


# CRIME RELATED TO UNTOUCHABILITY IN NEPAL



Laxmi Prasad Mainali

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Pairavi Prakashan



# CRIME RELATED TO UNTOUCHABILITY IN NEPAL

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## **DEDICATION**

*This book is dedicated to the memory of my beloved late parents Ravi Lal Mainali and Bishnu Maya Mainali who always inspired me to do some memorable tasks.*



## PREFACE

The history of caste-based discrimination and untouchability is approximately 3000-3500 years old. Hindu *varna* system is the fundamental root and foundation of caste-based untouchability. Untouchability is the worst and barbaric form of *varnashram dharma* and a slur to human race. It is a human creation, a social and cultural (ideological) construct. Nepal is a multi-racial, multi-ethnic, multi-lingual, multi-religious, multi-cultural country. About 20 percent of the population constitutes the service castes (so-called untouchables and *dalits*) who are assigned the traditional hard jobs and unclean works like cleaning dirty places, making shoes, wiping out dirty things and disposing dead animals. These occupied works result in hurtful degradation, humiliation and discrimination. Therefore, *dalits* are prohibited from entering into the temples, participating in social functions and main stream of state development. They are also deprived of getting the share of the distribution of state facilities. In Nepal, the so-called lower castes or untouchables are victimized by so-called higher castes.

Untouchability is one of the hallmarks of Hindu society and religion. It is a serious crime against human rights, liberty, justice, dignity and overall humanity. It is a social evil and state crime. It is against society and state. Practice of caste-based untouchability and discrimination has been practised in our society in the name of religion, custom and impurity. So-called untouchables are exploited by so-called upper castes people. Practice of caste-based untouchability and discrimination is a social stigma now-a-days. It is a socially condemnable and legally punishable crime. Though untouchability is prohibited and abolished by existing law of Nepal and there is a provision of punishment like imprisonment or fine or both for culprits, it is still prevalent as a serious social disease. Nepal has ratified the *Convention of Elimination of all kinds of Racial Discrimination, 1965 A.D.* and other Human Rights conventions and covenants. Nepal has participated in international conferences. The government of Nepal has declared affirmative policies and reform agenda for abolition of untouchability. Non-governmental organizations are fighting against untouchability. However, it has not abolished and uprooted. So many law-violating events have taken place in practice. It is deeply rooted in the society. Existing law has provided equality to all citizens but it is

not in practice. Legal provisions and social practices are not going together in the right direction. Due to the lack of effective implementation of laws, the country has not succeeded in wiping out untouchability.

In Nepal till now, there is no special Act to define untouchability as an offence and to punish it. A draft on *Caste Based Discrimination and Untouchability (Offence and Punishment) Bill* is in process to be an Act. There is provision relating to punishment against discrimination of untouchability on grounds of caste, religion, color, class or work in Number 10A of the Chapter on Etiquette (*Adal*) of the *Muluki Ain, 2020 B.S.*

I hope that the book titled *Crime Related to Untouchability in Nepal* will be very useful as reference material for those agencies and organizations which are combating against caste based discrimination and untouchability. This book also will be helpful for law students who interest to do research work in graduate and post-graduate level of Faculty of Law, Tribhuvan University. This book is the outcome of my rigorous and persistent effort. It presents a glimpse of concept on *dalit* and untouchability; emergence of untouchability in Nepal; historical development of *dalit* social movement in Nepal; international and national legal framework against untouchability; efforts for abolition of untouchability in different countries and judicial attitudes of Nepalese court towards untouchability. There may be some lacunae in this book. In this regard, the author wants healthy comments, suggestions and feedbacks from the readers. Such comments, suggestions and feedbacks would be considerable for updating and further revision of this book.

I would like to express my sincere gratitude to all the authors and learned personalities, whose writings have been utilized and cited in this book.

I am really indebted to Prof. Dr. Rajit Bhakt Pradhananga, Chairperson, Criminal Law Subject Committee, Faculty of Law, Tribhuvan University under whose sincere cooperation this book has been produced. Without him, this book would never have been prepared in this way.

I would like to extend my sincere thanks to Prof. Dr. Amar Prasad Pant, Dean, Faculty of Law, Tribhuvan University, Prof. Dr. Bidya Kishore Roy "Bimal", Head, Central Department of Law, Faculty of Law, Tribhuvan University, Prof. Dr. Lakshman Kumar Upadhyaya and Associate Professor Ramesh Raj Pradhan, Nepal



Law Campus, Kathmandu, other seniors and colleagues for their kind cooperation and valuable suggestions in course of the preparation of this book.

I am extremely thankful to the staff members of Nepal Law Campus Library, Supreme Court Library, Nepal Bar Association Library, Nepal Bar Council Library, Central Law Library, Nepal Law Society Library, National *Dalit* Commission Library, Lawyers' National Campaign against Untouchability (LANCAU) Library, *Dalit* NGO Federation Library, Jana Utthan Pratisthan Library, Action Aid Nepal Library and others who provided the references and reading materials in course of the study. I must acknowledge the cooperation of Mr. Ganesh Man Shrestha who helped me for word processing and design of this book.

I am grateful to Mr. Bhesh Raj Shiwakoti, Associate Professor, Department of English, Padma Kanya Multiple Campus, Bagbazar for linguistic correction of this book. My special thanks go to Mr. Padam Siwakoti, Managing Director of Pairavi Prakashan Pvt. Ltd. and his Management Committee to publish this book.

Finally, I would like to thank my twin daughters Anustha and Ashrusha who helped me in collecting references and reading materials at the primitive stage of producing this book. I do not find words to properly thank Leela Kumari, my beloved wife, who by bearing on her shoulder the whole burden and responsibility of household cores, inspired, encouraged and supported me to produce this book. Without her, I would not have been preparing this book in this form.

Thank you.

**Author**

Poush, 2066 B.S

## LIST OF ABBREVIATIONS

CBO	:	Community Based Organization
CBS	:	Central Bureau of Statistics
CDR	:	Central Development Region
CERD	:	Committee on Elimination of Racial Discrimination
CPN	:	Communist Party of Nepal
CPN (ML)	:	Communist Party of Nepal (Marxist and Leninist)
CPN ( <i>Masal</i> )	:	Communist Party of Nepal ( <i>Masal</i> )
CPN (Maoist)	:	Communist Party of Nepal (Maoist)
CPN (UML)	:	Communist Party of Nepal (United Marxist and Leninist)
DDC	:	District Development committee
DNF	:	<i>Dalit</i> NGOs Federation
DSS	:	<i>Dalit Sangharsha Samiti</i>
DWO	:	<i>Dalit</i> Welfare Organization
EDR	:	Eastern Development Region
FEDO	:	Feminist <i>Dalit</i> Organization
FOPHUR	:	Forum for Protection of Human Rights
FWDR	:	Far Western Development Region
GOs	:	Governmental Organizations
GRINSO	:	Group for International Solidarity
HURPES	:	Human Rights and Peace Society
HMG-N	:	His Majesty's Government, Nepal
ICCPR	:	International Covenant on Civil and Political Rights
ICERD	:	International Convention on the Elimination of all forms of Racial Discrimination
ICESCR	:	International Covenant on Economic, Social and Cultural Rights
INGOs	:	International Non-Governmental Organizations
INSEC	:	Informal Sector Service Center

JUP	:	Jana Utthan Pratisthan
LAAD	:	Legal Aid and Advisory Division
LANCAU	:	Lawyers' National Campaign Against Untouchability
LL.M.	:	Master of Laws
MOs	:	Member Organizations
M.P.	:	Member of Parliament
MWDR	:	Mid Western Development Region
NC	:	Nepali Congress
NCARD	:	National Coalition Against Racial Discrimination
NDNPC	:	National <i>Dalit</i> NGO Preparatory Committee
NG	:	Nepal Government
NGOs	:	Non-Governmental Organizations
NKP	:	Nepal Kanoon Patrika
PAL	:	Participatory Action Learning
PIL	:	Public Interest Litigation
POA	:	Program of Action
PRSP	:	Poverty Reduction Strategy Paper
RD	:	Racial Discrimination
RPP	:	Rastriya Prajatantra Party
SAARC	:	South Asian Association for Regional Co-operation
SC	:	Supreme Court
SCF	:	Scheduled Caste Federation
TU	:	Tribhuvan University
UCWCs	:	Untouchability Crime Watch Centres
UDHR	:	Universal Declaration of Human Rights
UHN	:	Udaya Himal Network
UJAU Manch	:	Utpidit Jatiya Utthan Manch
UK	:	United Kingdom
UN	:	United Nations
UNCERD	:	United Nations Convention on Elimination of all forms of Racial Discrimination

UNELOs	:	Untouchability-Apartheid Elimination Organizations
UNESCO	:	United Nations Educational, Scientific and Cultural Organization
UNO	:	United Nations Organization
UP	:	Uttar Pradesh
USA	:	United States of America
VDC	:	Village Development Committee
WDR	:	Western Development Region
WCAR	:	World Conference Against Racism

## LIST OF CASES

1. *Man Bahadur Bishwakarma vs. Government of Nepal et.al.*  
[Writ No. 2505, Oder Date 2049/11/14, Decision No. 4670, NKP (2049), P. 1010]
2. *Krishna Prasad Siwakoti vs. Government of Nepal et.al.* [Supreme Court Bulletin (2059), No. 2, P. 4]
3. *Durga Sob on Behalf of Dalit NGOs Fedèration vs. Government of Nepal et.al.*
4. *Subhadra Bishwakarma vs. Government of Nepal et.al.*  
[Supreme Court Bulltein (2059), No. 10, P. 12]
5. The Case Relating to Number 10 of the Chapter on Etiquette  
(*Adal*) of the *Muluki Ain*, 2020
6. *Dil Bahadur Bishwakarma et.al. vs. Secretariat of Council of Ministers et.al.* (Writ No. 44 of 2062 B.S., Order Date 2062/10/6)
7. *Kamananda Ram et.al vs. Government of Nepal et.al.* (Writ No. 3643, Decided on 2059/06/11)
8. *Dalit NGOs Federation vs. Government of Nepal et.al.*  
(Decided on 2057 B.S. by SC)
9. *Durga Sob vs. Government of Nepal Cabinet Secretariat et.al.*
10. *Ratna Bahadur Bagchand et.al. vs. Prime Minister and Office of the Council of Ministers et.al*
11. *Ram Bahadur Basel et.al. vs. Narendra Bikram Shah et.al*

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## CHAPTER - ONE

# Concept on Dalit and Untouchability

### 1.1 Meaning and Definition of *Dalit*

There is no universally acceptable definition of *Dalit*. In our country, there is no law to define *Dalit*. Despite the fact that the term *Dalit* is used extensively in different reports, studies, deliberations and day-to-day dialogues, differ as to its definition.

The literal meaning of *Dalit* in the Nepalese dictionary is "the person who is suppressed". In the context of South Asia, *Dalit* is a common term used to address culturally, economically and socially marginalized individual or communities.<sup>1</sup> *Dalit* means in English "depressed", it means "people who are prevented from rising or are unable to rise socially or economically." In English, in the meaning of *Dalit*, the terms depressed, depressed class, oppressed, persecuted, neglected, ignored, target group, lower caste, backward caste, downtrodden are used. The word '*Dalit*' literally means poor and oppressed person. *Dalit* actually refers to those groups that are officially designated as scheduled castes.

The Proposed Bill on *Dalits* in Nepal forwarded by National *Dalit* Commission to the Lower House of Parliament for approval has defined the term *Dalit* as those communities who, by virtue of atrocities of caste-based discrimination and untouchability, are most backward in social, economic, educational, political and religious fields, and are deprived of human dignity and social justice.<sup>2</sup>

The dictionary meaning of *Dalit* is 'the state of economic deprivation'. In another sense, *Dalit* has been used for a certain caste group of people, who are socially vulnerable, economically deprived and politically excluded. *Dalit* refers to a group of people who are religiously, culturally, socially and economically

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1 Santosh Giri (2005), *A Case Study with Equality Perspective on Status of Discrimination of Drinking Water and Nutritious Food, Status of Text Books and Implementation of Legal Provisions for Eliminating the Crime of Untouchability*, Kathmandu: Lawyers' National Campaign Against Untouchability Nepal, P. 10.

2 *Ibid.*

## 2 / Crime Related to Untouchability in Nepal

oppressed, who may belong to different language and ethnic groups. *Dalit* is not a caste group per se but a politically coined word used to refer to a socially backward caste and community in Nepal. The first president of National *Dalit* Commission, Padma Singh Bishwakarma says- It is clear that *Dalits* are those who are religiously discarded, socially oppressed, economically exploited, politically suppressed and educationally deprived.<sup>3</sup>

*Dalit* is meant by the terms 'victims of untouchability', 'occupational caste', '*shudra*' and 'untouchable'.

The word *Dalit* comes from the *Sanskrit* root *dal*, which means to shatter, to break into pieces and to tread on. The term is a product of a 19<sup>th</sup> century Indian reform movement. The literal meanings of the word *Dalit* are: shattered, over-burdened, suppressed, squeezed, stepped upon, kneaded, ground down, shamed by being required to bow to someone else's feet or silenced through suppression. In the past, the word *Dalit* was used to refer to all of those groups who were oppressed, but in contemporary Nepali parlance, it is used to refer only to those officially categorized within the untouchable castes.<sup>4</sup> During the period of menstruation and child delivery, Hindu women of both "high" and "low" castes are treated as untouchables.

*Dalit* had been given different names in the past. Historically, the so-called high caste people of India called *Dalits* by various names like *Dasa*, *Dasysa*, *Rakshasa*, *Asura*, *Avarna*, *Nisada*, *Panchama*, *Chandala*, *Harijan* and untouchable. The British rulers named them as the depressed classes and the scheduled castes. The word *Dalit* is used both in India and Nepal now-a-days to remind not only age-old oppression/ deprivation and the victims of such oppression/deprivation but also to the hardships of their life. In the past, they were derogatorily referred to as *paninachalne*, *achhoot*, *avarna*, *doom*, *pariganit*, *tallo jati* etc. Indeed the term *Dalit* originates from a *Sanskrit* word *dal*, which means to split, crack and open. In this sense, according to *Sanskrit* scripture, *Dalit* means, things or persons who are cut, split, broken or torn asunder, scattered or crushed and destroyed. In both Nepal and India the use of the term is

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3 Man Bahadur B.K. (2005), *Dalit in State Governance*, Kathmandu: Jana Utthan Pratisthan-Nepal, pp. 4-5.

4 Yam Bahadur Kisan (2005), *The Nepali Dalit Social Movement*, Lalitpur: Legal Rights Protection Society Nepal, P. 6.

very recent and it symbolizes a struggle for a recognition of self-identity, expression of historical reality of oppression due to caste-based untouchability and occupations, and a determination for creation of egalitarian society.<sup>5</sup>

The term *Dalit* or untouchable may be defined in various forms. In the present time, there is necessary universally acceptable definition of *Dalit* or untouchable. If we cannot get universally acceptable definition, there will be crisis to identify them and they will be deprived of particular opportunities by the state.

## **1.2 Identification of Untouchable Castes/*Dalits***

Alexander Macdonald has cited the list of untouchable castes identified by the Old National Code of Nepal. Those are as follows:<sup>6</sup>

Castes from whom water is not acceptable but physical contact does not require purification by sprinkling of water are: *Musalman, Teli, Kasai, Kusule, Dhobi, Kulu, Mlechchha, Cudara (Curaute)*.

Castes from whom water is not acceptable and physical contact with them requires purification by sprinkling of water or cow-urine are: *Sarki, Kami, Sunar, Chunara* (Makers of wooden vessels), *Hurke, Damai, Gaine, Badibhad, Pode, Cyamakhalak*.

Census of 1994 published by CBS/HMG has identified these different *Dalit Communities*.<sup>7</sup>

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5 Krishna B. Bhattachan et.al. (2003), *Existing Practices of Caste-Based Untouchability in Nepal and Strategy for a Campaign for its Elimination*, Kathmandu: Action Aid Nepal, P. 3.

6 *Ibid*, pp. 3-4.

7 Hira Bishwakarma (2002), "*Dalits of Nepal: Their Movement Now and Then*", *Dalits of Nepal Issues and Challenges*, Lalitpur: Feminist Dalit Organisation, P. 27.

**Table No. 1.1****Identification of Different *Dalit* Communities**

<b>Caste/Ethnicity</b>	<b>Population</b>	<b>Percentage</b>
<b>Hill-Dwellers</b>		
<i>Kami</i> (Black Smith)	963655	5.21
<i>Damai</i> (Tailor)	367989	2.11
<i>Sarki</i> (Cobbler)	276244	1.5
<i>Gaine</i> (Singer)	44484	0.24
<i>Badi</i> (Entertainer)	7082	0.04
<b>Terai-Dwellers</b>		
<i>Chamar</i>	203919	1.1
<i>Kalwar</i>	162046	0.88
<i>Dushadh</i>	93242	0.5
<i>Dhobi</i>	76594	0.41
<i>Khatwe</i>	66612	0.36
<i>Mushahar</i>	141890	0.77
<i>Raji</i>	19103	0.1
<i>Teli</i>	250732	1.36
<i>Kushwa</i>	205797	1.11
<b>Total</b>	<b>2879459</b>	<b>15.69</b>

The caste and population not mentioned:

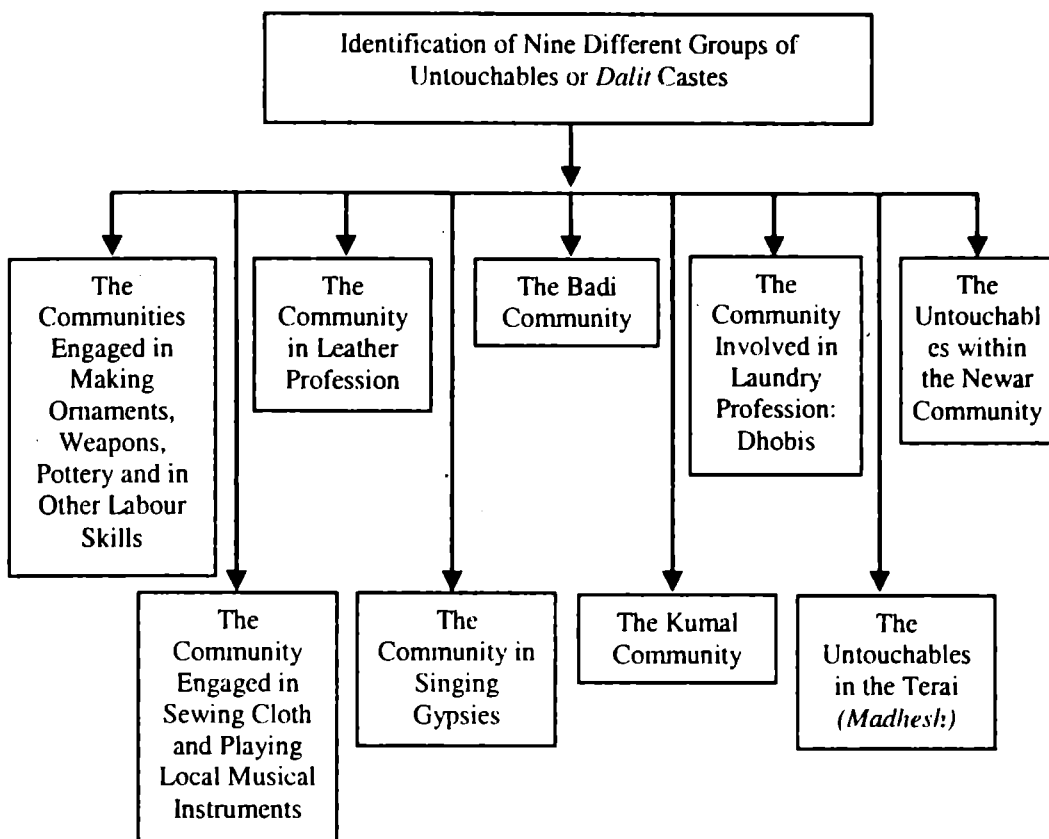
*Satar* (Santhal), *Kisan*, *Darau*, *Kasai*, *Kushule*, *Pode*, *Chyame*, *Sunar*, *Hudke*, *Dum*, *Lohar*)

*The Upekshit, Utpidit Ra Dalit Barga Utthan Bikas Samiti* (Ignored, Oppressed and *Dalit* Groups' Upliftment Development Committee) formed in 1996 under the Ministry of Local Development has Identified different *Dalit Communities*. These are:<sup>8</sup> *Lohar*, *Sunar*, *Kami*, *Damai*, *Kasai*, *Sarki*, *Badi*, *Gaine*, *Kusule*, *Kuche*, *Chyame*, *Chamar*, *Dhobi*, *Paswan*, *Dusadh*, *Tatma*, *Batar*, *Khatbe*, *Musahar*, *Santhal*, *Sattar* and *Halkhor*.



INSEC has identified nine different groups of untouchables or *Dalit* castes.<sup>9</sup>

Chart No. 1.1



**(i) The Communities Engaged in Making Ornaments, Weapons, Pottery and Other Labour Skills**

*Kamis* (Hill Ironsmiths), *Sunars* (Goldsmiths), *Lohars* (Madhesi Iron smiths), *Bishwakarmas* (B.K.) *Sobh*, *Snehi*, *Nepali*, *Sonar* (engaged in works related to gold), *Od* (who constructs a house or makes pots), *Tamata* (who makes things out of copper), *Chunara* (engaged in making wooden utensils), *Parki* (who constructs goods from bamboo), *Koli* (cloth weaver), *Bhool* (engaged in leather work), *Mijar* (in the western part goldsmiths are *Mijars* but in the eastern Nepal *Mijars* are shoe-makers). This *Dalit* community has the following Subcategories:

9 *Human Rights Year Book (1993)*, Kathmandu: Informal Sector Service Center, pp. 355-358.

