food is a matter of entitlement to land, rather than its production and availability.

On the one hand, the Comprehensive Peace Accord 2006, in 7.5.2, states that "Both parties are committed to respect and guarantee the people's right to food security. It also ascertains that the issues like food, food production, and utilization of food, its transportation and distribution shall not be interfered with". This statement focuses only enhancement of availability of food, and this is not reality of our context. On the other hand, the same peace accord, in 3.6, and 3.7, the provisions were "End all forms of feudalism and prepare and implement a minimum common programme of socio-economic transformation on mutual understanding", and "End feudal land ownership and formulate the policies for scientific land reforms". These both statements reflect real Nepalese scenario which are responsible for enhancing food insecurity due to inequitable distribution of land, a major productive or economic resource.

7.8 Policy Analyses

Social inclusion is well reflected in the tenth five-year plan as one of the four pillars of Nepal's Poverty Reduction Strategy. However, attaining the goal of social inclusion will require fundamental shifts to have not only in the structure of governance and the existing access to economic opportunities, but also means a change in the underlying hierarchical norms, values and behaviors governing social interaction of the people. Old social hierarchies

that continue to block access to political influence and economic opportunities to weaker sections of the population can not be expected to realize the goals of the Tenth Plan.

To ensure equitable development, one should analyze the nature of relationship between the people and the institutions, or examine the "rules of the games" that shape the opportunity structure for the deprived people in their social, political, and economic world. Empowerment and social inclusion of the excluded people are a means to bring a shift in these relationships, and develop the institutions necessary to ensures greater equity. There are three domains of change whereby the State, the civic society and the donor organizations can intervene on behalf of the poor and excluded people to give them their due rights.

- access to livelihood assets and services;
- ability to exercise voice, influence and gain agency; and
- a more equitable opportunity structure with the " rules of games" that allow all citizens to participate on the same terms in the state and in the larger society as well as to have their access to livelihood opportunities and political power.

"Access to assets and services" and" voice, influence and agency" are parts of the empowerment processes. The other domain of change- the "rules of the games",- is where social inclusion does, or does not, take place. Empowerment and social inclusion play complementary roles in promoting equity of agency and sustainable prosperity for all. Currently enacted Interim Constitution by the Parliament and the coalition of the eight parties, including Maoists also recognizes some socioeconomic rights to the disadvantaged community. Those provisions include prohibiting untouchability, right to employment and social security, social justice, women's rights and labor rights. These are acknowledged as fundamental rights. The constitution has also paved the way for a constitutional guarantee to these rights which are closely related to the Dalits' inclusion.

Importantly, this constitution states that an inclusive, democratic and a progressive restructuring of the State will be carried out by eliminating its present centralized and unitary structure in order to address the problems relating to women, *Dalits*, indigenous people, *Madhesi*, oppressed and minority communities, and other disadvantaged groups better by abolishing discrimination based on caste, class, language, sex, culture, religion and regional. This provision has also been included in the directive principle of the Interim Constitution to form and separate commission has been formed to look after it.

There is a provision which clearly mentions the promotion of interests for the marginalized communities, the peasants and labor class living below the poverty line, including the economically and socially backward indigenous tribes, the *Madhesis and the Dalits* through reservation of quota in education, health, housing, food sovereignty, and employment for them.

At last but not least, there is a provision for the effective implementation of a scientific land reform. However, crucial questions still arise: What does the land reform mean (how to conceptualize it)? How will it be implemented? Who will be benefited by it? etc. Most people from the high class (land lords and socioeconomic elites) are employed in government, parliament and other institutions of State governance still in large numbers.. All provisions of the constitutions can get interpreted and manipulated by these elites in favour of themselves, rather than on behalf of the disadvantaged community.

7.9 Conclusions

Historical distribution of land does not reflect a spirit of social justice. Only a few people owned or had controlled over land in the name of *Birta, Jagir* and other such land entitlements. On the basis of this principal asset, member of the upper castes became richer and achieved a higher socioeconomic progress in the fields of

education, health and politics. It also enabled them to reach key positions and status in the government. Thus, while looking at the national statistics, Dalit representation is very nominal in every sphere.

In an agrarian society like Nepal, there is no off-farm opportunity to make better income. Also, there is no social security policy for the Dalits so that they constantly face hunger and food insecurity. The Dalits' livelihood is miserable and is vulnerable. Various kinds of informal institutions, such as the Balighare, Khalo, and Khan Pratha existed in the traditional agrarian system of Nepal. These were discriminatory and exploitive in form. This unjust situation is further compounded by the Hindu caste system of untouchability. Hence, Dalits today are marginalized people in each sphere of life, and their human rights are being continuously violated. This trend is more acute in case of the Madhesi Dalits of the Terai. Being a landless people, Dalits are forced into bonded labour and used as hands in the form of Haliyas. In such a context, one question arises: How can three lakh Dalit Haliyas vote freely in the forthcoming Constituent Assembly elections?

Therefore, the state has to take some bold steps in enunciating a future scientific land reform program in order to bring about equitable seriocomic changes. Such programme will have to address the following points. They are as follows: i) Land reform programme should go beyond a mere distribution of land. It should also simultaneously also launch a sound agricultural system; ii) Hierarchical social structure and relationship based on caste, gender and class that is responsible for the marginalization and deprivation of the *Dalits* should be abolished; iii) There should be abolition of all intermediaries (informal agrarian classes responsible for resource and service capturing); iii) All exploitative and discriminatory practices like the *Haliya*, the *Bali*, the *Khali*, and the *Khan* system should be abolished; iv) The socioeconomic security of the tillers should be ensured (not like the ex-Kamaiya); v) Social justice to the *haves* and the *haves not* should be ensured

through tenancy reform; and, finally, vi) A provision should be made for the social security of the Dalits and all the excluded people.

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