## 6 / Crime Related to Untouchability in Nepal

*Agri, Acharya, Aafladhoti, Wokheda, Wod/Wor, Kadara (Kandara), Karada, Kasara, Kallohar, Kalikote, Kaliraj (Sahoo), Kumaki, Kaini, Koirala, Koli, Khadkathoki, Khapangi, Khati, Gajmer, Gajurel, Gadai, Gadaili, Gahate (Gahatraj), Giri, Gotame, Gowa, Ghatani, Gamal, Gharti, Ghimire, Ghamghotle, Ghotane, Chandara/Chandaro, Chilime, Tiwari, Chunara, Chhista, Jandkami, Tamata (tamrakar), Thagunna, Thatera, Tiruwa, Dayal/Diyali, Dalami, Darnal, Dudraj (Dudhraj), Dursal, Deupate, Dewal, Dhamala, Dhanik (Dhanuk), Nagarkoti, Niraula, Nepal, Panthi, Palla (Pallaya), Parajuli, Pahari, Padhyawati, Pagri, Parki, Pulami, Pokhrel, Portel, Poudel, Baraili/Barali/Baral, Bunchebhale, Banskota, Bipali, Bhatta, Bhattarai, Bhusal, Bhool, Mahilipar, Mar (Mahar), Mijar, Rasaili, Rahpal, Rajilohar, Ramdam/Ramdamao, Rijal, Risal (Raisalis), Ruchal, Raikal, Lakandri, Latopi, Labad, Lamgade (three Sub category-Lamakarmi, Lamichhane and Poudeli), Lohani, Lohar, Lwagun/Luhagun, Shahsankar, Shahoo, Sherala, Sadasankar/Sattasankar, Sapkota, Sani, Sundhuwa, Sunchyuri/Sunchiuri, Singaure, Sijapati, Sirpali (Shripali), Suni, Setipar, Seti Mahara, Setisural, Sonam, Himchyuri, etc.*

### **(ii) The Community Engaged in Sewing Cloth and Playing Local Musical Instruments**

This community has the following categories:

*Suchikar, Sujikar, Bardewa, Dholi, Hudke, Nagarchi, Darji, Pokharel, Nepali, Asasai, Aauji, Kandel, Katuwal, Karkidholi (Khulal, Mudula, Lama Sutar), Kalakhati, Koirala, Khatiwada, Guinde, Gautam (Gotame), Ghatani, Ghale, Chahar, Chuhan, Chhinal, Jairu, Thagunna, Thatal, Daunde, Rana, Dhyaki, Tiwari/Tikhatri, Thapa, Darnal, Damai pariyar, Damai Parel, Das, Deukar, Dewal, Nagwag, Nagwan, Negi, Nepal, Naubag, Pariyar (Achhame, Chudal), Panchkoti/Panchakoti, Bahak, Bagchan, Bagdas, Budhapothi, Boodhaprithi, Baiju, Bhandari, Bhitrikoti, Bhusal, Magar, Mahate, Mahara, Male, Ranpal, Ranapahenli, Ratna/Ratne, Pariyar, Ratna, Raigain, Raika, Ryain Jhyain, Lamghate, Luintel, Shinal, Shilal, Siwa/Shiwa (Kukhure, Gotame, Bhede), Samudrasai, Sunal, Sunam, Sunchyuri/Sunchiuri, Sudas, Sasmundra, Shahassamudra, Sooji, Hingmang, Hudke, etc.,*

### **(iii) The Community in Leather Profession**

This community has the following Subcategories:

*Achchhami/ Achhami, Uparkoti, Upreti, Kamar, Koirala, Khatiwada, Giri, Gaire, Gairepitan, Gothe, Ghimire, Chamar, Chudal, Chuhan, Chhatkuli, Thagunna, Chhamarki, Thakursya, Thararai, Dale, Tolangi, Thapaliya, Thak, Daulakoti/ Dyaulakoti, Dabe, Dahal, Dulal, Dhamel, Naghali, Pahenli (Panyeli), Purkoti, Batsya/Basel, Bamrel, Bayalkoti, Bastakoti, Bisunkhe, Bogati, Bhangyal, Bhul/Bheyani, Bhurtel, Mangrati/Magarati (Aththane, kale, Khilinge, Doodh, Dhur, Barhathane), Majboti, Malbule, Malbok, Mudel, Ramtel, Ruchal, Roila, Rokka, Lamjel, Lamsal, Shahi, Shrimati/Sirimal, Sarmaute, Siraute, Surkheni, Suyeni, Sejwal, Hitang, etc.*

### **(iv) The Community of Singing Gypsies**

The community of singing gypsies have these surnames. Which are as follows:

*Adhikari, Kami, Kala, Kaushik, Kala Poudel, Kalichan, Gosai, Jogi, Thakuri, Turki, Bahun, Budhathoki, Baikar/Wagyakar, Baistha (Bistha), Bogate, Bhusal, Bhusal Parbate, Maheshwar, Meghnath, Bishwakarama, Bishnupad, Samudri, Sai, Sursaman, Setaparbate, Setichan, Hukchingrana, etc.*

### **(v) The Badi Community**

The categorization of *Badis* resembles with that of *Kamis*, *Damais* and *Sarkis*. The word *Badi* means *Vadyabadak* (one who plays musical instruments). Therefore, *Badi* was not a caste but a profession. Now it has identified as a distinct caste.

### **(vi) The Kumal Community**

A community of people engaged in manufacturing clay pottery is known as *Kumal* (*Kumhar*). They have been found touchable in some places and untouchable in others.

### **(vii) The Community Involved in Laundry Profession (Dhobis)**

*Dhobis* are called washermen. There are two categories of *Dhobis* in the *Terai*. They are:

- (a) *Rajdhobi*
- (b) *Dhobi*

*Raj Dhobi's* water is acceptable while *Dhobi's* water is unacceptable.

**(viii) The Untouchables in the Terai (Madhesh)**

The untouchables in the *Terai* are found to be involved in various professions. They are:

*Aghori, Karori (Yadav's sub-category untouchables), Kichchak, Kisan, Koche, Khatwe, Gandharwa (Muslim), Chamar/Mochi/Harijan, Chidimar, Gudihara, Jhangad (Uraun/Uram) Jhangar (Kachhuwa, Kharawa, Bakala, Bujira, Bekh, Lakada), Doom/Dom/Dhangar, Tatma, Tanti, Toori, Dusadh, Dhuniyan (Muslim), Dhobi, Nat, Pamariya, Paswan, Pasi, Bantar, Bhillia, Bhuiya, Mirshikar, Munda, Mushar (Sada), Rachwar, Sharbhanga, Shai (Muslim), Satar, Santal, Halkhor, etc.*

**(ix) The Untouchables Within the Newar Community:**

*Kasais (Butchers/Khadkis), Podes, Chyames, and Napit (Barbers), etc.*

National *Dalit* commission has identified different groups of *Dalit* Castes.<sup>10</sup>

**Table No. 1.2**

**Identification of Different Groups of *Dalit* Castes**

<b>In Terai</b>	<b>In the Valley</b>	<b>In Hills</b>
1. <i>Khatway</i>	1. <i>Chyame (Chyamekhala)</i>	1. <i>Bishwakarma (Sunar, Tamta, Chandara, Oda, Parki etc.)</i>
2. <i>Dusadh (Paswan, Hazara etc.)</i>	2. <i>Pode (Dhawala)</i>	2. <i>Sarki (Mijar, Chudal, Gotame, Bastakoti, Upreti, Dahal etc.)</i>
3. <i>Jhangadh (Urau)</i>	3. <i>Dhobi</i>	3. <i>Damai (Pariyar, Aauji, Dholi, Hudke etc.)</i>
4. <i>Dhobi (Baitha)</i>	4. <i>Kulu</i>	4. <i>Gaine (Gandharva, Gandhari etc.)</i>

10 Gopal Sharma (ed.), (2005), *Intra-Dalit Discrimination. A Fact Finding Report*, Katmandu: Lawyers' National Campaign Against Untouchability, P. 6.

5. <i>Chamar (Ram, Mahara, Ravidas etc.)</i>	5. <i>Harhure</i>	5. <i>Badi (Nepali, Dhital, Kami, Rijal etc.)</i>
6. <i>Dom (Raut, Mali, Gosai etc.)</i>		
7. <i>Halkhor</i>		
8. <i>Musahar</i>		
9. <i>Tatma</i>		
10. <i>Vantar</i>		
11. <i>Pasi</i>		
12. <i>Khatik</i>		
13. <i>Pattharkatta</i>		
14. <i>Chidimar</i>		
15. <i>Kuchche</i>		

There is crisis for the identification of untouchable castes/*Dalits*. Nepal Government has not listed untouchables/*Dalits* till today.

### 1.3 Meaning and Definition of Untouchability

Untouchability is against human value, social norm, standard and dignity. It is a kind of social disease, enemy, mal practice and bad culture of the country. It is controversy in itself. With the practice of untouchability, the country goes backward. Untouchability is one of the greatest crimes against humanity. It is a social evil and state crime. It is a severe violation of Human Rights. The book *National Campaign Manifesto -Dalit Human Rights in India* written by National Campaign Committee published by *Dalit Human Rights* defines that untouchability is the demon that acts as the agent of caste system. Human Rights Watch, 1999 defines that untouchability forms part of a complex of discriminatory practices that impose social disabilities on persons by reasons of their birth in certain castes.

Untouchability is the avoidance of physical contact with persons and things because of beliefs relating to ritual purity and pollution. It is an intrinsic feature of the Hindu caste system. It is all pervasive in that it governs all aspects of life, classifying people according to a hierarchy and prescribing how they should interact. Some

commentators, most notably Mahatma Gandhi regarded the practice of untouchability as an aberration of the caste system. Earlier literature refers to the caste system and reveals some of the popular associated with the lower castes. It is the *Manusmriti* composed between the 1<sup>st</sup> and 8<sup>th</sup> centuries, that represents the most comprehensive and strict codification of these practices<sup>11</sup>. Untouchability is to demolish the moral and political rationale for affirmative action in favour of *Dalits*, such as reservations in jobs and educational institutions. These practices include various forms of exclusion and exploitation such as:

- Denying access to state service or remunerative occupations,
- Forcing *Dalits* to perform demeaning tasks, etc.

Untouchability is one of the hallmarks of Hindu society, culture and religion. Hindu society practises untouchability in two forms: certain castes (*Dalits*) and women. *Dalits* are always treated as untouchables round the year whereas Hindu women both high and low castes are treated as untouchables temporarily during menstruation and child delivery. Both *Dalit* women and men are victims of the practice of Untouchability. *Dalits* are prohibited or denied certain acts and practices, access to public property, resources, services and entry and participation in socio-cultural sphere at private, common and public places. For example, they are prohibited to fetch water from public water sources, to enter restaurants, temples, shops, houses, cowsheds etc. and participate in feasts and festivals. Furthermore milk collection centers refuse to buy milk brought by the *Dalits*. Also *Dalits* men and women are compelled to engage in forced labour and they are discriminated in occupations, educational institutions, enjoying political rights, receiving government and donor supported facilities. Many *Dalit* women and men face atrocities from high castes. All *Dalits* are equally humiliated and victimized by the high castes through the practice of untouchability. The practice of untouchability is very severe in *Madhesh* and the Hills of mid-western and Far-Western Development Regions. It is relatively less severe in urban areas. It

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11 Ghanshyam Shah et.al. (2006), *Untouchability in Rural India*, New Delhi: Sage Publications India Pvt. Ltd., P. 14.

is least practised in the eastern parts of Nepal adjoining Darjeeling of India where untouchability is almost non-existent.<sup>12</sup>

There are two types of untouchability. The first is discrimination by non-*Dalits* and the second is discrimination among the *Dalits* themselves. Therefore, the nature of untouchability is not only vertical but also horizontal. Untouchability must be denounced whoever practises it. *Dalits* can not be an exception for untouchability. *Dalits* practise untouchability among themselves as a demonstration effect of Hindu caste hierarchy. There are lots of examples for horizontal nature of untouchability. Which are as follows:

- *Kamis* do not touch *Sarkis*
- *Sarkis* do not touch *Damais*
- *Damais* and *Gaines* do not touch *Badis*
- A *chamar* thinks himself superior to *Musahar* or *Dusadh* and vice versa
- The *Dom/Halkhor* lying at the bottom in Hindu caste hierarchy treats himself as superior to *Tatma* or *Khatwe*
- The people of one caste hardly take food sitting together with the people of other castes
- The people of one caste do not marry with the other
- In the matters of food and sex, one caste of *Dalit* people think themselves superior to the other

From above mentioned points, we see that untouchability is well practised within the *Dalit Communities*. Untouchability is the worst and barbaric forms for *Varnashram Dharma* and slur to human race. It is created by human being. It is a crime against human dignity. (Details are given in Annex- III)

#### **1.4 Theories Relating to Untouchability**

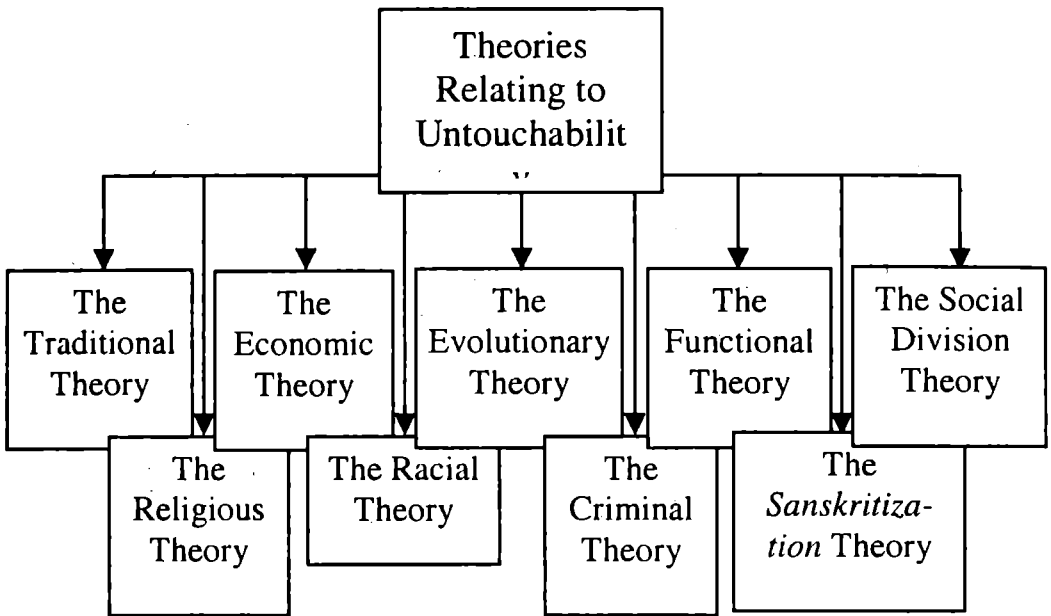
The theories of the origins of untouchability that influence the interpretation of the contemporary situations. Generally, these

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12 Krishna Bahadur Bhattachan (2002). "Social and Economic Conditions of *Dalit Women*", *Dalits of Nepal Issues and Challenges*, Lalitpur: Feminist *Dalit* Organisation, pp. 72-73.

explanations are offered for the emergence and the continuation or changes in the practice of untouchability.

**Chart No. 1.2**



### 1.4.1 The Traditional Theory

Hindu theology about the origin of *Varna* is written in the *Purush Sukta* of the *Rig Veda*. Here, it is said that *Brahman* came from the head, *Kshatriya* from the arms, *Vaishya* from the thigh and *Shudra* from the feet of *Bishwarup Birat Purush*.<sup>13</sup> The *Atharva Veda* and the *Yajur Veda* have the same references to caste origination.<sup>14</sup> Later, those who established the norms for conduct within Hindu society explained the origins of caste on the basis of these references.

### 1.4.2 The Religious Theory<sup>15</sup>

A leader of the anti-*Brahmin* movement, Jotirao Phule, argued, in his book *Gulamgiri* (Slavery, 1873), that the *Shudras* were the sons of the soil while the *Brahmins* came from outside and usurped everything that was possessed by the *Shudras*. In order to control and enslave the natives, the *Aryans* produced many spurious religious tracts and claimed to have received them directly from the God as revelations. Phule opposed idolatry and denounced that the

13 *Rig Veda* (10/90/12).

14 *Atharva Veda* (19/6/6); *Yajur Veda* (31/10-11).

15 *Supra* Note No. 11, pp. 26-30.



*Chaturvarna* (four fold division of Hindu society) created by religion to perpetuate inequality in society. He advocated that Hindu sacred scriptures were fabricated by *Brahmins* to maintain their control over society and said universal religion of truth. Dube says that the founder of the *Satnampanth* rejected the divine and social hierarchies and urged his followers to throw the idols of Hindu gods and goddesses onto the heap of rubbish.

Dr. Ambedkar opines that caste was the core of the Hindu social order. Caste was legitimized and given a divine basis and religious sanction through the *Shastras*. It was based on the doctrine that men are created from the different parts of the divinity. Such doctrine has generated the belief that it must be divine; they should remain separate and distinct. He observed that graded inequality is the fundamental principle of the caste system.

The religious theory of caste finds a prominent place in sociology and anthropology. Many sociologists like Louis Dumont, Michael Moffatt and so on argue that in Hinduism, purity and impurity are the central values governing interpersonal and intergroup relationships. It is obligatory for each Hindu to confine her/his relationship and interactions within the restricted caste group. Such a value system is shared not only by caste Hindus but also by the untouchables. The proponents of the consensus theory perceive caste as a consensual system. They point to historical and ethnographic evidence to show that understanding of Hinduism and its caste hierarchy are divergent and conflicting. They ignore not only the multiplicity in Hindu beliefs and practices but also the numerous collective struggles of *Dalits* from the early *vaidic* period protesting against their position in the caste hierarchy. As per Kancha Ilaiah, the earliest philosophical challenge to *Brahminical* ideology came from *Shudra* thinkers in the *vaidic* period.

The challenge to caste ideology also came from social reformers who disputed the thesis that inequality and untouchability were inherent elements of Hinduism and the caste system. They rejected the view that the caste system is based on birth. During the *vaidic* period, it was argued that caste was merely a system of division of labour in which social mobility due to skill and virtue was permitted. The founder of the *Arya Samaj*, Dayanand Saraswati, believed that caste was a political institution created by the rulers for the common good of society and not a natural or religious distinction. In fact, he observed that any *Brahmin*, who is

disqualified for his work, becomes at once a *Shudra de jure* and a *Shudra*, who is qualified for it, becomes at once a *Brahmin de jure*. Mahatma Gandhi believed that the *Varnashrama* of the *Vedas* was based on absolute equality of status, notwithstanding passages to the contrary in the *Smritis* and elsewhere. He argued that caste as it existed was no doubt a travesty of the original fourfold division which only defined men's different callings. In order to serve their vested interests and to perpetuate their dominance, the *Brahmins*, in the course of time, converted caste into a rigid, closed and hereditary system. The aforesaid reformers argue that untouchability was an aberration of the *Varnadharmas*. No man born on earth is lowly and degraded, believe *Bhakti* Saints and many social reformers.

The only organized supporters of caste ideology are Hindu nationalists affiliated with the *Sangh Parivar*. To build Hindu unity and supremacy over and against Indians of other religions i.e., the Muslims and the Christians is the main mission of Hindu nationalists. They continue to believe in the *Chaturvarna* system, do not distance themselves from Hindu texts like the *Manusmriti* and other *Shastras* which legitimize inequality, view that the protection of the Hindu *dharma* and society demands the cooperation and unity of upper and lower castes, do not blame *Brahmins* and upper castes for maintaining the rigid caste system and prohibiting lower-caste mobility, attribute lower caste oppression to *Dalit Social* customs, behaviour & ignorance and a classic instance of blaming the victims, acknowledge the striate importance of the *Dalits* and other lower castes in electoral politics and the greater cause of Hindu supremacy and advocate the dilution of the high low differentiation only. It was argued that the Hindu race can become strong only by including and uplifting the lower castes and women.

### 1.4.3 The Economic Theory<sup>16</sup>

S.G. Sardesai states in his book *Progress and Conservatism in Ancient India* that for many Marxists, untouchability is rooted in the mode of production. *Varnas* were socio-economic categories. The *Chaturvarna* division of society was a class division, a social division of labour.

It became hereditary in the course of time which distorted and modified class formation and class relations. To explain the emergence of the caste system, Morton Klass's study is an important contribution. In this study, he speculates that egalitarian social groups developed a stratified social system due to an increase in population and the generation of surplus. A.P. Kolontaev, the Soviet indologist, argues that the condition of agricultural production in ancient India necessitated a considerable mass of live labour which could exist only in the form of socially oppressed strata of society, which was used during the peak periods of agricultural work. E.S. Yurlova, in his book *Scheduled castes in India*, says that those oppressed classes were treated as untouchables. This stream of thought maintains that with the changes in the mode of production, the caste system undergoes transformation and consequently so does the practice of untouchability.

#### **1.4.4 The Racial Theory<sup>17</sup>**

Herbert Risley and Dutt argue that one school of thought believes that untouchability is a racial issue. The origins of untouchability, the 'touchables' (i.e., the upper caste) and the 'untouchables' (*Shudras* or those below even the *shudra* or lowest *varna*) belong to two different races differentiated by colour. The 'touchables' were 'white' *Aryans* who invaded India and conquered the black-race natives to the sub-continent called the *Dasas* or *Dasyus* enslaving them and categorizing them as 'untouchables'. The ethnologist, Stanley Rice, states that the untouchables were aboriginal people who were conquered and subjugated by the *Aryans*. According to Social historian Prabhati Mukherjee, the practice of untouchability was preceded by a long history of social and cultural hostility on the part of the *vaidic Aryans* towards some groups among the indigenous population who were perceived as a threat to their way of life, their pastoral wealth and their religious practices.

Klass says that *Aryan* and non-*Aryan* relations and colour differences are considered by other scholars as pseudo-historical and pseudo-psychological. Dr. B.R. Ambedkar strongly rejected the racial theory and argued that there was no racial discrimination between *Aryans* and *Dass*. Dr. Ambedkar asserted that during the

*vaidic* period there was no separate *Shudra varna*. The *Shudras* ranked as part of the *Kshetriya varna* in the indo-aryan society. Recently, in the context of untouchability and discrimination, the question of caste and race was raised in the 'United Nations World Conference Against Racism' held at Durban in 2001. It has been argued that the caste is a form of race. Race is not necessarily a biological or genetic phenomenon. It is a social construct which helps differentiate one group of people from another.

#### **1.4.5 The Evolutionary Theory**

As per B.N. Koirala, some theorists credit caste emergence to the transition from nomadic to agricultural –based lives. V.D. Zotov, in his important book *The Marxist-leninist Thoery of Society: Identity and Diversity of Social Development in the West and East*, opines that the population increase attendant with transitions into the age of animal husbandry brought into being a new form of descent based community. As the number of descendants increased, this community took the form of caste.

Land plays an important role in the origin of caste and social classification. Where the weather is good and the land fertile, people gather in greater quantities and land ownership becomes a means for classification in that society. Hence, this belief is said that the caste system gradually emerged because people began to become specialized within the wide variety of occupations needed to support settled agricultural communities, says Morten Klass, in his task *The Emergence of the South Asian Social System*.

#### **1.4.6 The Criminal Theory**

In *Dharma Shastraka Itihas*, P.W. Kane mentions a historic process by which people's sins and misdeeds brought about the practice of *ashprishyata* (untouchable in *Sanskrit*). S. Basudev's literature *Manusmriti Vachaspati* states that Manu had ordered restrictions against marrying or eating food touched by *ashprishyata* he categorized as sinners. In this regard, Morten Klass advocates, those who committed crimes or acts considered immoral within the prevailing social norms, became *ashprishyata* and were given new names *ashprishyata* and were given new names corresponding to their crimes. Later, these names became indicators of caste. In India, the *Dom, Susi, Nath, Harnis and Miganas* caste groups are said to be lower caste due to their criminal acts.

### **1.4.7 The Functional Theory**

The propounders of this theory claim that the main reason for caste emergence is believed to be social difference in work or occupation classification. The caste groups who performed jobs considered demeaning and unclean were considered lower caste. Work, rights and beliefs are three main concepts to bring about social inequality. R.C. Datta says in his job that over the course of time, people gradually began to be considered as pure or impure as the work that they performed. In this regard, A.C. Paranjpe says in his book *Caste, Prejudice and the Individual*, eventually there came to be closed relationships between caste and occupation.

### **1.4.8 The Sanskritization Theory**

According to M.N. Srinivas, well cultured people started treating uncultured people as having lower status and thereby formed new castes. To civilize and acculturate the lower castes are considered as *Sanskritization* phenomenon in the words of O.M. Lynch.

### **1.4.9 The Social Division Theory**

This theory posits that after reaching a certain stage of development, society divided on the basis of religion, specialization, economic status and occupation. Then, this social division created the caste system, different social strata and religious rituals reinforced these differences. Then, the caste system became solidified as these forms of social division became hereditarily organized, says B. Bhusan in his book *Dictionary of Sociology*.

Thus, aforesaid theories have played very decisive role for the emergence and the continuation or changes in the practice of untouchability. Especially in contemporary times, theorists acknowledge that the origin and development of the caste system and untouchability are complex phenomena.

## **1.5 Attitudinal Untouchability**

Attitudes are ways of feeling, thinking and behaving. Some *Dalit* intellectuals thought that attitude is the main source of caste-based discrimination, including untouchability. Many *Dalit* respondents believed that even educated people, including teachers and officers, have negative attitudes towards *Dalits*. Such people may not practise caste-based untouchability in a visible way but they may practise its invisible form, namely attitudinal untouchability.

Attitudinal untouchability practised by the non-*Dalits* against the *Dalits* in all or most of the study areas are as follows:<sup>18</sup>

- Belief that *Dalits* lack qualification
- Belief that *Dalits* lack ability
- Deny to accept existence of *Dalits*
- Deny to give good jobs to *Dalits*
- Deny teaching jobs to *Dalit* to avoid greetings such as *Namaste*
- Deny teaching jobs due to fear of caste degradation
- Deny peon job in government offices to avoid eating foods served by them-if, in case, they get such jobs, they are not given the responsibility of serving foods
- Belief that if *Dalits* should be given loans, it would never be returned (in Kodena, *Dalit* borrowers are charged one rupee more interest than non-*Dalits*)
- Belief that if *Dalits* get election tickets, the party would not get votes
- Belief that they would be looked down by the society if they gave respects to *Dalits*
- Belief that if *Dalits* are given milk, cow or buffalo will climb tree or die
- Gods will get angry if *Dalits* build big houses

Attitudinal untouchability practised by upper caste non-*Dalits* against *Dalits* and in some cases by upper caste *Dalits* against lower caste *Dalits* in some study areas are as follows:<sup>19</sup>

- Belief that if milk and milk products were offered to *Dalits*, calves would die
- Belief that tailor's saliva is pure and cow raised by blacksmith is impure
- Belief that those people who are under *Dalit's* shadow become impure

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18 *Supra* Note No. 12, pp. 42-43.

19 *Supra* Note No. 12, P. 43.

- If *Dalits* touched water source, snakes would appear or water sources would dry or people would get blind
- If *Dalits* entered temples, they would die in accidents
- If non-*Dalits* drank tea with *Dalits*, there would be floods
- Older generation would do *gou daan* (giving away cow) if a family member of upper caste ate rice sitting together with lower caste
- *Doom matdaina, mate pachhi banchdaina* (*Dalits* are difficult to be pampered for enjoyment; if they were pampered, they would lose normally)
- *Jaba Chaddhyo doomo chula tauli, taba tagyo ulmauli* (If *Dalits* were allowed to go near hearth, they would become over-smart)
- Belief that *Dalits* are thieves
- Belief that *Dalits* *mandhandle* non-*Dalit* women
- Udaya Himal Network (UHN) at *Kotbhairab* is an organisation of *Dooms* (*Dalits*,
- *Kukoor maryo, doomo maryo* (The death of a *Dalitis* equal to the death of a dog )
- Belief that politics is something that should be done by *Bahun-Chhetris* only

## **1.6 Types of Untouchability Experienced by *Dalits***

Some types of Untouchability experienced by *Dalits* are as follows:<sup>20</sup>

- Prohibition of entry
- Denial of eating/drinking
- Denial of water
- Obligation to clean dishes
- Denial to give milk
- Domination/Atrocities
- Cut off relation

- Denial of participation
- Prohibition of entry into public places

### **1.7 Typology of the Practices Concerning Caste-Based Untouchability**

The typologies of the practices concerning caste-based untouchability are as follows:<sup>21</sup>

- (i) Untouchability practised (avoidance of physical contacts)
  - (a) Ubiquitous (in all places at all times)
  - (b) Limited (some practise but some do not)
  - (c) Occasional practices
- (ii) Difficult to decide whether untouchability is practised
- (iii) Attitudinal untouchability
- (iv) Denial or prohibition of
  - (a) Certain acts and practices
  - (b) Services
  - (c) Access to common property resources
  - (d) Entry and participation in socio-cultural spheres
- (v) Denial or prohibition at three spheres
  - (a) Private
  - (b) Common (local)
  - (c) Public (government)
- (vi) Forced and discriminatory labour
- (vii) Discrimination in
  - (a) Occupations
  - (b) Educational institutions
  - (c) Political rights
  - (d) Governmental policies and programmes
  - (e) Donor supported development programmes



## 1.8 Causes of Untouchability

Some causes of untouchability are as follows:<sup>22</sup>

- State sponsorship
- Culture and tradition
- Loopholes in the law
- Poverty
- Lack of political commitment
- Lack of vision in the policy making level
- Religion-based education
- Society above law
- Lack of monitoring and implementing mechanisms
- Illiteracy
- Caste hierarchy system
- *Intra-Dalit Discrimination* and lack of proper media coverage

## 1.9 Barriers to Reform the Situation of Untouchability

Some barriers to reform the situation of untouchability are as follows:<sup>23</sup>

- Society and law
- Hindu philosophy
- Weak laws and mechanisms
- Lack of commitment and proper implementation of internal instruments, economy
- Ethno caste society
- Low or null representation
- Illiteracy personal interest Vs. common interest and victimization

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22 *Supra* Note No. 1, pp. 81-83.

23 *Supra* Note No. 1, pp. 83-85.

## CHAPTER - TWO

# Emergence of Untouchability in Nepal

### 2.1 Untouchability and the Conflict between Aryans and Non-Aryans

The history of caste-based discrimination is approximately 3000-3500 years old.<sup>1</sup> In 3000 B.C. *Aryans* from Iran invaded the Sub Indian continent. Their physical appearances were different from the *Dravid* and *Astrik* races. *Aryans* were fairer with brown hair; pointed nose and long shaped skull while the latter were dark in colour. The *Aryans* started hating those with other colour skin except for the fairer skins. At the initial stage the term race represented division of colour i.e. Apartheid on colour of the skin.<sup>2</sup> The *Aryans* were the founders of the *Rig-Veda* during 1500-1000 B.C. *Ved Vyas* initiated collecting the oral *Richas* of the *Aryans* and late edited them.<sup>3</sup> According to *Richas* all human beings were equal, and there was not any discrimination in *Vaidic* period.<sup>4</sup>

Hindu religious texts and *Vedas* reveal that the *Purush Sukta* of the tenth *mandal* of the *Rig-veda*, drafted between 1000 - 700 B.C. gave birth to the caste hierarchy in the Hindu religion.<sup>5</sup> The *Purush Sukta* itself did not create caste-based untouchability; the caste-based untouchability came into existence during 1000 - 600 B.C. (post *Veidic* period). After its foundation, especially during 600 - 200 B.C., caste-based untouchability flourished in the Hindu society to exist forever.<sup>6</sup> The conflict between the *Aryans* and the non-*Aryans* was based on slavery, apartheid and division of labour. The *Brahmins* ruled *Aryan* society and followed *Brahman* religion, which later developed into the racist religion (*varnashram dharma*). There was no evidence of untouchability even after establishment of the *varna* system for nearly 1000 years.<sup>7</sup>

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1 *Supra* Note No. 10, P. 9.

2 *Supra* note No.1, P. 24.

3 *Ibid.*

4 *Rig-Veda* [10/91 (3-4)].

5 *Supra* Note No. 10, P. 19.

6 *Supra* Note No.10, P. 19.

7 *Supra* Note No. 1, P. 24.

## **2.2 Untouchability in the Varna System**

Brahmin king Manu (200 B.C.) is known as the founder of untouchability under the *varna* system. A portion of the *Shudras* were made untouchables.<sup>8</sup> Society was divided into *varna* Ssystem on the basis of labour division. The *varnas* were:<sup>9</sup> *Brahmins* (priests and scholars), *Kshetriya* (warriors and rulers), *Vaisya* (merchants) and *Shudras* (artisans and labourers).

The *Shudras* during the *Manusmriti* period represented to those people:<sup>10</sup> who are prisoners of war, bankrupt slaves, children of slaves, people who were bought, people received as donation and who had accepted slavery as the king's punishment.

Till 300 B.C. the *varna* system was developed to the level of untouchability. Later all *Shudras* were referred to as untouchables.<sup>11</sup> *Manusmriti* period (300 - 200 B.C.) established the customary practice of untouchability and left its permanent mark in the Hindu society, and since that period it is still in practice.<sup>12</sup> Untouchability was practised by winning over the community that did not have any caste-division among the *Shudras*.<sup>13</sup> The ruler later developed untouchability so as to divide the unity between the *Shrudas*, slaves and *Vaishya* and class unity of the *Shudras* and to create a series of disunity among them.<sup>14</sup> Untouchability gave birth to several sub-castes under the *Shudras* too. These sub-castes represented different professions. The professions were then classified into hierarchical position in the society. This later developed into discrimination among the castes of the *Shudras*, and untouchability rooted itself into the *Shudras* too.<sup>15</sup> The practice of untouchability did not only flourish among the *Shudras* but also existed in one or the other form in the other *varna* System too. *Shudras* did not oppose to the labour division. They did not plead for economic, political and social equality. Untouchability gave rise to conflict among the

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8 *Supra* Note No. 1, P. 25.

9 Rajani Kant Sastri (1997), *Upliftment and Failure of Hindu Caste*, Iahabad: Kitab Mahal, P. 176.

10 *Supra* Note No. 1, P. 25.

11 *Ibid.*

12 *Supra* Note No. 10, P. 19.

13 *Supra* Note No. 1, P. 25.

14 *Ibid.*

15 *Id.*

*Shudras* themselves and between the *Shurdas* and oppressed *Baishyas*.<sup>16</sup>

Untouchability and caste-based discrimination rooted itself into the daily life of each and every follower of Hindu religion, especially during *Puran Era* (100 B.C. - 1200 A.D.) and *Shankaracharya Era* (778 - 820 A.D.).<sup>17</sup>

From above mentioned things, we say that the practice of untouchability has rooted in the Hindu religion, South Asian and small nations and their principalities. It is a virus of the state. It has become stricter day by day.

### 2.3 Untouchability in Ancient Nepal

In *Kirat* and *Lichhavi* periods, rules and regulations were determined by *dharma shastra*, traditional custom and Hindu religion. In Hindu justice system, it was thought that law was the gift of God. A *Kiratian* ruler has own religious text called *Mundhum*, there was no class or caste system. Legal and justice system of *Kiratian* period can be understood from the *Kiratian veda Kirata Mundhum* and *Kirata Mundhum Khatin*. *Mundhum* was just like the four *vedas* for Aryans. Prior to the emergence of *Kirata* dynasty, the first rulers were *Gopals* and *Abhirs*. *Limbu, Rai, Yac, Yaksha, Kimdo, Kinner* etc. are different branches of the *kirata* tribe. It is the *Kinner* branch of *Kirata* that ruled in ancient Nepal. Another branch of *Kirata Sen Makwna* also had established their rule.

The *Mundhum* was the sacred and holy text of *kiratas* which was one of the important sources of law as well as the law and guideline for governance of *Kirat* ruler. Although different kinds of communities were dwelling in different places in ancient system. The main of these communities were *Nag, Gopal, Kirat, Lichchhavi, Brizic, Malla, Shakya, Koli, Gupta, Abhir*, etc.<sup>18</sup>

In 200 A.D. the *Kirat* rule ended and the rule of the Indian based *Lichchhavi* rule started in Nepal. During 200-879 A.D. the caste hierarchy system flourished in their regime. The society of Nepal

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16 *Supra* Note No. 1, P. 25.

17 *Supra* Note No.10, P. 19.

18 Shri Ram Prasad Upadhyaya (2056 B.S.), *Nepalko Samajik, Arthik tatha Prashasanik Itihas* (2nd ed.), Kathmandu: Ratna Pustak Bhandar, P. 1.

was divided into 4 castes and 18 sub-castes. In 600 A.D. untouchability was formally implemented in Nepal.<sup>19</sup>

*Lichchhavi* period is called the golden era of ancient period in Nepalese history. *Lichchhavis* were the first rulers of *Arya* groups. Supushpa was the first king of *Lichchhavi*. He started the caste system during this time. In Nepal, caste system and discrimination was slowly growing up but was not so strict in *Lichchhavi* period.

*Malla* period is also called medieval period of Nepal. *Malla* period extends from 879-1768 A.D. *Mallas* gradually conquered the *Lichchhavis* and started their exclusive rule. *Mallas* ruled not only in the Kathmandu Valley, but there were *Khas Mallas* ruling in Karnali Pradesh also.<sup>20</sup> The reign of Jayasthiti Malla re-organized *Newari* society in Kathmandu on the basis of the *Manusmriti* writings. He planted the firm roots of caste division and untouchability in society with the advice and assistance of Kirtinath Upadhyaya, Raghunath Jha, Ramnath Jha, Shrinath Bhatta and Mahinath Bhatta. He divided the *Newar* community of Nepal into 4 categories and 64 castes and defined their rights and duties.<sup>21</sup> *Manav Nyaya Shastra* was an important instrument to establish untouchability. During *Malla's* reign as the caste system was widely prevalent the quantum and type of punishment was also different for upper and lower castes for committing the same crime. Untouchability was rampant everywhere.

King Ram Shah through his 26 commandments established caste-based discrimination and untouchability as legal obligations. Ram Shah established rules for social organisation in Gorkha, in the same way as Jayasthiti Malla had done in the Kathmandu Valley. He systematized caste discrimination in an organized way. He said "if you want justice, go to Gorkha".<sup>22</sup>

## **2.4 Untouchability in Modern Nepal**

King Prithivi Narayan Shah, who is accredited as the founder of modern Nepal, initiated formation of the new nation by a theme of formation of a true Hindu kingdom. This resulted in the formation of a modern Nepal but with the reflection of the Hindu religion-

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19 *Supra* Note No.1, P. 27.

20 *Supra* Note No. 4, P. 49.

21 *Ibid*, P. 50.

22 *Id*, P. 53.

based caste system and untouchability. The indigenous *Mongols* were also abetted for the practice of untouchability and caste hierarchy.<sup>23</sup> In 1816 A.D., the *Sugauli* treaty created a new geography, Terai (*Naya Muluk*) in the modern Nepal, which was resided by *Madhesi* groups that followed the ancient caste hierarchy system. The *Janajatis* (indigenous community) were also gradually trained to follow the pattern of untouchability in the newly propounded modern Nepal. The traces of such practice are still evident in the existing practice of untouchability in the *Gurung* society.<sup>24</sup>

King Prithivi Narayan Shah had said "Nepal is an orchard of four *varnas* (components) and thirty-six castes". Prime Minister Bhimsen Thapa (1863-1896 A.D.) added another brick to the foundation of untouchability in Nepal. Prime Minister Janga Bahadur Rana visited Europe during the period of king Surendra Bir Bikram Shah in 1907 B.S. He was impressed by British Codified Law and French Napoleon Code. At that time he thought that codified law will be an instrument to govern over the country.

The 1854 (1910 B.S.) *Muluki Ain* prepared by the Prime Minister Janga Bahadur Rana during the reign of king Surendra Bir Bikram Shah ratified the traditional custom by defining untouchability in the law as well as providing punishment against the perpetrators. Through the promulgation of the *Muluki Ain, 1854*, Prime Minister Janga Bahadur Rana had strengthened the untouchability based caste hierarchy through legal institutionalization.<sup>25</sup> The *Muluki Ain, 1854* was the first written codified law of Nepal and it followed the traditional trend of caste-based discrimination which is being followed since centuries. This gave birth to the legal status of untouchability, punitive action and legalization of caste-based discrimination in Nepal. By the *Muluki Ain* of 1854 the castes were divided into *Paani Chalne* and *Paani Nachalne*. The castes were divided as *Janai* (holy cord) wearers (*Tagadhari*), alcohol-drinkers (*Matwali*), touchable castes (*Chhoi Chhito Halnya Naparne*) and untouchable castes (*Chhoi Chhito Halnya Parne*).<sup>26</sup> Caste discrimination which prevailed in the society was legally

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23 *Supra* Note No. 1, P. 27.

24 *Ibid.*

25 *Id.*

26 *Supra* Note No. 10, pp. 19-20.

recognized by the Legal Code which had different kinds of penal systems according to caste: *Jaat Patit Garne Ko* (the demotion of caste), *Chhito Halnu Naparnya Ko*, *Pani Nachalnya Ko*, etc. Chapters (*Mahals*) were organized in the *Muluki Ain*, 1854. The *Government of Nepal Act*, 2004 B.S. came with the right to equality<sup>27</sup> but worthless. It was the first written constitution of Nepal. The *Interim Constitution of Nepal*, 2007 B.S.<sup>28</sup>, the *Constitution of the Kingdom of Nepal*, 2015 B.S.<sup>29</sup> had given right to equality and guaranteed non-discrimination on the basis of caste, race, gender etc. but they were also worthless because they couldn't repeal the *Muluki Ain*, 1854. In 1960, King Mahendra told all citizens not to think themselves as untouchables and that all the citizens were the children of the same God. In 1962, Nepal was declared as a Hindu nation. King Mahendra brought the *Constitution of Nepal*, 2019 B.S. It guaranteed the fundamental rights to equality.<sup>30</sup>

The *Muluki Ain*, 1854 was amended by the *Constitution of Nepal*, 2019 B.S.. The *Muluki Ain*, 2020 B.S. came and it repealed the provisions of untouchability which are systematized in the *Muluki Ain*, 1910 B.S. The *Muluki Ain*, 2020 B.S. declared that untouchability as a crime. The *Constitution of the Kingdom of Nepal*, 2047 B.S. declared that untouchability is punishable by law. Even though the *Interim Constitution of Nepal*, 2063 B.S. has guaranteed rights against untouchability and racial discrimination as well as right to social justice as fundamental right, untouchability is not eliminated from the society; it is being commonly practiced in the society.



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27 *Government of Nepal Act*, 2004. Article 4.

28 *Interim Constitution of Nepal*, 2007. Articles 14 and 15.

29 *Constitution of the Kingdom of Nepal*, 2015. Article 4.

30 *Constitution of Nepal*, 2019. Article 10.

## CHAPTER - THREE

# Historical Development of Dalit Social Movement in Nepal

### 3.1 Role of Individual Leaders on *Dalit* Movement

In *vedanta* period, the philosophical framework that stood in opposition to Hindu concept of casteism. There were a number of individual leaders who emerged throughout Hindu social history, and who spoke out and acted against the negative aspects of casteism and untouchability. In the 6<sup>th</sup> century B.C., Chawark philosophers criticized the concept of *varna* system. Another school of thought within Hinduism, the *Sankhya* philosophy was explicitly free from *Brahmanist* tendencies. At this time, the *Baisheshik* philosophy was also emerging. After that period, there were a number of individual leaders who criticized Hinduism. Fifth and sixth century philosophers such as Prakudh Katyanan, Makhali Goshal, Purna Kashyap, Sanjaya Belathiputra and Nigandhanathputra each had their own religious sects but had in common their opposition to *vaidic* religious beliefs.<sup>1</sup>

Shakya Muni Gautam Buddha is the most historically well known figure who was an opponent of caste, maintaining that people should be judged by their deeds, not by their heredity. Anti-discrimination movement started about 2500 years ago when he revolted against caste-based untouchability. "Nobody is *Chandal* by birth and so nobody is *Brahman* by birth". It is deeds that determine whether one is *Brahman* or *Chandal*", said Gautam Buddha. He was a humanist, maintaining that peace could not prevail in society as long as caste discrimination and untouchability existed. Records show that he took in a *Shudra* monk and a *pode* monk including them in the Buddhist organisation. Radical thoughts and radical actions were performed. After the time of Buddha, *Shudras* were free to practise Buddhism.

To dismantle the caste system, king Rana Bahadur Shah planned a public feast whereby all castes would eat together. This action was

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1 *Supra* Note No. 4, pp. 82-83.



considered radical in prevailing social context. A shared feast explicitly intended to oppose caste discrimination was not acceptable within that social context. He opposed caste discrimination in his personal life as well. King Rana Bahadur Shah's activities were vehemently opposed by his courtiers and were considered as crimes at that time.

The *Josmani* Saint, Gyan Dil Das, opposed Hindu religious rituals and *varna* system. He himself had an intercaste marriage. *Dalit* and *Janajatis* were welcomed into the *Josmani* faith by him. He opposed *Brahmans*. At that time, he was criticized by *Brahmans*. The threats against him were numerous. In 1925, Orthodox *Brahmans* spread a rumor against him. The Prime Minister Janga Bahadur Rana ordered him to arrest. In the nineteenth century, Yogmaya Koirala and her followers also spoke out against negative social practices including caste-based untouchability and the feudalist Hindu *varna* system. They committed suicide by jumping into the Arun River in protest against social evils including caste discrimination.

Various leaders and pioneers from different fields of life like King Jaya Prithivi Bahadur Singh, Bal Guru Sadananda of Dingla, Bhojpur; the Kirat religious leader Phalgunanda Lingden, Iman Singh Chemjong of Ilam, Padam Bahadur Dewan of Ilam, Politician Narad Mani Thulung of Bhojpur, Bhakta Bahadur Shakya, his grandsons Saroj Kumar and Jagamohan Shakya of Chainpur, Sankhuwasabha, Maheswor Myangbo of Taplejung, Double Subba of Panchthar, Nara Hari Prasai of Ilam, Indra Prasad Prasai of Ilam, Pandit Chhabi Lal Pokhrel, Ganga Prasad Dahal of Taplejung, Ambika Samva of Taplejung, Landlord Devi Prasad Upreti of Jhapa/Tehrathum, Rudra Bahadur Tumbahamphe of Tehrathum, Sher Bahadur Shrestha of Sankhuwasabha, Ranga Nath Upreti, the poet Mahananda Sapkota, Krishna Prasad Koirala and his son B.P. Koirala, Dharma Ratna Yami, Purendra Bikram Shah, Mahendra Bikram Shah M.A., The great poet Laxmi Prasad Devkota, the poet *Shiromani* Lekh Nath Poudel, the historian Babu Ram Acharya, poet Bhanu Bhakta Pokharel, Mukti Nath Sharma of Kaski, progressive writer Modnath Prashit of Arghakanchi, *Ayurvedic* doctor Shaligram Poudel of Khidim, Arghakanchi, Jagat Bahadur Joshi, Gopi Raman Upadhyaya, Mohan Bikram Singh of Pyuthan, Progressive writer Ananda Dev Bhatta of Baitadi, Janak Lal Sharma, learned and researcher Purna Prakash Nepal 'Yatri' of

Ilam, Dramatist Bal Krishna Sama, Novelist Binod Prasad Dhital, Narrative poet Ghana Shyam Poudel, Poet Daivajna Raj Neupane, poet Ahuti, poet and singer Manjul, Shardul Bhattarai, poet Siddhi Charan Shrestha, Dr. G.M. Singh Shrestha, poet M.B.B. Shah, Kali Bhakta Panta, Dr. Tara Nath Sharma, Dr. Ballabh Mani Dahal, Devi Prasad Adhikari, Padma Prasad Upreti and so on have played very significant roles through their individual activities in opposing the caste-based untouchability and uplifting the Nepali *Dalit Social* movement.

From within *Dalit Communities* as well, Kale Damai from Ilam, Gopal Lamjel from Tehrathum, Bhagat Sarbajit Biswakarma and Laxmi Narayan Biswakarma from Baglung, Lal Bahadur Pariyar from Syangja, Hikmat Singh Biswakarma, Rip Lal Biswakarma from Palpa, Gothi Basel from Tehrathum, Ganga Bahadur Pariyar from Palpa, Man Bir Biswakarma, Mohan Lal Dulal, Jadu Bir Biswakarma, Hira Lal Biswakarma, T.R. Biswakarma, Uma Lal Biswakarma, Mithai Devi Biswakarma, Saharshanath Kapali, Mohan Lal Kapali, Jawahar Kapali, Vichchhevarma Kapali, Jawahar Roka, Narayan Prasad Kapali, Sidhi Bahadur Khadgi, Pratap Ram Lohar, Megha Bahadur Biswakarma, Manohar Lal Bamarel, Chandra Bahadur Charmakar, Mani Ram Darji, Chandra Lal Biswakarma, Mitthuram Lohar, Nandalal Biswakarma, Krishna Singh Pariyar, Dal Singh Kami, Bhim Biswakarma, Golche Sarki, Ratna Bahadur Biswakarma, Padma Lal Biswakarma, Chhabi Lal Biswakarma, Padam Singh Biswakarma, Chandra Lal Biswakarma, Chandra Bahadur Sarki, Maniram Damai, Ganesh Yogi, Mewa Kapali, Rup Lal Biswakarma, Hira Kapali, Bekha Narayan Kapali, Padam Sundas, Lal Kumari Biswakarma, Prem Kumar Biswakarma, Baburam Pyasi, Min Bahadur Charmakar, Govinda Pandhyavati, Rishi Babu Pariyar, Dal Bahadur Biswakarma, Ratna Lal Gotame, Buddha Bahadur Biswakarma, Ranendra Barali, Jit Bahadur Darji Gautam (Jitu Gautam), Shankar Biswakarma, Chitra Shikaru, Hira Biswakarma, Man Bahadur Biswakarma, Tilak Shashnkar, Manohar Roka, Dalbir Biswakarma, Bal Bahadur Khati, Bhakta Barali, Bashu Devi Dewla, Krishna Rizal, Damber Pahadi, Dilliram Siwa, Bharat Nepali, Chitra Bahadur Achhami, Rajesh B.K., Padam Bahadur Rasali, Baburam Nepali, Padam Bahadur Nepali, Bhim B.K., Rohit Hingmang, Ram Kumar Biswakarma, Dipak Jung Biswakarma, Santoshi Biswakarma, Tej Bahdur Mijar, Rabi Kumar Biswakarma, Bisheshwor Rajak, Inari Ram, Ganesh

Paswan, Ram Nath Baitha, Ramprita Paswan, Bisendra Paswan, Durga Sob, Ganesh Pariyar, Lok Bahadur Biswakarma, Shambhu Hajara Paswan, Min Biswakarma, Desh Bahadur Sarki, Dipak Jung Biswakarma, Bhim Baraili, Tilak Pariyar, B.R. Gajmer, Basanta Kumar Biswakarma, Chakra Man Biswakarma, Binod Pahadi, Ratna Bahadur Bagchand, Navin Kumar Biswakarma, Prashant B.K., Prakash Candra Pariyar, Rajan Sunar, Om Prakash B.K., Pushkar Biswakarma, M.S. Nepali, Prakand Biswakarma, Mitha Ram Biswakarma, Govinda Pariyar, Kishore Biswakarma, Lal Bahadur Bishwakarma, Suvash Kumar Darnal, Sundar Biswakarma, Hasta Bahadur Bishwakarma, Yam Bahadur Kisan, Buddhi Narayan Kapali, Saroj Dilu, Tirtha Varma, Dilip Kumar Nepali, Moti Lal Nepali, Bhupa Nanda Biswakarma, Dhan Kumari Sunar, Ganesh B.K., Dilip Nepali, D.B. Sagar Biswakarma, Man Bahadur Biswakarma, Kamala Hemchuri, Bhupa Nanda Biswakarma, Prakash Chandra Pariyar, Hari Bhujel Kumar Biswakarma, Santa Bahadur Nepali, Shankar Pariyar, Tilak Biswakarma, Ranendra Baraily, Gajadhar Sunar, Chet Bahadur Pariyar, Santosh Biswakarma, Budhi Purkoti, Shankar Darlami, Hari Bahadur B.K., Santa Nepali, Prem Baraili, Tilak Pariyar, Nirmala B.K., Chitra Bahadur B.K., Rabin B.K., Katak Bahadur B.K., Purna Pariyar, Puran Singh Dayal, Bhuwan Sunar, Tej Bahadur Mijar, Khadka Lakandri, Man Bahadur Biswakarma, Padam Singh Biswakarma, Giridhar Pariyar, Khadka Bahadur Basayal, Mahadev Das, Narayan Diyali, Min Biswakarma, Sthir Babu Pariyar, Dhruba Surkheti, Gopal Biswakarma, Purna Kumari Sunar, Amrit Biswakarma, Kabiraj B.K., Khadga Bahadur B.K., Kalyan Chunara, Bir Bahadur Biswakarma, Maukilal Balmiki, Karna Bahadur Biswakarma, Bishnu Das Kapali, Lal Singh B.K., Raj Kumar Nepali, Shrawan Kumar B.K., Mrs. Rajan B.K., Purna Trikhatri, Suryalal Urav, Hari Prasad Biswakarma, Shambhu Hajara Paswan, Prakash Kumar Dhamal, D.B. Pariyar, Dil Bahadur B.K., Mrs. Dharma Nepali, Kumar Singh Damai, Chhatra Bahadur Damai, Surendra Kumar Rasaili, Indra Lal Shankar, Jaya Bahadur Tamata, Rabindra Kumar Sunar, Padam Bahadur Tamata, Gopinath B.K., Narendra Singh Sunam, Dev Narayan Ghatani, Prem Kumar B.K., Samar Bahadur Bhitrakoti, Lal Singh Biswakarma, Mani Ram Deval, Uttam Kumar Pariyar, Prakash Kumar Dharnal, Jit Bahadur Khadgi, Sri Ram Pujari, Ashok Rasaili, Bhaju Ratna Khadgi, Giridhar Pariyar, Brahmadev Suman, Prem Shahi, Mrs Dharma Nepali, Baburam Pariyar, Parshuram Pokharel, Karnabir Kami,

Shrawan Kumar Nepali, Jogendra Biswakarma, Khadga Bahadur Basyal, Rudrabir Snehī, Ratindra Nepali, Mahendra Sahi, Dil Krishna Khadgi, Jaggi Devi Ord, Ananda Lal Pariyar, Uttar Tamata, Padma Kumar Pariyar, Sujata Pariyar, Bhakta Bahadur Biswakarma, Trilok Chand Biswas, Sri Prasad Paswan, Dan Bahadur Biswakarma, Kesh Bahadur Pariyar, Ganesh Biswakarma, Tara Ruchal, Ram Krishna Deula, Puran Singh Dayal, Hasta Bahadur Biswakarma, Dal Bahadur Sunar, Yogendra Biswakarma, Trilok Narayan Singh, Laxman Nepali, Bhuwan Shankar, Jitendra Man Nepali, Biswa Bhakta Dulal, Rameshraya Ram, Chakra Ruchal, Tikaman Pariyar, Sarita Barali, Reshma Das, Kendra Lal B.K., Ram Avtar Paswan, Ram Nepali, Devendra Shankar, Mohan Lamgade, Rameshwar Mandal, Govinda Nepali, Bishwendra Paswan, Prabhu Hajara Paswan, Joglal Biswakarma, Yam Kumar Biswakarma, Bhāgwat Biswas, Gagan Singh Sunar, Bhaire Kami, Hira Singh Sarki, Chitra Rasaili, Mehal Bahadur Parki, Shyam Lyagun, Bhadau Biswakarma, Kesh Bahadur Mote, Sita Sundas, Ram Krishna Purkoti, Shmbhu Achhami, Laxman Achhami, Khadka Bahadur Gandarva, Gagendra Nepali, Tirtha Bahadur Gandarva, Dhal Bahadur B.K. Mohan Mijar, Prem Kumar Darji, Hira Lal Sunchuri, Krishna Kumar C.K., Jit Bahdur Nepali, Man Bir Sundar, Falljdar Harijan, Hem Bhadur Nepali, Dhanbir Nepali, Hari Bahadur B.K., Pritam Lal Paswan, Mrs. Jashuda B.K., Ram Diyali, Uday Auji, Krishna Bahadur Nepali, Man Bahadur Ruchal, Lal Bahadur Nepali, Bishnu Maya Bhujel, Magaru Majhi, Narendra Nepali, Dil Bahadur B.K., Megharaj Shankar, Durga Tiruwa, Dhanarupa B.K., Chhabi B.K., Keshman B.K., Surya B.K., Ram Bahadur Nepali, Rajesh B.K., Santa Bahadur Nepali, Naryan Nepal, Babulal Paswan, Bimal Mijar, Kabita Sardar Bantar, Laxmi Pariyar, Durga Pariyar, Ramrati Ram, Asha Kumar Sardar, Sawakidevi Das Tatma, Ramani Ram, Mahendra Paswan, Gopi Sarki, and so on have played very important roles through their individual activities for social reform and inspiring the movement against caste discrimination in Nepal. These leaders, pandits, intellectuals, writers, poets, litterateurs, historians, humanists and social reformers opposed *varna* and caste discrimination in Nepali society. Similarly, a number of people from oppressed castes have contributed a lot in various parts of national life.

### **3.2 Organized *Dalit* Movement Against Untouchability and Racial Discrimination**

*Dalit* movement in the modern era began with the organized politics against Rana rulers in the early fifties and it expanded after the downfall of Rana rule in 1951 A.D.<sup>2</sup> The anti-caste movements in India and in Nepal were instigated by religious leaders, humanists and other great intellectuals, poet, writers, literateurs and social reformers. Many Nepali *Dalits* were inspired by the Indian Independence movement led by Mahatma Gandhi and the Indian *Dalit* liberation movement led by Dr. Ambedkar. Sarbajit Bishwakarma and Saharshanath Kapali both returned to Nepal from India with such inspiration. The mid to late-1940s were a tumultuous time for politics on the Indian sub-continent, as the Indian movements came into full swing and the anti-Rana movement was also opposing caste discrimination, the organized social movement emerged into the late 1940s.<sup>3</sup> The movements of *Dalits* have been divided into four stages.<sup>4</sup>

- Movements before 1950 (during the Rana regime)
- Movements after the democracy of 1950
- Movements during *Panchayat* regime (1961-1990)
- Movements after the restoration of democracy (1990 onwards)

In this study, the researcher has tried to analyse the organised Nepali *Dalit Social* movement against untouchability and racial discrimination. They are as follows:

#### **1. Vishwa Sarvajan Sangh (Association for the Peoples of the World), 1947<sup>5</sup>**

The 'Vishwa Sarvajan Sangh' was the first *Dalit* organisation in Nepal. It was established in 1947 in Baglung district with an explicit objective to format the self-respect of oppressed *Dalits*. This organisation was established by Sarbajit Bishwakarma, who was born in Thadaswara village of Baglung District in 1893 A.D.

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2 *Supra* Note No. 5, P. 53.

3 *Supra* Note No. 4, P. 89.

4 *Supra* Note No. 7, pp. 28-29.

5 *Supra* Note No. 4, pp. 89-91.

From an early age, he questioned practices of caste discrimination and untouchability. As a young person, he went to varanas to study Hindu scriptures and *Sanskrit* language. He studied the *Vedas*, *Upanishads*, *Smritis* and *Puranas*, all of the text upon which Hindu caste organisation is based. After returning from India, he was prompted to found the *Vishwa Sarvajan Sangh*. And started a campaign for *Dalit* community social awareness. Laxmi Naryan Bishwakarma of Baglung, Rip Lal Bishwakarma and Mahabir Bishwakarma of Palpa were also part of the founding group. At that time *Dalits* were dominated by local high caste Priests. A legal case was filed against Sarbajit Bishwakarma claiming that he had breached the traditional religious convention and caste systems. He was also jailed due to his *Dalit movement*. Government Pandits were impressed by the level of Sarbajit Bishwakarma's knowledge. The primary focuses of this organisation were to educate *Dalit* children and to raise caste consciousness. This organisation was emerged out of painful struggle. It worked towards religious reform.

## 2. Tailors's Union, 1947<sup>6</sup>

Saharshanatha Kapali, whose father was the private tailor to the Rana Generals, was greatly influenced by the Indian independence movement that he had seen during his training period in Calcutta. With both tailoring skills and a spirit of independence, he returned to Nepal. Promoting professional unity and modernizing among the *Damai/Kapali* castes were the objectives of the Tailor's Union. Saharshanath Kapali sought to enhance the tailoring profession and also used the organisation as a forum to teach about caste discrimination. Kathmandu's Kapalis were organizing and founded the Tailor's Union in 1947. at the same time that Baglung's Bishwakarmas were promoting education and running their campaigns.

## 3. Nepal Samaj Sudhar Sangh (Association for Social Reform in Nepal), 1947<sup>7</sup>

This organisation was established by Jadubir Biswakarma, Uma Lal Biswakarma and T.R. Biswakarma in Dharan around 1947. Promoting unity of all castes on the path of freedom from caste

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6 *Supra* Note No. 4, P. 91.

7 *Ibid*, P.92.

oppression was the mission of this organisation. This organisation moved some of its activities to Kathmandu and was able to expand and increase in importance. The founders of this organisation asserted that caste equality is essential for social progress. This organisation was most clearly focused on unification of all *Dalit Communities*. The organisation of caste specific groups fighting for *Dalit Social Justice* had paved the way for the emergence of organisations that worked toward bringing all *Dalit* caste groups together.

**4. Shaileshwari Mandir Prabeshko Sangharsha (Struggle for Entering into Shaileshwari Temple)**

This organized struggle was led by Tika Ram Parki in 2007 B.S. It is regarded as the first important step of western part of Nepal for *Dalit* liberation campaign.

**5. Nepal Harijan Sangh (Nepal Harijan Association), 1950<sup>8</sup>**

Chandra Lal Biswakarma of Tanahu established the *Nepal Harijan Sangh* in 1950 for the purposes of assisting the anti-Rana movement. His leadership helped to create consciousness among *Dalit* Youths who participated both in the 1950 revolution and in the Bhadra Awagya Andolan (Polite Disobedience Movement) of 1957. *Dalit* individuals and communities were very active in the political movements that led to revolution and democratic changes.

**6. Bishwakarma Sangha (Bishwakarma Association)**

This association was established by Pandit Rip Lal Bishwakarma combating against Caste-based prejudice and untouchability. The *Koilakar Sangharsha* was conducted under the leadership of this association, is registered in the history of *Dalit movement*

**7. Nimna Samaj Sudhar Sangha (Social Reform Association for the Lower Castes), 1951<sup>9</sup>**

Jadubir Biswakarma alongwith Hira Biswakarma established the *Nimna Samaj Sudhar Sangha* in Dharan in 1951. This organisation led a local movement protesting against barbers who refused to cut the hair of *Dalits*.

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8 *Supra* Note No. 4, P. 92.

9 *Ibid*, P. 93.

**8. Jaat Tod Mandal (Caste Dissolution Alliance), 1951<sup>10</sup>**

In 1951, Saharshanath Kapali coordinated a merging of the Tailor's Union and the *Nimna Samaj Sudhar Sangha* (Social Reforms Association for the Lower Castes), renaming the organisation the *Jaat Tod Mandal*. Hira Lal Biswakarma, T.R. Bishwakarma and Jadubir Biswakarma were also leaders in this significant effort towards integration and unification of lower castes. The formation of the *Jaat Tod Mandal* through a process of organisational restructuring, re-organisation and renaming marks the first of such occurrences that continue to characterize the Nepali caste liberation movement.

**9. Samaj Sudhar Sangha (Association for Social Reform), 1952<sup>11</sup>**

*The Jaat Tod Mandal* was renamed and reorganized by Saharshanath Kapali in 1952. This newly renamed organisation, the *Samaj Sudhar Sangha*, successfully implemented a campaign to allow *Dalit* to enter into Kathmandu's Pashupatinath temple in 1954. Siddhi Bahadur Khadgi coordinated the formally organized association for the struggle to enter Pashupati Temple. Saharshanath Kapali, Mohan Lal Kapali, Ganesh Yogi and Mewa Kapali also helped to lead the movement. Thousands of *Dalits* were present at the event whereby *Dalits* forced their entry into Pashupatinath temple. The then Prime Minister Tanka Prasad Acharya had issued a strict order to the police for a *Lathi* charge on all those who tried to forcefully enter the temple. At this movement approximately seven hundred and fifty participants were arrested. The signboard was kept at the Pashupatinath temple gateway where "untouchables are prohibited from entry" was written. As a result of this movement the government removed it. The Pashupatinath temple entry movement was the first and most powerful movement of Nepali *Dalits*. The success of the movement was a source of great inspiration and motivation for the Nepali *Dalit* social movement. To conduct this movement, *Pashupatinath Mandir Prabesh Sangharsha Samiti* was established.

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10 *Supra* Note No. 4, P. 93.

11 *Supra* Note No. 4, pp. 93-94.



**10. Pariganit Naari Sangh (Association for Scheduled Caste women), 1955<sup>12</sup>**

This association was formed by Mithai Devi Biswakarma in 1955. The major aims of this organisation were to conduct awareness programmes among *Dalit* women and to promote their participation in the *Dalit* caste liberation movement.

**11. Nepal Rashtriya Pariganit Parishad (National Council for the Scheduled castes in Nepal), 1957<sup>13</sup>**

This Council was the reorganised the renamed form of the *Samaj Sudhar Sangh*. In this regard, credit goes to Saharshanath Kapali. Through this organisation, Rup Lal Biswakarma, T.R. Biswakarma and Hira Lal Biswakarma played significant roles against caste-based untouchability. This organisation actively participated in the 1957 *Bhadra Awagya Andolan*. "*Samaj Sewa*" was a bulletin published by this organisation. In 1958, the *Pariganit Naari Sangh* was integrated into this organisation.

**12. Achhut Mukti Morcha (Front for Liberation from Untouchability), 1958<sup>14</sup>**

T.R. Biswakarma is the founder of *Achhut Mukti Morcha*. It was established by him in 1958. The organisation from its beginning was guided by communist party of Nepal. It was not a long lived organisation. Its establishment traced the beginning of one trend within the Nepali *Dalit* social movement which was to open political party affiliated organisations. By 1958, leadership disputes within the Nepali *Dalit* social movement began to become increasingly divisive.

**13. Rashtriya Achhut Mukti Parishad (National Council for the Liberation from Untouchability), 1958<sup>15</sup>**

Formation of this organisation in 1958 was a continuation in the trend of organisational restructuring and renaming. Saharshanath Kapali led this organisation of the *Nepal Rashtriya Pariganit Parishad*. Other leaders such as Chandra Prasad Kapali, Hira Kapali, Hira Lal Biswakarma, T.R. Biswakarma and Bekha Narayan Kapali showed creative role from within this organisation.

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12 *Supra* Note No. 4, P. 94.

13 *Supra* Note No. 4, P. 94.

14 *Ibid*, P. 95.

15 *Id*, pp. 95 - 96.

Representatives from different *Dalit* communities were included among general members. On the editorship of T.R. Biswakarma in 1963, a magazine named *Mukti* (Liberation) was published. This organisation presented a memorandum to king Mahendra in 1959 that contained a list of demands for *Dalit* welfare. As a result of that memorandum, king Mahendra donated Rs. 25,000/- for construction of the *Shree Mahendra Pariganit* Hostel for *Dalit* students. From this amount donated by king Mahendra, 3 *ropani* land was bought in Bijeshwari of Kathmandu district. After that, with the help of government grant, *Samaj Bikas Chhatrabas* was established in 2025 B.S.

#### **14. Siddhakali Mandir Prabesh Andolan (Movement of Entering to Siddhakali Temple)**

*Dalits* were prohibited to enter the Siddhakali temple of Bhojpur district. In 2021 *Ashwin* 29, under the leadership of Padam Sundas and Lal Kumari, “Movement of Siddhakali Temple Entry” was conducted. After this movement, they succeeded to enter into this prohibited temple.

#### **15. Nepal Rashtriya DalitJana Bikas Parishad (National Council for the Dalit People’s Development in Nepal), 1957<sup>16</sup>**

In the beginning, there was fraction within this organisation. One organisation appeared in Chitwan and another appeared in Kathmandu. From within this organisation, Rup Lal Biswakarma, Lal Bahadur Pariyar, Prem Kumar Biswakarma, Saharshanath Kapali, Hira Lal Biswakarma, Mohan Lal Kapali, T.R. Biswakarma, Ganga Bahadur Pariyar, Khadga Bahadur Biswakarma, Jawahar Kapali and Bichchhe Varma Kapali played active roles to abolish practices of untouchability and racial discrimination. In 1970, this organisation began publication of the *Dalit Awaj* (*Dalit* Voice) magazine edited by T.R. Biswakarma. In order to unify *Dalits* further, a first National Convention was held in Kathmandu on 11 January, 1972. This was a highly significant event in the history of the *Nepali Dalit* social movement.

### **16. Humin Sangharsha (Humin Movement)**

Humin *Sangharsha* is regarded as an organized movement against racial aggression in Humin of Palpa district. It has also played important role in *Dalit movement*.

### **17. Dharmashalabata Paani Aphai Jhikera Khane Sangharsha (Movement of Taking Water Oneself from an Inn)**

This movement was conducted at Khidim of Arghakhachi in 2029 B.S. challenging the practice of untouchability existing in the society. In this movement, many agitators were arrested.

### **18. Relimai Sanskritik Mandal**

This organized movement was conducted at the leadership of Gopal Kaliraj and Shankar Kapali taking special help of progressive litterateur and author Modnath Prashrit against feudalistic oppression during *Panchayati* dark night. This movement is also regarded as *Sanskritik Jagaran Abhiyan*.

### **19. Samaj Sudhar Manch (Forum for Social Reform), 1979<sup>17</sup>**

The credit to form this organisation goes to Shankar Biswakarma, Padam Lal Biswakarma, Chitra Shikaru, Hiralal Biswakarma, Tilak Shankar and Man Bahadur Biswakarma. To assist in establishing democracy was main objective of this organisation. The belief underlying this objective was that if once democracy was established, there could be caste liberation. This organisation published a newsletter called *Pratinidhi* (Representative)

### **20. Pachhaute Jaati Sudhar Sangh (Association for Backward Caste Reform), 1980<sup>18</sup>**

Manohar Roka established this organisation in Morang in 1980. However, it played no discernible active role in any movements and ceased to be active.

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17 *Supra* Note No. 4, P. 98.

18 *Supra* Note No. 4, P. 99.

**21. Nepal Atipichhadiyako Jana Bikas Parishad (Council for the Development of Extremely underprivileged people in Nepal), 1981<sup>19</sup>**

This organisation was formed under the coordination of Narayan Kapali with Dhal Bahadur Biswakarma and Hira Lal Biswakarma in 1981. But this organisation also disappeared quickly.

**22. Nepal Rashtriya (Dalit) Samaj Kalyan Sangh (National Association for Social Welfare in Nepal), 1982<sup>20</sup>**

The Nepal *Rashtriya Jana Bikash Parishad* merged into this organisation. The Nepal *Rashtriya Samaj Kalyan Sangh* was reorganised and become the Nepal *Rashtriya Dalit Samaj Kalyan Sangh*. The organisation claims that exploited and oppressed *Dalit Communities* need to be made aware through education. They have demanded that *Dalit Communities* be given economic, political, administrative, education and cultural reservations by the state.

This association has identified that literacy; poverty and *Brahmanism* are the enemies of the Nepali *Dalit* social movement. It emphasized the need for constitutional and peaceful struggle. It supports maintaining the status quo instead of radical political transformation. It envisions a unified movement whereby *Dalits* and non-*Dalits* would work together. The leader of this association states that religious conversion will not help the problem of discrimination.

**23. Niradhar Sewa Samiti (Baseless Service Committee)**

This committee was established in Baitadi in 2039 at the leadership of Gopal Ram Damai and Puran Singh Dayal. It was against *Doli Pratha* (Palanquin custom).

**24. Chhuwachhut Mukti Sanghathan (Association for the Liberation from Untouchability), 1983<sup>21</sup>**

On the chairmanship of Bal Bahadur Khati, this organisation was formed in 1983 which merged with the *Utpidit jatiya Utthan Manch* in 1990.

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19 *Supra* Note No. 4, P. 99.

20 *Id.*, pp. 99-100.

21 *Supra* Note No. 4, P. 100.

**25. Jatiya Bibhed Unmulan Manch (Forum for the Eradication of Caste Discrimination), 1987<sup>22</sup>**

Megh Bahadur Biswakarma coordinated the formation of this organisation. This organisation arranged a conference which brought together rival leaders of the *Dalit* leaders of the *Dalit* organisations to discuss issues related to Nepali *Dalit* liberation. A campaign for a *Dalit* scholarship fund was also successfully started by it. After the first conference, it did not move forward.

**26. Utpidit Jatiya Utthan Manch (Forum for the Upliftment of the Downtrodden Castes), 1988<sup>23</sup>**

Golchhe Sarki coordinated with others on December 17, 1988 in Kathmandu to establish this organisation. In 1990, this organisation stated "for us oppressed *Dalits*, our enemy is feudalism culture, feudalism tradition and feudalism religion as well as the reactionary laws and legal systems and the reactionary systems which maintain them." There are class divisions in every society. One class is always suppressed and another class is economically, politically, socially and religiously higher. To become free from this, class struggle must be fought, in the 1990 people's movement, this organisation published an appeal to support and become involved in the people's movement. On May 18, 1990, the organisation presented twenty-five point demand letter before the interim government, political parties and others for the elimination of practices of untouchability from the society. The Nepal *Rashtriya Dalit Mukti Morcha*, the *Utpidit Janajati Mukti Morcha*, the *Chhuwachhut Mukti Sangh* were formally integrated into this organisation. On March 20, 1993, this organisation integrated with the Nepal *Rashtriya Dalit Jana Bikas Parishad* and was reorganized as the Nepal *Utpidit Dalit Jatiya Mukti Samaj* marking the end of this organisation.

**27. Dalit Chhatrabritti Kosh (Dalit Scholarship Fund)**

With the activeness of an intellectual Moti Lal Nepali and Kamala Hemchuri, *Dalit Chhatrabritti Kosh* was established in 2045 collecting some amount at finance company. From the interest of this amount *Dalit* students have been benefiting.

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22 *Supra* Note No. 4, P. 100.

23 *Ibid*, pp. 100-103.

## **28. Utpidit Jatiya Utthan Manch (Forum for Upliftment of Downtrodden Castes)**

From a meeting held in Kathmandu in 2045 Poush 3, in the leadership of Golchhe Sarki, this forum was established. This forum was stood in favour of Historical Peoples' Movement of 2046 demanding social justice, equality and restoration of democratic system. *Dalit Mukti Morcha* of Rupandehi, *Nepal Rashtriya Mukti Morcha* of Jhapa and *Chhuwachhut Mukti Sangathan* of Kathmandu were merged in this forum. After adjustment of these organisations, this forum became more powerful for *Dalit movement*. This forum was affiliated with the then CPN (ML).

## **29. Jatiya Samata Samaj (Society for Caste Equity), 1989<sup>24</sup>**

This organisation was established as an affiliated organisation of the CPN (*Masal*). In the first National Convention held in October 1995, this organisation declared that the problems of casteism are the problems of all Hindus, non-secular nature of the Nepali state undermined community welfare *Dalit* problems should be understood in terms of class *Dalit* reservations have been an historical necessity, caste discrimination and untouchability are the products of capitalism, the main obstacles for *Dalit* liberation were Nepal's feudalist and Hindu Brahmanist culture. For this purpose, structural Change is necessary. Second National Convention of this organisation was held in Butwal from November 23-25, 1999. Out of the convention came the demands that *Dalits* be given 20% reservations in government and semi-governmental services, in technical and higher education, and in local and parliamentary elections. The then M.P. Dilaram Acharya also presented a proposal that the government should pass a crime and punishment law related to untouchability. This organisation has published numerous documents and booklets along with the *Samata saptahik* and *Samata Sandesh* newsletters. It has also carried out many activities including anti-untouchability public awareness programmes, *Dalit* reservation movements, arranging public feasts, temple entry movements, common water resource use movements, seminars and peoples' culture campaigns.

This organisation views that Nepali Society as semi-feudalistic and semi-colonial. It recognizes feudalism as the main factor maintaiing

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24 *Supra* Note No. 4, pp. 103-104, 136-137, 140-141, 149, 151-152.

casteism, and further explains that casteism and feudalism among *Dalits* as the main enemy for the Nepali *Dalit Social* movement. The *Samata Samaj* argues that peaceful, legal, social and possibility of armed struggles are aimed towards *Brahmanist* culture and tendencies. Problems of *Dalit* oppression can not be solved permanently through the existing government rule. There will be accountability in achieving the *Dalit* rights, equality and upliftment through class struggle leading to the establishment of the peoples' own state system.

The *Samata Samaj* maintains that the present system of government will never be able to forge an egalitarian society. The long term aim of this organisation is to put an end to the state system and build an egalitarian society whereby *Dalits* would have financial, social position through socialism. Targets of this *Samaj* include "putting an end to caste system and establishing an egalitarian Society. It has a stated policy of working together with other *Dalit* organisations on common issues. This organisation adheres to dialectical and historical materialism. It has also developed a policy to build international relationship.

The *Samata Samaj* views reservations as an historical necessity. It recognizes implementation of reservation as a temporary, immediate and very important reform but not a permanent solution. This organisation also states that *Dalit* liberation cannot be achieved by establishing a political party but that social change must be carried out through social movement. It claims that no caste groups have established political parties because such parties would become overly communal and casteist. It claims that this is why *Dalits* must make themselves a branch of the Marxist-Leninist Revolutionary Party that struggles uncompromisingly for social change against the reactionary forces. This *Samaj* says that through religious conversion, *Dalits* will not find solutions to their social, economic and political problems. Conversions will not bring change in the *Brahmanist* attitudes of Hindu society. Instead of religious conversion, the Nepali *Dalit Social* movement must focus on social changes. Religious secularism is supported by it.

**30. Nepal Rashtriya Dalit Mukti Morcha (National Front for Dalit Liberation in Nepal), 1990<sup>25</sup>**

Rohit Hingmang is the founder of this organisation. This organisation was established in Jhapa district in 1990 to support the 1990 Peoples' Movement. Later, it was integrated into the *UJAU* Manch.

**31. Utpidit JanaJati Mukti Morcha (Front of the Liberation of Downtrodden Castes and Ethnic Peoples), 1990<sup>26</sup>**

This organisation was established in Rupendehi district in 1990 to support the 1990 People's Movement and was integrated into *UJAU* Manch.

**32. Vikashonmukh Samaj Sangh (Association for a Development Oriented Society), 1991<sup>27</sup>**

This organisation was established by Ratna Bahadur Biswakarma as Nepali congress (NC) affiliated organisation. The NC nominated him to the National Assembly after the general election in 1991. Then, it became impossible for him to continue the work due to his busy schedule and the organisation became inactive.

**33. Nepal Dalit Utthan Sangh (Association for Dalit upliftment in Nepal), 1991<sup>28</sup>**

This organisation was established by Dalbir Biswakarma in 1991 which was also affiliated with NC. It couldn't progress as it was envisaged.

**34. Nepal Utpidit Dalit Jatiya Mukti Samaj (Society for the Liberation of Downtrodden Dalit Castes in Nepal), 1993<sup>29</sup>**

This is the integrated form of *Nepal Rashtriya DalitJana Bikash Parishad*, Prem Nepali Group from the *Jatiya Samata Samaj* and the *UJAU* Manch. The establishment of this newly integrated organisation marked a significant unifying effort in the history of the Nepali *Dalit* social movement. The First United National Convention was held in Butwal from February 13-15, 1995. After the Convention, the *Mukti Samaj* continued large and small scale

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25 *Supra* Note No. 4, P. 104.

26 *Ibid*, P. 105

27 *Id.*

28 *Supra* Note No. 4, P. 105.

29 *Ibid*, pp. 105-107, 136-138, 141-142, 147, 149, 151, 154.



movements against untouchability and caste discrimination. Among these movements were:

- Demand for official apologies for untouchability practices at Chitawan's *Kotihom Parba*
- The Ganesh temple entrance movements in Nawalparasi (2047 B.S.)
- Milk collection movement in Chitwan (2050 B.S.)
- Milk Collection movements in Syangja and Gaidakot (2050 B.S.)
- Public water source use movements in Sindhupalchowk and Kavre
- The Gorakhkali temple entry movement (2050 B.S.) in Gorkha where three hundred years old traditional wall was broken down
- Sipapokhari well- water lifting up program (2050 B.S.)
- Demand of reservation and a separate national level commission for *Dalits*
- Exertion of pressure against slavery and caste discrimination.

This shared organisation was broken down in different groups. Leftists were supporters of this organisation. The Second National Convention was held in Kathmandu from February 13-15, 1999. The focus of this convention was to put an end to *Brahmanism*, capitalism, attaining full freedom, secular religion and reservation for *Dalits*. At both National Convention, Padam Lal Biswakarma had chaired. On the leadership of this organisation, in 2054, Poush 5 in Kavre district, *Moharia Kuwako Paani Ughau Sangharsha* was launched. It shows historical role of this organisation.

This organisation views Nepali Society as feudalistic based on Hindu class division. The organisation has also called it as a poisonous society consisting of those who are 'touchables' and those who are 'untouchables', with further class division into groups and sub-groups. This organisation has indentified the primary oppositions or enemies of the Nepali *Dalit* social movement as Brahmanism and Feudalism. It has stated that the existing Nepali state system is a casteism system which is based on

caste system of Hindu religion. It pleads that *Dalit* liberation movement should maintain correlation with the political liberation movement in fact. That means that this movement is to be linked with the movement of radical change and cultural movement. Actually, this organisation wants that both caste and class struggle should be launched together. Radical, anti-feudalist and anti-imperialist movements and cultural revolution must be fought side by side with the Nepali *Dalit* social movement. The *Dalit Mukti Samaj* articulates its broad target as caste equality and socialism. This organisation adheres to Marxism and Ambedkarism.

*The Dalit Mukti Samaj* has attempted to build networks among international *Dalit* caste organisations. They have shared experiences, got support and have participated in various international forums with the intention of raising broader awareness about the Nepali *Dalit* social movement. This organisation asserts that reservations are absolutely necessary in the present social economic and political structural context in order to increase capacity among *Dalit* communities. As *Dalit* communities have been victims of state repression, so they must be given reservations as compensation by the state. Reservation is an immediate absolute necessity. It must be made in every area, but for specific time periods only. This organisation states that *Dalits* should not form a political party. Independent organisation should be established by *Dalits* maintaining working relationship with political parties. It says that religious conversion is a reformist idea and that it will not put an end to caste discrimination and untouchability.

### **35. Rastriya Prajatantrik Utpidit Jana Utthan Sangathan (National Democratic Association of the Upliftment of the Downtrodden), 1992<sup>30</sup>**

This organisation was established by Ram Kumar Biswakarma in 1992 as an affiliation to the Rastriya Prajatantra Party (RPP). It recognizes the contribution of King Mahendra as a leader of the Nepali *Dalit* social movement. The main objectives of this organisation are:

- To raise *Dalit* standards of living in economic, social, political, educational cultural, health and religious spheres and in terms of inter-caste marriages

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30 *Supra* Note No. 4, pp. 107, 142-143, 150, 152.

- To help landless people who have been engaged in caste-based wage labour
- To prevent loss of traditional occupational skills and to modernize these skills

This organisation views those orthodox superstitions as the main enemy of the Nepali *Dalit* social movement. It indicates that the struggle should be constructive. It has expressed its positive support for a unified Nepali *Dalit* social movement. It describes its espoused political philosophy as materialist. To promote good relations with national and international organisations and associations are its objectives.

This organization has set an objective working to have a population based proportionate 25% reservation in areas including recruitment in the Nepali army, the police, the civil service and in various institutions and all departments. It says that there is no need for *Dalits* to form an independent party but that they must work in close relation with particular political parties. The movement should be centralized in villages and remote areas, says this organisation. It states that religious conversion will not help the problem of discrimination. It is an affiliated organisation to the RPP. It believes that *Dalit* justice can be won through minor social reforms. It targets complete eradication of caste discrimination through implementation of reservations through inclusion of *Dalits* in political activities and through gaining *Dalit* entry into public places.

### **36. Nepal Dalit Shramik Morcha (Dalit Labour Front in Nepal, 1996<sup>31</sup>)**

In 1996, Rup Lal Biswakarma established the *Nepal Dalit Shramik Morcha* (NDSM) in Kathmandu. All of the Nepali *Dalit* social movement organisations that had been established as independent social organisations or political party affiliated organization came under it. This organisation was different in the sense that it had a political motive. To unify *Dalit* people, oppressed or neglected labourers and to oppose caste discrimination, racism, untouchability, etc. is its main objective. This organisation actively

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31 *Supra* Note No. 4, pp. 107-108, 136-137, 139, 151, 153-154.

participated in the election of Constituent Assembly held on 28 Chaitra, 2064.

This *Morcha* views Nepali society as bound by a feudal culture maintaining a system of slavery. Uncultured customs of the *Dalit* themselves as the major enemy of the Nepali *Dalit* social movement. The form of struggle should be one which will awaken cultural consciousness and marshal self-respect and moral knowledge. It says that only in an egalitarian social system will the full solution to *Dalit* caste problems, be possible. An egalitarian society can be built through scientific methods. The final target of the *Morcha* is to establish a noble society, achievable through eradicating the harmful customs within. It has accepted dialectic materialism. A policy to build international relationships on the basis of broad principles of international relations has also been established by this *Morcha*.

The *Nepal Dalit Shramik Morcha* believes that the movement should be centralized in creating cultural and educational consciousness. It says that religious conversion is *Manko Laddu Ghuu Sanga Khanu ho*, meaning that it is superficial change only. *Dalits* should establish their own separate political parties and gain governmental power by winning elections. The *Nepal Dalit Shramik Morcha* and its leader Rup Lal Biswakarma are the main proponents of this school of thought. An objective of *Nepali Dalit Shramik Morcha* is that the political status of *Dalits* be established through formation of a separate party.

### **37. Utpidit Jatiya Chetna Sangh (Association for Awareness of Downtrodden Castes) 1996<sup>32</sup>**

Golchhe Sarki chaired a meeting on June 21, 1996, which established this organisation. The organisation's main aims are:

- To help *Dalits* to become literate
- To raise *Dalits* for self respect
- To help *Dalits* to become complete citizens
- To increase *Dalit* capacity to break the chains of caste discrimination
- To create a powerful body of *Dalit* manpower

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32 *Supra* Note No. 4, pp. 108, 136-137, 149, 151.

The first national meeting of this organisation was held on March 20, 1997 where there were about two hundred and fifty representatives from twenty seven districts and observers as well. In this meeting, eighteen recommendations were made and Submitted to the government led by the then Prime Minister Lokendra Bahadur Chand. One such recommendation stated that no party should ever exploit *Dalits* as vote banks. Additionally, a proposal level commission to address *Dalit* problems and their solutions.

This association views Nepali society as a feudal society based on and ravaged by inhumane practices of casteism and untouchability. Feudalistic state power is the main enemy while a primary area of opposition for the Nepali *Dalit Social* movement is Hindu feudalistic culture and pride. It has said struggle must be peaceful and only a socialist state system can bring about caste equality. To eradicate caste discrimination and untouchability is its ultimate target. In this regard, it has formed action plans. This association has accepted multi-party people's government as political philosophy. Its policy international affiliated organisations working against caste discrimination and untouchability.

Leaders of this association opine that there should be *Dalit* reservation in every area, with maximum reservations for the most backward among the *Dalits* like the *Halkhor*, *Dushadh* and *Musahar*. They have used the term "protection" for *Dalits* as opposed to "reservatoin." The *Utpidit Jatiya Chetna Sangh* says that *Dalits* must not form separate party but must rather cooperate with political parties that support social change. This *Sangh* believes that the Nepali *Dalit* social movement should be focused on publicity, broadcasting and linking to the human right movements. Religious conversion is not the answer to *Dalit* problems but that *Dalits* must fight for religious secularism, say the leaders of this *sangh*.

### **38. Dalit Jana Samaj (Oppressed People's Society)**

At an interrogation of *Dalit movement*, in 2053 B.S., in Parbat district, under the chairmanship of Chhabi Lal Darji, this organization was established. In the leadership of this organisation, in 2055 B.S., Historical *Karkineta* Temple Entry Movement in Parbat was launched. *Hamro Halkhabar* (Our Current Affair) is its newspaper.

**39. Nepal Dalit Sangh (Association of oppressed people in Nepal), 1997<sup>33</sup>**

The *Vikasonmukh Samaj Sangh* and the *Nepal Dalit Utthan Sangh* had integrated in 1991 but the restructured organisation was renamed the *Nepal Dalit Sangh* only in 1997. It is an NC affiliated organisation. Its objectives are as follows:

- To protect *Dalit* rights
- To promote *Dalit* welfare in different parts of Nepal
- To preserve nationalism, democracy and socialism in order to create an egalitarian society.

This association views Nepali society as fractured into many pieces. It identifies that ignorance and lack of knowledge as the chief enemies of the Nepali *Dalit* social movement. It indicates struggle should be legal and democratic. It maintains that caste equality can be gained through reforms within multiparty democratic system of governance.

This association targets establishing an egalitarian society, by organizing *Dalits*, raising awareness, eliminating superstitious beliefs, bringing about economic reforms, making *Dalits* aware of their rights and moving forward with the democratic forces. It adheres to a philosophy of democratic socialism; It has set its policies in the terms of international level interactions and relationships.

It has made indirect demands for *Dalit* reservations, maintaining that *Dalits* have proportionate representations in every area of national life.

**40. Nepal Utpidit Jatiya Mukti Samaj (Society for the Liberation of Downtrodden Castes in Nepal), 1998<sup>34</sup>**

Chhabi Lal Biswakarma chaired a National Convention of this newly established organisation on January 23-25, 1999 in Pokhara. At this time, the word '*Dalit*' was officially deleted from the *Nepal Utpidit Dalit Jatiya Mukti Samaj*, forming the *Nepal Utpidit Jatiya Mukti Samaj* (NUJMS), 1999. It declared its affiliation to CPN (UML).

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33 *Supra* Note No. 4, pp. 108-109, 143,150.

34 *Supra* Note No.4, pp. 109, 148.

This *samaj* views Nepal society as feudalistic and divided by class. It has emphasized peace stressing the need for long term social reforms. It targets the establishment of an egalitarian society. It has also expressed its vision of working together to maximize benefits for the oppressed people. It accepts the CPN (UML)'s multi-party people's government as its political guideline.

The *Mukti Samaj* (Chhabi Lal Group) emphasizes its good relationships of organisations fighting for freedom from caste discrimination and untouchability. It advocates that progressive reservations should be given by the state through constitutional methods and should be at each level and cultural areas. It sees the necessity of cultural revolution.

#### **41. Nepal Dalit Mukti Morcha (Front for Dalit Liberation in Nepal), 1998<sup>35</sup>**

*Nepal Dalit Mukti Morcha* stands against the Hindu feudalist state and maintains that the *Nepali Dalit* social movement must retain its radical nature. This organisation supports the CPN (Maoist) political ideology and claims that it would open the door of liberation by building a new people oriented state system. This organisation has agreed upon and officially passed the following resolutions:

- *Dalit* liberation is not possible through organisations limited to social institutions. So, all the *Dalit* communities and all the progressive classes must get organized politically as a united political front;
- A new people oriented cultural revolution is to function continually against the Hindu feudalist culture;
- The freedom of *Dalit* community is only possible through a new people oriented system that targets the very establishment of this system;
- The new people oriented revolutionary system needs to be supported and assisted;
- Special authority has to be demanded in the place of reservations;

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35 *Supra* Note No. 4, pp. 109-110, 136-137, 139, 150-154.

- *Dalit* killed in the people's war should be acknowledged as martyrs;
- Election of those who dominate the oppressed community, who make the country poor, who are corrupt and immoral and who prostitute themselves to satisfy their selfish desires should be boycotted.

A press statement was released by this organisation saying that *Dalit* liberation is impossible until political power comes into the hands of *Dalits*. Only after the new people's revolution, *Dalits'* lost rights will be returned. State power, economic oppression, inhuman cultural and psychological oppression casteism within the *Dalit* community itself, lack of unity between *Dalits* and the working class as well as submissiveness and opportunism within *Dalits* are the basic problems of the *Dalit* community as identified by this organisation.

This organisation views contemporary Nepali society as maintained solely to protect the power and society of so-called Hindu high caste feudal bureaucrats and capitalists. It identifies the main conflicts as being between the *Dalit* working class and feudalistic *Brahmanism*. The *Mukti Morcha* has said that the present multi-party parliamentary state power protects the interest of the so-called Hindu high caste feudalism-classes and the bureaucratic capitalist classes.

The *Mukti Morcha* opines that the caste problem will only be solved through a new people's economic, political, cultural and social system. It articulates its aim as creating a socialistic society. This organisation wants to work with any *Dalit* organisation opposed to feudalism and imperialism. It adheres to Marxism, Leninism and Maoism.

The Nepal *Dalit Mukti Morcha* asserts that reservations do not help in the fight for *Dalit* liberation. It believes that the concept of reservations has been manufactured by opportunistic *Dalit* organisations that are interested only in power and are pandering to feudalistic reactionaries. Reservations may play some role in raising consciousness among *Dalit* communities but that should not be the most important goal of the Nepali *Dalit* social movement. The *Mukti Morcha* believes that it will be impossible to destroy imperialistic feudalism which has been in the grip of state power for hundreds of years unless the Nepali *Dalit* social movement works



with the parties that aim to bring people's government. The movement should prioritize poetical, economic, educational and cultural areas. The religious conversion is simply status quo which in reality moves from one bad situation to a worst situation.

#### **42. Prajatantrik Dalit Sangathan (Democratic Dalit Association)<sup>36</sup>**

In 1998, Pratap Ram Lohar, Chairman of the Nepal *Rashtriya Dalit Kalyan Sangh*, established the *Prajatantrik Dalit Sanghathan* as an RPP-affiliated organisation. Uttam Kumar Pariyar was the Vice-Chairman and Trilochan Biswas was the Secretary.

#### **43. Nepal Dalit Utthan Manch (Front for Dalit Upliftment in Nepal), 2000<sup>37</sup>**

The Sadbhawana Party issued a press statement on August 1, 2000 announcing the formation of the party affiliated to the *Dalit Utthan Mancha*. Bisheshwor Rajak was the Chairman and there was a nine member team consisting of Inari Ram as the General Secretary, Ganesh Paswan as the Vice-Chairman and Ram Nath Baitha as the Treasurer.

#### **44. Dalit Sewa Sangh (Dalit Service Association)**

Among *Dalit NGOs*, it is considered as an association providing a dose of medicine relatin to intelligence and notion to *Dalit* movement. It has been providing moral pressure to the government regarding *Dalit* upliftment. It is that association which first time conducted "*Dalit* Public Awakening Radio Program" to spread aware of consciousness at *Dalit* cultural sector. Meetins, seminars, workships, interaction programmes and other types of functions have been conducted at the reaction of caste based untouchability, prejudice and discrimination.

#### **45. Feminist Dalit Organisation (FEDO)**

This organisation is looked as the first representative *Dalit NGO* as the favour of upliftment of *Dalit* women. "*Dalits of Nepal: Issues and Challenged*" is its important publication which is compiled and edited by Prabodh M. Devkota.

FEDO was founded in 1994. It is the first and the only of its type in the whole nation, which represents the *Dalit* women, their voices

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36 *Supra* Note No. 4, P.111.

37 *Supra* Note No. 4, P. 111.

their concerns and addresses their needs. Even after the restoration of the democracy, *Dalit* and *Dalit* women's situation has remained unchanged. Their political, economic and social conditions are still dominated by the illness of caste discrimination. In this context, the situation of the mass Nepali women is even more deplorable. They suffer from both caste and gender discriminations<sup>38</sup>. In this regard, the role of this organisation is vital.

#### **46. Jana Utthan Pratishan (Academy for Public Upliftment)**

*Jana Utthan Pratisthan* (JUP) is a national organisation for human rights, socio-economic development and environment. It is established in 2051. The objectives of the registered organisation JUP are<sup>39</sup>:

- To raise voice against racial and caste discrimination;
- To remove superstitions and social injustices;
- To control environmental deterioration;
- To respect human rights;
- To see that the resolutions of the committee for the elimination of all forms of racial discrimination are implemented by the government;
- To raise voice for the *Dalits* in the World Conference Against Racism being held in 2001 and in the CERD meeting held in Geneva, Switzerland and other International Forums; and
- To plan a regional level campaign in all the five development regions of Nepal in partnership with local NGO's and CBO's.

JUP, being a coordinator of National NGO Preparatory Committee (NDNPC), was presented on the first Pre Com-meeting and UN, CERD. To fulfill its objectives, JUP has used mass media, advocacy programmes, has published a newsletter, books and

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38 Prabodh M. Devkota (ed.), (2002), *Dalits of Nepal: Issues and Challenges*, Lalitpur: Feminist *Dalit* Organisation, Publisher's Note.

39 D.B. Sagar (ed.), (2001), *Dalit in Nepal and Alternative Report for WCAR-2001*, Kathmandu: Jana Utthan Communicative Network) and Jana Utthan Pratisthan, External Cover of Backside.

broadcast the website for the same. JUP's publications are as follows:

- Nepalma Dalit Manabdhikarko Avastha -2004 Ra Kanooni Vyavastha (Situation of Dalit Human Rights in Nepal-2004 and Legal System)
- Nepalma Jatiya Bhedbhavko Avastha ra Yasko Vishwavyapi Sandarbha (Situation of Racial Discrimination in Nepal and it's Global Context)
- Dalit in Nepal and Alternative Report for WCAR-2001
- Jana Utthan
- Dalit Solidarity, etc.

#### **47. Dalit NGO Federation (DNF)**

DNF is regarded as a National Network of *Dalit* organisations. Recognizing the necessity for *Dalit* NGOs to fight together against caste-based discrimination, active *Dalit* organisations established DNF in 1996 as an umbrella organisation. DNF has an executive committee democratically elected by its member organisations (MOs) and has five regional chapters as well as about 200 MOs in 50 districts of Nepal. That *Dalits* can live with respect and dignity in a discrimination-free society is its vision, and eradicating caste-based discrimination through the process of empowerment, networking and alliance building of *Dalit* and pro-*Dalit* institutions is its mission. The main objectives of DNF are as follows<sup>40</sup>:

- To unite and strengthen the capacity of MOs to improve services for the *Dalit* community;
- To build strong national and international alliances and networks for *Dalit* human rights;
- To develop itself and its MOs through organizational development and fund raising; and
- To increase awareness and activism for *Dalit* human rights through advocacy lobbying and publicity.

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40 Ethel Maamo and Raymond Brandes (ed.), (2005), *International Aid and Dalit Communities in Nepal*, Kathmandu: Dalit NGO Federation, External Cover of Backside.

Among Subjective divisions of DNF, Legal Aid and Advocacy Division (LAAD) is considered as an important division. The functions of LAAD are as follows<sup>41</sup>:

- To provide free legal aid at legal problem to *Dalit* community;
- To raise Public Interest Litigation (PIL) in favour of *Dalit* community;
- To play counselable role removing legal provisions regarding untouchability and racial discrimination as well as enacting necessary laws;
- To provide suggestion and counseling freely at recent legal problems to *Dalit* community from help-line telephone, doing mediation by reaching upto the place of incident and keeping its data in computer;
- To publish books of legal awareness and consciousness for *Dalit* community
- Being CERD sb-Coordinator at HRT-MCC, to coordinate with its members such as DWO, FEDO, JUP-Nepal, NTC, JMC, LANCAU, LAHURNIP for data collection, report preparation and attention with recommendation to the concerned body.

DNF's research publications are as follows:

- International Aid and Dalit Communities in Nepal
- Reservation Modality for Dalit community in Nepal
- DalitSawalma Sarvajanik Sarokarka Muddaharu Ra Sarvochha Adalatko Bhumkia (Public Internat Litigations at Dalit interrogation and Role of the Supreme Court), etc.

In 2061 B.S., DNF LAAD has prepared propped draft Bill on the amendment of the constitutiondom of Nepal, 2047 and Mainstreaming of *Dalit community* through Reservation Act, 2061.

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41 Gormati Sunar et.al., *Dalit Sawalma Sarvajanik Sarokark Muddaharu Ra Sarvochcha Adalatko Bhumika*, Kathmandu: *Dalit NGO Federation Legal Aid and Advocacy Division*, External Cover of Backside.

**48. Nepal Swatantra Dalit Vidhyarthi Sangathan (Nepal Independent Dalit Student's Union)**

This union is established for the benefit and upliftment of *Dalit* Students. It has taken short term and long term aims to eradicate untouchability and racial discrimination within educational sector. *Utpidit Vidhyarthi Awaj* (Voice for Oppressed Student) as a face sheet is an important publication of this union.

**49. Rastriya Samyukta Dalit Mukti Morcha (Front for the Liberation of National Joint Dalit)**

This front is established by the struggle of *Chamar* community of Saptari and Siraha district of Nepal. It believes that no protection, reservation is needed to *Dalit* and no vote but must probe bruise to political parties at further election.

**50. Dalit Manav Adhikar Tatha Jatiya Bhedbhav Sarokar Kendra (Dalit Human Rights and Centre for the Concern of Racial Discrimination)**

This centre is considered as one of the *Dalit* NGOs which is fighting to respect human rights of downtrodden, oppressed, neglected and backward castes as well as to eliminate practices of untouchability and racial discrimination.

**51. Nepal Dalit Samaj Sudhar Vikas Parishad (A Council for Reform and Development Dalit Society in Nepal)**

This council argues that there should be reservation to the *Dalits* at Judiciary, legislative, executive and political sector. Without reservation, *Dalit* upliftment is impossible.

**52. Rastriya Dalit Buddhijivi Pratisthan (National Learned Dalit Academy)**

This academy was established through large congregation of graduates and reputed personality in national life of *Dalit* community, Dr. Madan Pariyar, advocates Kailash Sashankar, Yam Bahadur Kisan, Dr. Chet Bahadur Pariyar, Lecturer Man Bahadur B.K. are the founders of this academy.

**53. Lawyers' National Campaign Against Untouchability (LANCAU) Nepal, 2002**

LANCAU Nepal is a non-profit, non-governmental civil society organisation committed to the elimination of untouchability and other forms of caste-based discrimination in Nepal. It is a forum of

lawyers belonging to various Nepali communities (*Dalits* and non *Dalits*). It was established in 2002 with the vision: "A nation where not a single person remains untouchable", with the mission: "Prepare all citizens to end the crime of untouchability", and with the goal: "Elimination of the crime of untouchability and all forms of untouchability-based discrimination". Since its establishment, it has been involved in advocacy and sensitization programmes for the wiping out of untouchability and caste based discrimination. It performs innovative campaigns against such discrimination and for the promotion of human rights and social inclusion of the *Dalit* community. It particularly focuses on the issue of untouchability. Its major concern is to root out untouchability from the society. It formulates its *Dalits* and with rights based participatory approach. This organisation feels proud to have expertise in advocacy and publication and broadcasting of TV and radio programmes.<sup>42</sup>

LANCAU Nepal has stood to fight for equality, justice and dignity of untouchability victims. UNELOs in eight districts, UCWCs in 15 districts and other various NGOs working for the elimination of untouchability in Nepal, the British embassy, DANIDA/HUGOU and ICCO are its partner organisations. In the form of tools: consultation and workshops, district networks, awareness campaigns, mass media, research and publications and in the form of methodology: advocacy, are done by LANCAU Nepal.

The objectives of this organisation are<sup>43</sup>:

- To launch programmes in a way that would encourage all lawyers across the country to work for the implementation of the United Nations Convention on Elimination of all forms of Racial Discrimination (UNCERD), 1965;
- To extend assistance in creating an environment required for the implementation of the provisions against untouchability as provisioned in 2063 Interim Constitution;
- To launch programmes in line with the plans and programmes set by the third Conference against Racism held in Durban, South Africa in 2001; and

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42 LANCAU Nepal, *Annual Report 2005/06*, Kathmandu: Lawyers' National Campaign Against Untouchability, P.1.

43 *The Brochure of LANCAU Nepal*.

- To conduct study and research implementation aspects of UNCERD.

LANCAU Nepal's research and publications are:

- *A Case Study with Equality Perspective on Status of Distribution of Drinking Water and Nutritious Food, Status of Text Books and Implementation of Legal Provisions for Eliminating the Crime of Untouchability*
- *A Fact Finding Report on Intra-Dalit Discrimination*
- *Untouchability Elimination Campaign*
- *Legal Hand Book for Victims of Untouchability*
- *Judiciary Against Untouchability*
- *Chhuwachhut Unmulan Abhiyan (Campaign for the Elimination of Untouchability)*
- *The Constitution of New Nepal (Proposed)*
- *The National Social Justice Commission Act, 2007 (Proposed)*
- *The Dalit Empowerment Academy Act, 2007 (Proposed)*
- *The Caste-based Untouchability Crime (Control and Punishment) Act, 2007 (Proposed)*
- *Collection of Documents Regarding Untouchability, Elimination (Part-1)*
- *Pocket Calendar*
- *Wall Calendar*
- *Ballet (Wall Mount)*
- *Annual Report 2004 and 2005/06*

LANCAU Nepal has already conducted workshop on the roles of political parties, teachers, religious organisations, media, civil servants, non-government organisations, *Dalit* community, government attorneys, legal and judicial sector, National Human Rights Commission, police, industrialists and businessmen, etc. to establish social justice. PIL cases have been filed against the government by LANCAU Nepal elimination of practices of untouchability and for upliftment of *Dalits*. LANCAU Nepal has declared Untouchability Elimination Year -2005 and

Untouchability Elimination Decade 2005-2015 on the basis of Law Professionals Kathmandu Declaration 2004 and Political Parties White Paper 2004.

#### **54. National Coalition Against Racial Discrimination (NCARD)**

NCARD is an action-oriented, independent non-governmental network. It was established as an alliance of various groups including *Dalits* suffering from racial and other forms of discrimination. It is a Post –Durban follow up network born out of the National Preparatory Committee formed for the UN World Conference against racial discrimination, Xenophobia and related intolerance, Durban South Africa in 2001. It focuses on campaign and movements rather than projects. Major roles of NCARD rely on implementation of World Conference against Racial Discrimination (WCAR) in its Program of Action (POA). Its vision is to extremely oppose all forms of racial discrimination prevailing in Nepal and the mission is to work towards the elimination of all forms of racial discrimination and other discrimination, Xenophobia and intolerance against all the persons, groups and communities in Nepal. The main objective of NCARD is to come up with periodic action plan related to various victim groups in that the whole NCARD network movement can be directed to reducing inequality, injustice and intolerance with proper means.

The specific objectives of it are as follows<sup>44</sup>:

- To increase awareness about racial discrimination and its consequences among the discriminated groups/victims and civil society;
- To implement the WCAR POA at local and National level;
- To network with NGOs working in the area of anti-racial discrimination as to develop solidarity and collective pressure of the concerned agencies;
- To organize interactions among victims, civil society, politicians, media persons and other individuals in order to better understand and address racial discrimination issues in Nepal;



- To follow the WCAR POA as to fight for equality and dignity;
- To prepare concrete periodic action plan on concerned issues of victim groups;
- To perform the effective activities towards new constitutional building process that ensures cultural plurality of Nepal; and
- To carry out various programmes concerned with elimination of racial discrimination like study, research, meeting, conference, publication, training, campaign and public consciousness program at national and international level.

NCARD has been launching project for ascertaining representative status of boycotted communities at the process of new constitution making and democratization at the financial support of donor agencies since 2063 Poush 17. The research publications of this organisation are as follows:

- *Durban Ghoshana Ra Karyayojana Tatha Nepalma Jatiya Vibhed* (Durban Declaration and Action Plan and Racial Discrimination in Nepal)
- *Rajya Punasamrachana Sambandhi Avadharana: Dalit Ra Madheshiko Sawal* (Concept Relating to State Restructuring: An Interrogation of *Dalit* and Madheshi).

From the above discussion, we can say that organized *Dalit* movement began in 1947 with the establishment of the Bishwa Sarbajan Sangh led by Sarbajit Bishwakarma of Baglung. A total of nine organizations were formed in the autocratic partyless *Panchayat* system and triggered the movement against caste-based discrimination. In the fifty-year history of the organized Nepali *Dalit* social movement, between 1947 and 1997, more than thirty *Dalit* organisations and hundreds of *Dalit* NGOs have come into being. In this period, at least a dozen *Dalit* leaders became members of parliament or ministers. A large number of members in constituent assembly held on 28 Chaitra, 2064 were elected from *Dalit* community. The fact that these *Dalit* leaders have been able to reach these levels within government is in large part due to the success of the Nepali *Dalit* social movement. Nepal *Dalit* Shramik Morcha and *Dalit* Janajati Party participated in the election of

Constituent Assembly held on 28 Chaitra, 2064. From proportional election system, Biswendra Paswan was elected in Constituent Assembly through *Dalit Janajati Party*.

There are two main ways in which organisations have been fractured within the Nepali *Dalit* social movement. One is through the policy of political parties to establish affiliated organisations. The other is through individual leaders' desires split away. These desires stem from leaders' political differences or from their individual ambition. In some cases, individual leaders have broken away from independent *Dalit* organisations to form political party-affiliated organisations. In many cases, these individual breakaways have assisted in leadership capacity building for the individual. Sometimes, these leaders end up prioritizing party issues over *Dalit* issues.<sup>45</sup> *Dalit* organisations established with the mission of fighting discrimination. The latter one involved in providing family names in citizenship certificates and the use of electronic media is against untouchability. Many other NGOs mushroomed post-ninety movement have raised the issues of untouchability as a crime and have been made it the major agenda of their programmes. *Dalit NGO Federation* was established to start a synchronized movement against all forms of caste-based untouchability. The programmes related to untouchability of all those organisations include awareness raising, advocacy, co-feast, temple entry in mass, denial of carrying carcass and so on. These activities have brought changes in mental perception of both *Dalits* and non-*Dalits* and organizing *Dalit movement* for the recognition and claim of rights.<sup>46</sup>

### **3.2.1 Issues in the Broader Social Context of the Dalit Movement**

The issues in the broader social context of the *Dalit movement* are as follows<sup>47</sup>:

- Economic Problems (Approximately 60% of *Dalits* live below the poverty line);

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45 *Supra* Note No. 4, pp 159-160.

46 Bal Krishna Kattel and Ranjana Thapa (2004), "Fighting an End to Untouchability" *Chhuwachhoot Unmulan Abhiyan*, Kathmandu: Lawyers' National Campaign Against Untouchability Nepal, P. 20.

47 *Supra* Note no. 4, pp.164-168.

- Unhealthy practices (Much alcoholism, smoking, tobacco consumption, gambling and polygamy, etc.);
- Blind faith and superstitions;
- Migration and scattered settlements;
- Uncivilized and uncultured activities within *Dalit* communities;
- Traditional prostitution in *Badi* community; and
- Lack of education and historical consciousness/awareness.

### **3.2.2 Internal Issues of the Dalit Movement**

The internal issues of the *Dalit* movement are as follows<sup>48</sup>:

- Replicatoin of feudalistic relations;
- Impact of *Brahmanism* within the movement;
- Lack of ideological clarity;
- Inability to put strategic plans into action;
- Disputes over priority issues;
- Lack of insight into the *Brahmanist* workings of the political parties;
- Lack of understanding of the workings of the state;
- Lack of inclusion of all *Dalit* communities;
- *Dalit* women's non-participation;
- Need for a collective forum;
- Need for coordinated programmes with non-*Dalits*;
- Lack of unity with working class;
- Inability to link to the human right movements;
- Inability to link with the ethnic group's movement;
- Lack of collabourative understanding among NGOs; and
- Inability to internationalize *Dalit* issues.

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48 *Supra* Note no. 4, pp. 169-177.

### 3.2.3 Leadership issues on Dalit Movement

The leadership issues on *Dalit movement* are as follows<sup>49</sup>:

- *Dalit* leaders are mutually antagonistic
- Tendency toward self liberation (After 1990, establishment of many organisations to represent specific castes or Sub-castes such as the *Biswakarma Sangh*, the *Swarnakar Samaj*, the *Mijar Samaj*, the *Pariyar Sewa Samaj*, the *Khadgi Samaj*, the *Ram Samaj*, the *Paswan Sangh*, the *Kapali Samaj* and the *Pode Samaj*)
- Inferiority complexes
- Empty Rhetorics
- Servility.

### 3.2.4 Key Issues Facing the Dalit Movement

There are seven key issues facing the *Dalit movement* that are bearing on its future directions and outcomes. Those are as follows:<sup>50</sup>

- Practice versus non-*practice* of caste-based untouchability;
- Incrementalist or *reform* versus movement or revolution;
- Cooperation versus *confrontation*;
- Homogeneous or *single Dalit*-based versus heterogeneous or caste-based;
- Central or policy *level* versus grassroot level;
- Core issues *versus* peripheral issues; and
- Direct versus third party linkages with donors.

### 3.2.5 Role of Civil Society for Abolition of Untouchability

Civil society has been playing vital role in abolishing the practice of untouchability and caste-based discrimination. It has to accomplish the following matters:<sup>51</sup>

- To pressurize the government to implement the pro-*Dalit* provisions enacted in laws and policies;

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49 *Supra* Note No. 4, pp. 178-179.

50 *Supra* Note No.5, pp. 66-67.

51 *Supra* Note No. 99, P. 21.

- To correct the fault line of urban-centered advocacy;
- To develop NGOs' network and ensure *Dalit* employees to undertake the *Dalit* focused activities being launched by the NGOs;
- To document the cases of untouchability;
- To rescue *Dalits* from pro-donor perception and release them from mental prison;
- To help modernize *Dalits*' skills and assist them in performing income generating activities;
- To transform corridor advocacy to strengthened advocacy;
- To implement the Participatory Action Learning (PAL) approach from the very beginning;
- To disseminate of the UN mechanism against discrimination and provision of national and international laws in the local language and aware of their rights; and
- To promote relativist perception among all actors.

The following are the successful results of the civil society movement for the enlistment of *Dalits*:<sup>52</sup>

- Set up of National *Dalit* Commission;
- Announcement of the reservation policy for the upliftment of *Dalits*. The reservation sectors include: education, health, representative bodies, employment and public services;
- Making untouchability cases of government prosecution;
- Raising awareness and co-operative feeling among *Dalits* and non-*Dalits*;
- Revolt of *Dalits* for the self-respect and dignity: carcass case, diary case, etc. and
- Setting up of tea-shops by *Dalits* and so on.

Similarly, rights against untouchability and racial discrimination as well as rights to social justice as fundamental rights as provided by the Interim Constitution of Nepal, 2063 B.S. and increasing punishment for offenders who commit crimes relating to

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52 *Supra* Note No. 99, P.20.

untouchability are outcomes of civil society movements. Thus, it has been continuously fighting the practice of untouchability and pressurizing the state for this purpose.

### **3.3 Other Dalit Organisations**

There are some other *Dalit* association/organisations which are affiliated to *Dalit* NGO Federation and are in registration process affiliating with this federation. They are active in district level for combating against untouchability and caste-based discrimination as well as on the behalf of *Dalit* upliftment. In this regard, the researcher has listed organisations as follows:

- *Thak Paribar Sewa Samaj* (Society for Service of Thak Family)
- *Harijan Sewa Samaj* (Society for Harijan Service)
- *Gramin Utpidit Jaati Utthan Sangh* (Association for Upliftment of Rural Oppressed Castes)
- *Utpidit Janachetana Manch* (Forum for Oppressed People's Consciousness)
- *Utpidit Janajati Bikas Parishad* (Council for Development of Oppressed Backward Tribes)
- *Utpidit Dalit Jatiya Utthan Parishad* (Council for Upliftment of Oppressed *Dalit* Castes)
- *Utpidit Dalit Samaj Utthan Bikas Kendra* (Centre for Social Upliftment and Development to Oppressed Downtrodden),
- *Utpidit Samudaya Utthan Kendra* (Centre for Upliftment of Oppressed Community)
- *Utpidit Samudaya Jagaran Manch* (Forum for Awareness of Oppressed Community)
- *Utpidit Samudayik Kendra* (Centre for Oppressed Community),
- *Pidit Janasewa Bikas Karyakram* (Program for Victim People's Service and Development)
- *Pichhadiyako Samudaya Utthan Parisad* (Council for Upliftment of Backward Community)
- *Pichadiyako Samudaya Bikas Manch* (Forum for Development of Backward Community)

*Paswan Sewa Samaj* (Society for Paswan Service)

*Batabaran Tatha Dalit Samudaya Bikas Sangh* (Association for Development of Environment and *Dalit* community)

*Batabaran Tatha Samaj Sudhar Sangh* (Association for Environment and Social Reform)

*Janjati Bikas Kendra* (Centre for Development of Backward Tribes)

*Nepal Utpidit Samudaya Sanrakshan Kendra* (Centre for Protection of Oppressed Community in Nepal)

*Nepal Dalit Utpidit Kalyan Kendra* (Centre for Welfare of Downtrodden and Oppressed People in Nepal)

*Nepal Dalit Samatamulak Samaj* (Equivalence- Oriented Society for *Dalit* in Nepal)

*Nepal Dalit Samudaya Utthan Parishad* (Council for Upliftment of *Dalit* community in Nepal)

*Nepal Sarbapakshiya Dalit Sanstha* (Universally *Dalit* organisation in Nepal)

*Nepal Rastirya Dalit, Janajati, Mahila Utthan Manch* (National Forum for Upliftment of Downtrodden, Backward Tribes and Women in Nepal).

*Nepal Rastriya Samaj Kalyan Kendra* (National Centre for Social Welfare in Nepal)

*Nepal Ram Samaj Kalyan Sangh* (Association for Ram Social Welfare in Nepal)

*Dalit Utthan Sangh* (Association for Upliftment of *Dalit*)

*Dalit Utthan Sewa Kendra* (Centre for *Dalit* Upliftment and Service)

*Dalit Phulbari Yuba Club* (*Dalit* Phulbari Youth Club)

*Dalit Janajagaran Sangh* (Association for *Dalit* People's Awareness)

*Dalit Balsewa Griha* (Home for *Dalit* Child Service)

*Dalit Samudaya Utthan Parishad* (Council for Upliftment of *Dalit* community),

*Samaj Kalyan Sangh* (Association for Social Welfare),

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- *Samaj Sudhar Sewa Sangh* (Association for Social Reform and Service)
- *Dalit Gramin Sudhar Samiti* (Committee for *Dalit* Rural Reform)
- *Upekshit Samudaya Bikaas Manch* (Forum for Development of Neglected Community)
- *Dalit Samaj Sewa Club* (Club for *Dalit* Social Service)
- *Gramin Sudhar Samiti* (Committee for Rural Reform)
- *Nepal Dalit Mahila Utthan Sangh* (Association for Upliftment of *Dalit* women in Nepal)
- *Bhumidev Samajik Jagaran Samiti* (Committee for Bhumidev Social Awareness)
- *Dalit Mahila Utthan Sangh* (Association for Upliftment of *Dalit* women)
- *Jagaran Media Centre* (Awareness Media Centre)
- *Bal Bikas Manch* (Forum for Child Development)
- *Namuna Nepal* (Model Nepal)
- *Nepal Dalit Smaaj Bikas Karyakram* (Program for *Dalit* Service and Development in Nepal)
- *Pariyar Kalyan Samuha* (Group for Pariyar Welfare)
- *Nepal Dalit Samaj Utthan Kendra* (Centre for Social Upliftment of *Dalit* in Nepal)
- *Muluk Hit Samaj* (Society for Interest in Nepal)
- *Samata Samaj Nepal* (Equality Society in Nepal)
- *Samaj Bikas Kendra* (Centre for Social Development)
- *Dalit Utpidit Janajati Bikas Parishad* (Council for Development of *Dalit*, Oppressed and Backward Tribes)
- *Jagriti Samaj Nepal* (*Jagriti* Society in Nepal)
- *Nepal Dalit Janamukti Parishad* (Council for *Dalit* People's Liberation in Nepal)
- *Gramin Bikas Adhar* (Base for Rural Development)
- *Dalit Talmo Samaj Sewa Samiti*



*Nepal Dalit Bikash Sangh* (Association for *Dalit* Development in Nepal)

*Mahila Tatha Dalit Utthan Kendra* (Centre for Women and *Dalit* Upliftment)

*Dalit Tatha Utpidit Jatiya Sip Bikas Kendra* (Centre for Skill Development to *Dalit* and Oppressed Caste)

*Dalit Sachetana Samaj* (Society for *Dalit* Consciousness)

*Dalit Bikas Parishad* (Council for *Dalit* Development)

*Upekshit Utpidit DalitSewa Samaj* (Society for Service of Neglected, Oppressed and *Dalit*)

*Himali Utpidit Samudaya Manch* (Forum for Snow Capped Oppressed Community)

*Sahayog Sangatahn Nepal* (Co-operation Organisation in Nepal)

*Baisalu Batabaran Sanrakshan Yuba Club* (Youth Club for Protection fo *Baishalu* Environment)

*Dalit Samaj Bikas Sangh* (Associaiton for Development of *Dalit*Society), Arghakhanchi

*Dalit Kalyan Karyakram* (Program for *Dalit*Welfare)

*Nepal Gramin Bipanna Sudhar Karyakram* (Program for Rural Destroyed in Nepal)

*Shoshit Pidit Samudayik Bikas Kendra* (Community Development Centre for Exploited Victim)

*Nepal Dalit Bikas Manch* (Forum for *Dalit* Development in Nepal)

*Gramin Utthan Kendra* (Centre for Rural Upliftment)

*Samajik Sewa Tahtha Janachetana Abhiyan* (Social Service and People's Awareness Campaign)

*Hamro Pariwar Nepal* (Our Family Nepal)

*Dalit Chintan Samaj Nepal* (*Dalit* Thinking Society Nepal)

*Nepal Dalit Jagaran Sangh* (Association for *Dalit* Awaareness in Nepal)

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- *Nepal Dalit Kalyan Sangh* (Association for *Dalit* Welfare in Nepal)
- *Gramin Dalit Utprena and Utthan Karyakram* (Program for *Dalit* Motivation and Upliftment in Rural Area)
- *Pichhada Varga Sangh* (Association for Backward Class)
- *Gramin Samudaya Utthan Sangh Nepal* (Association for Rural Community Upliftment in Nepal)
- *Dalit Janajati Club* (Club for *Dalit* Backward Tribes)
- *Nepal Dalit Mahila Utthan Sangh* (Association for Upliftment of *Dalit* women in Nepal)
- *Biswakarma Kalyan Samaj* (Society for Welfare of Biswakarma)
- *Janautthan Samaj Bikas Kendra* (Social Development Centre for People's Upliftment)
- *Nepal Shilpakarmi Samaj Sewa Sangh* (Association For Artificer Social Service in Nepal)
- *Dalit Mahila Ayaarjan Ra Batabaran Anrakshan Karyakram* (Program for *Dalit* women income Earning and Environemtn Protection)
- *Utpidit Dalit Utthan Sangh* (Associaation for Oppressed *Dalit*)
- *Dalit Sarokar Sewa Kendra* (Centree for *Dalit* Concern Service)
- *Nepal Dalit Bikas Samiti* (Committee for *Dalit* Development in Nepal)
- *Basuling Janajati Samaj* (Society for Basuling Backward Tribes)
- *Utthan Tatha Chetwa Sangh* (Association for Upliftment and Conscious)
- *Samaj Sewa Club* (Club for Social Service)
- *Nepal Bipanna Samaj Utthan Kendra* (Centre for Upliftment of Backward Society in Nepal)
- *Janjati Sarokar Kendra* (Centre for Concern Backward Tribes)
- *DalitSewa Bikas Club* (Club for *Dalit*Service and Development)

*Kirtipur DalitAyamulak Samiti* (Committee for *Dalit* incomeness in Kirtipur)

*Utpidit Janajati Sahayog Sangathan* (Organisation for Assistance to Oppressed Backward Tribes)

*Dalit Janajati Club* (Club for *Dalit* Backward Tribes)

*Gandharva Sanskritik Sanrakshan Sambardhan Samiti* (Committee for Cultural Protection and Promotion of Gandhurva)

*Nava Jagaran Yuba Club* (Youth Club for New Awareness)

*Shoshit Pidit Samsya Samadhan Kendra* (Centre for Problem Solving of Exploited Victim)

*Dalit Bikas Samaj Sewa Sangh* (Social Service Associatino for *Dalit* Development)

*Pidit Samudaya Sanrakshan Kendra* (Centre for Protection of Victim Community)

*Dalit Sahayog Ekai* (Unit for *Dalit* Assistance)

*Dalit Janasamaj* (*Dalit* People's Society)

*Nepal Janabikas Sewa Sangh* (Association for People's Development Service in Nepal)

Empower *Dalit* women of Nepal

*Sarvapakshiya Rastriya Dalit Dabab Samuha* (University National *Dalit* Pressure Group)

*Jatiya Bhedbhav Unmulan Samaj* (Society for Eliminatin of Racial Discrimination)

*Pariyar Sewa Samaj* (Society for Pariyar Service )

*Dalit Swavalambi Samaj* (Society for *Dalit* Self Dependent)

*Nepal Biswkarma Samaj* (Nepal Biswakarma Society)

*Nepal Utpidit Manav Adhikar Samanta Samaj* (Nepal Oppressed Human Rights Equality Society)

*Dalit Janasewa Club* (Club for *Dalit* People's Service)

*Nepal Utpidit Sanrakshan Nagarik Manch* (Civil Forum for Oppressed Protection in Nepal)

*Rastrya Dalit Network* (RDN)

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- *Janautthan Parishad* (Council for People's Upliftment)
- *DalitSamsad Samuha* (*Dalit* Parliamentarian Group)
- *Nepal DalitUtthan Samiti* (Committee for *Dalit* Upliftment in Nepal)
- *Kanchuli Feraun Dalit Samaj* (*Dalit* Society for Drastic Changes)
- *Samatako Lagi Sanskritik Abhiyan* (Cultural Campaign for Equality)
- *Dalit Utthan Ekikrit Bikas Samuha* (Collective Development Group for *Dalit* Upliftment)
- *DalitVidhyarthi Network* (Network for *Dalit*Students)
- *Janasewa Samaj* (Society for People's Service)
- *Atmanirbhar Bikas Manch* (Self-dependent Development Forum)
- *Utpidit Manav Adhikar Sarokar Kendra* (Human Rights Concern Centre for the Oppressed)
- *Dalit Mahila Samuha* (Group of *Dalit* Women)
- *Dalit Jagaran Manch* (Forum for *Dalit* Awareness)
- *Ram (Chamar) Samaj Kalyan Sangh* (Association for Ram (*Chamar*) Social Welfare)
- *Utpidit Samudaya Jaagaran Manch* (Forum for Awareness of Oppressed Community)
- *Dalit Utthan Gramin Samaj* (Rural Society for *Dalit* Upliftment)
- *Nepal Dalit Samaj Sudhar Bikas Parishad* (Council for Social Reform and Development of *Dalit* in Nepal)
- *Dalit Bikas Samiti* (*Dalit* Development Committee)
- *Utpidit Jatiya Sewa Kendra* (Oppressed Castes Service Centre)
- *Nepal Gramin Swavalamban Bikas Karyakram* (Nepal Rural Self Dependence Development Program)
- *Mahila Jagaran Samaj* (Women Awareness Society)
- *Nepal Gramin Bipanna Sudhar Karyakram* (Nepal Rural Backward Reform Program)

*Nepal Janabikas Samaj Sewa Sangh* (Nepal People's Development Social Service Association)

*Samudayik Utthan Sewa Samiti* (Community Upliftment Service Committee)

*Bipanna Samaj Sewa Samiti* (Backward Social Service Committee)

*Utpidit Samaj Sudharko Lagi Samudayik Karyakram* (Community Program for Oppressed Social Reform)

*Nepal Dalit Utpidit Kalyan Kendra* (Nepal Dalit Oppressed Welfare Centre)

Social Forum for Child Upliftment Focus

*Dalit Samaj Sewa Club* (Dalit Social Service Club)

*Dalit Mukti Samaj Sewa Sangh* (Dalit Liberation Social Service Association)

*Dalit Janajagaran Karyakram* (Dalit People's Awareness Program)

*Biswakarma Sewa Manch* (Biswakarma Service Forum)

*Nepal Utpidit Utthan Pariyojana* (Nepal Oppressed Upliftment Project)

*Mohattari Dalit Utthan Kendra* (Mohattari Dalit Upliftment Centre)

*Nepal Gramin Bikas Samaj* (Nepal Rural Development Society)

*Dalit Pidit Utthan Parishad* (Dalit Victim Upliftment Council)

*Sthaniya Samuhako Bikas* (Development for Local Group)

Himalayan Community Development Forum

*Nepal Dalit Sahitya Tatha Sanskritik Pratisthan*

*Ratnamaya Dalit Sahitya Sanrakshan Samiti*

*Ratnamayaa Dalit Sahityik Prathisthan*

*Bikhe Nagarchi Smriti Pratisthan*

*Bhagawat Sarbajit Smriti Pratisthan*

*Samataka Lagi Sanskritik Abhiyan* (Cultural Campaign for Equality)

- *Rastriya Sarokar Nagarik Samaj* (National Concern Civil Society)
- *Samajik Sachetanaka Lagi Suchana Kendra* (Information Centre for Social Awareness)
- Legal Rights Protection Society, Nepal
- *Kanoon Tatha Manav Samsodhan Bikas Adhyan Pratisthan* (Academy for Legal and Human Resources Development Study- ALHUREDS)
- *Sarbanam Natya Samuha* (*Sarbanam* Drama Group)
- *Samajik Bikas Tatha Anusandhan Kendra* (Social Development and Research Centre)
- *Jatiya Bibhed Antyaka Lagi Rastriya Samuhik Sankalpa Abhiyan* (National Collective Determination Campaign for the elimination of Racial Discrimination)
- *Antarastriya Jatiya Bibhed Unmulan Tayari Samiti* (International Racial Discrimination Elimination Preparatory Committee)
- *Dalit* Human Rights Organisation.

### **3.4 Efforts of Religious Sector Against Caste Discrimination**

*Josmani Santa Parampara* was one of the Hindu traditions. *Josmani* beliefs opposed religious rituals, caste discrimination and idol worship. It was a saintly tradition explicitly aimed at reforming Hinduism. A number of *Josmani* Saints and followers such as Dhirje Das, Shashidhar, King Rana Bahadur Shah, Gyan Dil Das, Yogmaya Koirala and others were particularly active in opposing Hindu casteism and discrimination in Nepali society. This belief was entered by Saints in Nepalese Society before the great king Prithivi Narayan Shah's reign. It was broadly broadcasted against formation process of status quo Nepali society. Philosophy is this belief's all times, farsightness and revolutionary life. It says that religion is disciplined moral process to conduct state in real. Low caste communities were positively affected from this belief. Prithivi Narayan Shah's Courtier Dhaukal Singh instructed with Saint Shashidhar and Prithivi Narayan Shah also affected from him. King Rana Bahadur Shah converted to the *Josmani* faith by

instructing from saint Shashidhar. He was named *Swami Nirvananda* and became a social reformer. He built the Jaganath temple: It was opened to all castes and its prasad was given in a public feast. Who is the early initiator of this belief? It has become subject of search.

The *Jain* religion also opposed Hindu rituals and caste discrimination. Mahavir Jain too questioned *vaidic* rituals and the caste system. Buddhist and *Jain* religious teachings explicitly instructed followers not to ill treat *shudras*, not to burden them work beyond their capacities, and to feed them and give them medical care. Those were significant efforts that these two religions made to improve conditions of at least some *shudras*.<sup>53</sup> World Hindu Federation says that there is no caste discrimination in Hindu *dharma*. All Hindus are equal. Caste-based untouchability being practised in Hindu society is against sacred scriptures.

### **3.5 Efforts of Literacy Sector for Racial Liberation**

To establish social freedom, justice and equality as well as to end racial discrimination and untouchability, all old and new litterateurs of Nepal have attempted through their creations that are briefly expressed below.<sup>54</sup> In the words of eminent poet Lekha Nath Poudel (1941-2022 B.S.):

*"Thula kulama janmi hunchha ke? akulin pani  
pujinchha bidwan bhaya lokale"*

This stanza is related with the expression of Bhagawat Geeta like "Bidhyamai chha mahashakti, karmamai chha supoojana."

In the words of Great poet Laxmi Prasad Devkota (1966-2016 B.S.):

*"Maanis thulo dilale hunchha, jaatale hudaina"*

The great poet Devkota has mentioned this expression in his famous epic poem '*Muna Madan*' (1992 B.S.) In this regard, he has given importance to nobleness of heart rather than caste.

The eminent historian Baburam Acharya in course of a dialogue, says:

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53 *Supra* Note. No. 4, pp. 83-84.

54 *Nepalma Jatiya Chhuwachhut (Racial Discrimination in Nepal)*, Kathmandu: Informal Sector Service Centre, (2053 B.S.), pp. 56-58.

*"Chhuwachhutlai manne bhaya bidwanlai choot ra  
abidwan ya murkhalai achhoot manchhu."*

The above mentioned statement is quoted by Anandadev Bhatta in his creation "*Hamra Pratibhaharu*"-2019 B.S.

Some portion of the epicist Balkrishna Sam's epic "*Chiso Chulho*":

*"Ke khula akashle bhanchha oo damai tan kshetrini?*

*Tara, samajik bandhan jastai piro! Mahapralaya  
bhayara tee bache bhane ko chhekne?*

*Dhan nabhayapachhi jaat janchha, jaat gayapachhi  
jiban jaldachha*

*Tara, sangitle chhi chhi durdur gare pani hamrai  
sangit khai khai hamilai achhut bhane*

*Damaha bajaune damaiharuko panee pani nachalne  
bho*

*Gauri malai maya garchhe kinabhane mero dhan chhaina  
Aba jwalamukhi bhai bal boli phutali"*

Sante Damai has been presented by senior playwright Bal Krishna Sama (1959-2038 B.S.) in his epic *Chiso Chulho* (2015 B.S.) as a leading character. It was against eastern epic theory. This theory said that the brave and grave King's son should take birth in high dynasty as leading character of epic. In this way, it is said that dramatist Bal Krishna Sam challenged the old tradition of eastern epic creation.

Similarly, in the words of Bal Krishna Sama:

*"Manisko jaat manisnai ho, usko arko jaat chhaina."*

Some portion of the senior progressive litterateur Modnath Prashit's epic *Manab*:

*"Chokha bahunko garbha kamiki chhorima rahe*

*Bhrunako jaat ke hunchha? lau shruti smriti kholnuhos*

*Romanchakari ghatna Hinduko itihasma*

*Jabarjasti pasyo kami aaja bahunka gharama*

*Kale mardachha tara kaleko amar akanksha  
mardaina, manchheko itihasmardaina"*

The famous litterateur Modnath Prashit's epic *Manab* brought an earthquake at the wall of caste and race as well as untouchability



practice. The role of Kale and Mohan of this epic's leading character is powerful struggle against untouchability. Similarly, his other works like *Naari Bandhan Ra Mukti*, *Debasur Sangram*, *Aastha Ra Prathaa Ek Bibechna*, *Jatpat Ra Chhuwachhutko Sankshipta Itihas*, *Manabtako Kanlanka: Jatpat Ra Chhuwachhut Pratha* and so on have added hatred against caste and race as well as untouchability. The litterateur Bhimnidhi Tiwari (1968-2030 B.S.) has well written in his one-act play *Bikhe Nagarchi* that there may be participation of all castes in state building. The poet Bhanubhakta Pokhrel gave warning to prejudiced society by creating poems *Baje Timi Halo Jotne*, *Bhunju! Timi Damini Re* and so on. Learned researcher Purna Prakash Nepal *Yatri* did publicize in different parts of Nepal the aforesaid poems created by *Bhanubhakta Pokhrel*.

The poet and Singer Manjul wrote this song:

*"Manisa chhuta achhuta hunchha ma bhandai  
bhandina*

*Jaati ra paati chhutyane ritlai ma mandai mandina"*

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*"Thulo ra sano yo Bhedabhaba dhanile banaya*

*Garibko Khuna Chusera Khane Chalana Chalaya"*

From this song, the poet Manjul has clarified that the practice of untouchability has been started by rich class as a means of economic exploitation.

In the words of poet Daibagya Raj Neupane:

*"Jaat mero Nepali ho Jahan gaya pani*

*Thar pani Nepali ho Jasle Sodhe pani"*

In this regard, the poet Neupane has endeavoured to bind Nepali people within single racial entity.

The poet M.B.B. Shah (1977-2028 B.S.) has stated in his poem *Garchhin Pukar Ama*:

*"Sunako chha thala Kahin Kahin chha paata Khali"*

.....

*"Jatama Je chhaun sabai haun Nepali."*

In presented stanzas, the poet has shown situation of social inequality and has endeavoured to bind in single national heart by saying one offspring of the country.

Some portion of the poet Ahuti's poem *Gahungoro Africa*:

*"Ma timro mandirko murti banaune kami hun  
Ma yo Bhugolko auta gahungoro Africa hun  
Apamanit itihasko hisab chahanchhu  
Ma kunai pani mulyama mukti chahnchu."*

Some portion of the epicist Ganashyam Kandel's epic "Ujyalotira":

*"Manchheka bicha sima sandha chhan bhanti bhantika  
Manchhelai pidne jata chhan yahan jati ra patika  
Dekhinna yahan bhedanai kunai pashu ra manchhema  
Kamiki chhori kasari garos biswas kasaima  
Jat ra linga ajhainai bhaya jatka adhar  
Dhilo ra chando hunechha prajatantra nai bekar  
Chahanchhu metna yo uchanichha Nepali bichako  
Arambha hos yatra yo mero ujyalotir ko"*

The *Dalit* person, Prem Lakandri, has stated this portion in his poem *Hamro Nepalma*<sup>55</sup>:

*"Manab sabhyatama amanabta hamile sirjiekko  
hoinau  
Eutai babuka santanharulai chaar chira pareko  
itihaslai birseko chhainaun  
Hamro ta jati jaat gaisakyo aba jadaina homro jaat  
Jaat jane prathale timilainai garyo barbad  
Aphaile racheko jatiya kalankale garda afnai  
santanalai jatpat tala jharidiyou  
Hamiharulai ta jharyau tharyau devi devataharulai  
tala najhar"*

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55 This poem was recited by the poet in an interaction program on "Campaign against Untouchability: not to break but to join" organized by Human Rights and Peace Society, Jhapa.

*Sakchhau bhane dalitle banayo kehi cheej nachhoi  
baitarni par gara."*

The *Josmani* Saint Gyan Dil Das (1821-1883) welcomed people from castes such as Kami, Damai, Sarki, Rai, Limbu, Gurung and Magar into the *Josmani* faith and was thus criticized by the *Brahmans*. He replied poetically by saying<sup>56</sup>:

*"Yo Rumjatarko kodoko pitho nirgunko daaun, dharma ra  
Karma Gurungle lagyo chaka paryo Bhaun."*

This poem uses irony to indicate the threat that *Brahmans* would feel at people from other groups doing the religious work that had always been their purview. In it is also expressed the idea that others taking over Brahmanical work would be completely astonishing.

In the words of Shardul Bhattarai:

*"Ustai Sharir Ustai ragat ustai chha jeeban  
Manab manab bichako chhuwachhut kahilesamma  
Shram chalchha sip chalchha achhutharuko ragat  
chalchha  
Tara, kina samajma uneeharuko panee chaldaina."*

Some portion of the song singed by singer Pabitra Pariyar from Radio Nepal;

*"Samajle kina thagyo malai afnai najarma  
Jatipati chhoichhito bibidhatako nauma  
Jiune Sadhan banauna kamsal mera haat  
Mechi kali himal tarai Nepali eutai jaat."*

Dr. G.M. Singh Shrestha's *Ek Dristiko*" (2013 B.S.), Muktinath Sharma's *Ko Achhut?* Pandit Chhabilal Pokharel's *Vaidik Sidhdanta* (*Dosro Bhag*-2049 B.S.), Novelist Binod Prasad Dhital's *Ujyalo Hunuaghi* and so on have raise sharp sound against racial discrimination. Siddhi Charan Shrestha, Mahananda Sapkota, Krishna Prasad Koirala, Bishweshwor Prasad Koirala, Kali Bhakta Panta, Tana Sharma, Surya Bikram Gyawali and so on have created various works in campaign against Untouchability. In this sector, from within oppressed caste's peoples, T.R. Biswakarma, Jawahar Roka, Umalal Biswakarma, Ramsharan Darnal, Durga Darnal

Nepali, Mithai Devi Biswakarma, Biplab Biswakarma and so on have played praisable and notable role by creating various works regarding elimination of untouchability and racial discrimination as well as to add brick on *Dalit* movement.

International learned person Rahul *Sanskritayan* was antagonistic of caste and race. From aforesaid observation, we can reach the conclusion that litterateurs, novelists, poets, writers, singers and so on have become opponent through their tasks against untouchability and caste based prejudices.

### **3.6 Human Rights Organisations and *Dalit* Movement**

*Dalit* movement is regarded as one part of human right movements. Therefore, human rights organisations such as Informal Sector Service Centre (INSEC), Group for International Solidarity (GRINSO-Nepal), Human Rights and Peace Society (HURPES) and so on are engaged to support *Dalit* movement in Nepal. INSEC is established in 2045 B.S. in Kathmandu as a service-oriented, non-governmental, human rights and autonomous organisation. It has regional and district contact offices. Many district human rights organisations are affiliated with INSEC. During the establishment period, this organisation stood against autocratic Panchayat system. It opines that *Dalit* movement is an important campaign of human rights movement. It has been giving pressure to the government for the elimination of untouchability from Nepal and to remove discriminatory laws. Many workshops, seminars, interaction and discussion programmes, meetings, processions, press conference and so on have been launched by it against untouchability and raising *Dalit* movement. The following are INSEC's Research Publications:

- *Nepalma Jatiya chhuwachhut* (2053 B.S.)
- *Jatiya chhuwachhutko Antya Garaun* (2057 B.S.)
- *Informal and Prachi* (Publications on Human Rights and Social Justice)
- Working Papers and so on.

HURPES is an active, energetic, non-governmental, non-political, non-profit, impartial and autonomous organisation established in 2053 B.S. It has been accomplishing workshops, seminars, interaction and discussion programmes, processions, meetings, press conferences and human rights awareness peace acting journey

to uplift *Dalit* communities. HURPES has presented through *Sarbanam Natya Samuha* so many plays or dramas such as *Aadha Akash* (Half sky), *Pratibimba* (Reflection), *Khandahar* (Mass of Ruins), *Hahakar*. (lamentation sound), *Kolahal Bastiko Abhilekha* (written record of uproaring village), *DalitMukti Ra Shantiko Lagi Sadak Kranti* (Street Revolution for *Dalit* Liberation and Peace) and *Jivan, Jagat Ra Shanti* (Life, (Universe and Peace) in different districts of Nepal in course of Social Equality Awareness Campaign. An important interaction programme like *Chhuwachhut Biruddhako Abhiyan: Todna Hoina Jodnaka Lagi* (Campaign Against untouchability: not to break but to join) has been held by this organisation throughout the country. It has forwarded the slogan *Jatiya Samanta Ra Ekta Ekkaisaun Shatabdiko Apariharya Abashyakta* (Racial Equality and Unity: Inevitability of 21<sup>st</sup> century).

GRINSO-Nepal is another human rights organisation that is also combating against untouchability and racial discrimination by publishing research, newsletter and report like *Internaitonal Solidarity, Mukti Yatra* and *A Comprehensive Report of National Consultation Program on Problems of Dalit community-2054 B.S.* Thus, this organisation has tried to add brick on *Dalit* movement.

Similarly, the professional organisations such as Nepal Bar Association, Nepal Journalist Federation and so on are also supporting to move forward *Dalit* movement.

### **3.7 Political Parties and *Dalit* Movement**

The political parties of Nepal are also supporting *Dalit* movement. To establish affiliated *Dalit* organisations is the policy of political parties of Nepal. From this reason, *Nepal Utpidit Jatiya Mukti Samaj* (Chhabilal group) has become a sister *Dalit* organisation of CPN (UML), *Nepal Utpidit Dalit Jatiya Mukti Samaj* (Padma Lal group) had become a sister organisation of CPN (ML). Now, Padma Lal Biswakarma, the chief leader of this *Dalit* organisation, has entered into CPN (Maoist) and has become the member of Constituent Assembly by the election held on Chaitra 28, 2064 from that political party. *Jatiya Samanta Samaj* has become sister *Dalit* organisation of CPN (Masal), *Dalit Mukti Morcha* has become sister *Dalit* organisation of CPN (Maoist), *Vikashonmukh Samaj Sangh, Nepal Dalit Utthan Sangh* and *Nepal DalitSangh* are considered as NC affiliated organisations. *Prajatantrik Dalit Sangathan* established as RPP affiliated organisation and *Nepal*

*Dalit Utthan Manch* established on August 1, 2000 as *Nepal Sadbhawana Party* affiliated Organisation. Now, *Nepal Sadbhawana Party* has split into two groups: Anand Devi group and Rajendra Mahato group.

*Nepal Dalit Shramik Morcha* and *Dalit Janajati Party* are considered Separate, Independent and autonomous political party in the favour of *Dalits*. *Nepal Dalit Shramik Morcha* is the first *Dalit* political party which is established in the leadership of Ruplal Biswakarma. Similarly, *Dalit Janajati Party* at the leadership of Biswendra Paswan is established. Both parties actively participated in the election of Constituent Assembly held on 28 Chaitra, 2064. In this regard, Biswendra Paswan has been elected in Constituent Assembly from proportional election system from his party. Both parties had participated in that election to raise *Dalit* voice for the betterment of *Dalit* movement. Both *Dalit* parties opine that major political parties of Nepal are not in favour of *Dalits*. At the election time, *Dalits* were used as a vote bank by them. *Dalits* had better fight the election by establishing separate *Dalit* political parties of their own rather than being puppets of other parties.

Although, the major political parties such as Nepal Communist Party (Maoist), Nepali Congress, Nepal Communist Party (United Marxist and Leninist), *Madhesi Janadhikar Forum*, *Terai Madhesh Loktantrik Party*, *Nepal Sadbhawana Party* (both Rajendra group and Ananda Devi group), *Nepal Majdoor Kisan Party*, Nepal Communist Party (Marxist and Leninist), *Jana Morcha Nepal*, *Rastriya Prajatantra Party*, *Rastriya Jana Shakti Party* and so on have mentioned provisions in their manifestos for elimination of untouchability from country and *Dalit* upliftment. In this regard, they have shown commitment through their manifestos. But, in practice, it is not implemented.

### **3.8 International Agencies and *Dalit* Movement**

International agencies may be divided into three categorization. They are<sup>57</sup>:

- (i) Multilateral agencies
- (ii) Bilateral agencies
- (iii) International non-governmental organisations

- (i) **Multilateral Agencies:** Within multilateral agencies, there are following international agencies:
- a) European Union (EU)
  - b) United Nations Development Program-UNDP/  
Participatory District Development Program/Local  
Governance Program-PDDP/LGP
  - c) United Nations Children's Fund (UNICEF)
  - d) The World Bank (WB)
  - e) Asian Development Bank (ADB)
  - f) International Labour Organisation (ILO)
  - g) Food and Agriculture Organisation (FAO)
  - h) World Food Programme (WFP)
- (ii) **Bilateral Agencies:** Within bilateral agencies, there are following international agencies:
- a) United States Agency for International Development  
(USAID)
  - b) Japan International Cooperation Agency (JICA)
  - c) German Technical Cooperation (GTZ)
  - d) Swiss Development Cooperation (SDC)
  - e) Development for International Development (United  
Kingdom-DFID/ UK)
  - f) Canadian Cooperation Office (CCO)
  - g) Danish International Development Agency /Human  
Rights and Governance (DANIDA/HUGOU)
  - i) Department for International Development Cooperation  
(Finland)- FINNIDA
  - j) Norwegian Agency for Development Cooperation  
(NORAD)
  - k) The Netherlands Development Organisation (SNV)
  - l) USC, Canada
- (iii) **International Non-Governmental Organisations (INGOs):**  
Within INGOs, there are following international agencies:
- a) Save the Children, United States of America/United  
Kingdom/Japan/Norway

- b) Danish Association for International Cooperation (MS-Nepal)
- c) Centre for Development and Population Activities (CEDPA)
- d) The Lutheran World Federation (LWF)
- e) Oxford Committee for Famine Relief (OXFAM)
- f) The Asia Foundation (TAF)
- g) Helvetas
- h) International Humanitarian Organisation Fighting Global Poverty Nepal (CARE Nepal)
- i) Action Aid Nepal (AAN)
- j) United Mission to Nepal (UMN)
- k) Centre for Development
- l) WWF
- m) VSO
- n) Pla- Nepal
- o) World Education
- p) Helenkeller International
- q) CARITAS
- r) World Neighbours
- s) NEWAH
- t) Japan Rural Self Realization Development Centre (RSDC)

Aforesaid international agencies are working in Nepal to support *Dalit* communities, raise their status in the society, empower them from social status quo, make aware against untouchability and racial discrimination and to add bricks on *Dalit* movement. International aid has been providing support to *Dalit* Communities in Nepal through aforesaid international agencies. These agencies are linked with *Dalit* programmes and Nepal's National Plan, Millennium Development Goal (MDG) and Poverty Reduction Strategy Paper (PRSP).

All *Dalit* organisations can not be synonymous of *Dalit* movement. *Dalit* movement in Nepal has identified *Brahmanism* and feudalism



as its main enemies. Different *Dalit* organisations have followed one of the three strategies, namely reformist, movement and revolutionary. *Dalit* movement of Nepal has never been a national movement covering large population of the country. Lack of clarity on ideology, strategy and targets of the movement, lack of organisational and working unity, inability to link with human rights and ethnic movement are the current problems facing the *Dalit* movement at the national level. Confinement within the national political parties, inability to reduce caste-based untouchability within the *Dalit* community, inability to include women and *Madheshi Dalits* in the movement, lack of sincerity, awareness, publicity and bargaining power due to inferiority complex, internal conflict, green dollar or Euro-Currency centered interests, etc. are also the major hindrances in the *Dalit* movement of Nepal.

Human right organisations, civil society organisations and other non-governmental organisations are also fighting against untouchability. All major political parties have put eliminating untouchability provisions in their manifestos. At the election time *Dalits* are used for vote bank by political parties. Three organized *Dalit* communities at the national level like *Mijar Samaj*, *Bishwakarma Samaj* and *Pariyar Samaj* are also fighting against untouchability. Various Local *Dalit* organisations are established to uplift *Dalit* community and to eliminate the practice of untouchability in different parts of Nepal. At this time, media (both paper and electronic) are running against untouchability. Some INGOs and local level-based NGOs are engaged against untouchability. Struggle of *Dalits* against caste-based discriminations and untouchability will not end in defeat. The *Dalit* movement has not yet reached the grassroot level due to the lack of integrative approach. The changes are limited only in the urban areas leaving the village or a safer zone for discrimination. Solidarity of non-*Dalits* could be the watershed of *Dalits* movement.



## CHAPTER – FOUR

# International Instruments Against Untouchability

Human person is the central Subject of human rights. Man is the measure of all things. Therefore, there are some international legal instruments to address human rights and to respect human dignity. These instruments are directly and indirectly related to abolish racial discrimination and untouchability. Babylonian Code, 2088 B.C. had assured some social rights.

The *Magna Carta*, 1215 is also regarded as an English Great Charter which was accepted by the King John. It is the document of symbol of the struggle against oppressions. It is considered as really a treaty between the King and his Subject. In the *Magna Carta*, the root principle that there are fundamental rights above the state which the state otherwise sovereign power that it is may not infringe. *Magna Carta* safeguards the liberties of the people by securing the supremacy of law.

The *Petition of Right*, 1628 was in truth the first step in the transfer of sovereignty from king to parliament. The *Bill of Rights*, 1689 was propounded as an act declaring the rights and liberties of the subject and setting the succession of the crown. This Act was passed by the parliament of England as fundamental base of unwritten constitution.

The *American Declaration of Independence*, 1776 states that all men are created equal that they are endowed by their creator with certain inalienable rights that among these are like liberty and the pursuit of happiness that to secure these rights, governments are instituted among men deriving their just powers from the consent of the governed that whenever any form of government becomes destructive of these ends, it is the right of the people to alter or abolish it and to institute new government laying its foundations on such principles and organizing its powers in such form as to them shall seem most likely to effect their safety and happiness. The *American Bill of Rights*, 1789 was brought for the first time to amend American constitution. This document had guaranteed

fundamental rights of the citizens. It is also regarded as core manual of civil rights.

The *French Declaration of the Rights of Man and the Citizen, 1789* speaks that all men are born free and equal. The aim of all political association is the protection of the natural and imprescriptible rights of man. Among these rights, resistance of oppression is one. In this document, Rousseau's notion "law is the expression of the general will" was incorporated

The *Treaty of Paris of 1814*, the *Congress of Vienna of 1815*, the *Anti-Slavery Act, 1890* created by the consent of eighteen nations and *International Convention on the Abolition of Slavery and Slave Trade, 1926* are very important international instruments for the abolition of slavery. *Declaration of the Rights of Toiling and Exploited People, 1918* of USSR is also important to respect the dignity of toiling and exploited people.

The *Charter of the United Nations* came into force in October 24, 1945. The Preamble of this charter says that reaffirm faith in fundamental human rights in the dignity and the worth of the human persons in the equal rights of men and women. The main objective of this institution is to promote or encourage respect for human and fundamental freedom for all without distinctions as to race, sex, language or religion. The charter of the United Nations has respected human dignity and right to self-determination.

United Nations legal instruments exist to define and to guarantee the protection of human rights. International community has made some important advance instrument to fight against racism, racial discrimination, xenophobia and related intolerance and eliminate all forms of racial discrimination.

All human rights are universal, indivisible, interdependent and inalienable, irrespective of race, colour, sex, gender and social position.<sup>1</sup>

In this study, the researcher is going to mention some landmark international instruments, which are directly or indirectly working against untouchability and all forms of racial discrimination.

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1 *Asia Pacific NGO Forum Declaration (2001)*, Tehran, Iran, P. 1.

## **4.1 Universal Declaration of Human Rights (UDHR), 1948**

On 10 December 1948, the United Nations General Assembly adopted the Universal Declaration of Human Rights by a vote of 48 in favour and eight abstentions but no dissensions. This declaration has a preamble and 30 articles.

The *UDHR, 1948* is the basic international statement of the inalienable and inviolable rights of all members of the human family. It is intended to serve as the common standard of achievement for all people and all nations in the effort to secure universal and effective recognition and observance of the rights freedom it lists.<sup>2</sup> Recognition of the inherent dignity and of the equal inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world.<sup>3</sup> All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and act towards one another in a spirit of brotherhood.<sup>4</sup> Everyone is entitled to enjoy all the rights and freedoms set forth in this declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.<sup>5</sup> Everyone has the right to recognition everywhere as a person before the law.<sup>6</sup> All are equal before the law and are entitled without any discrimination to equal protection of the law.<sup>7</sup> Article 8 focuses that everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law. Men and women of full age without any limitation due to race, nationality or religion, have the right to marry and to form a family.<sup>8</sup> Article 21 has given the right to take part in the government of his country, directly or through freely chosen representative and right to equal access to public service in his country.

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2 *The International Bill of Human Rights*, United Nations, P. 2.

3 *Universal Declaration of Human Rights*, 1948. Preamble.

4 *Universal Declaration of Human Rights*, 1948. Article 1.

5 *Universal Declaration of Human Rights*, 1948. Article 2.

6 *Universal Declaration of Human Rights*, 1948. Article 6.

7 *Universal Declaration of Human Rights*, 1948. Article 7.

8 *Universal Declaration of Human Rights*, 1948. Article 16.

Similarly, the *UDHR, 1948* has given other rights. They are: right to life, liberty and security of person, right to a nationality, right to freedom of thought, conscience and religion, right to education, right to the protection of moral and material interests, right to form to join trade unions for the protection of his interests and without any discrimination, right to equal pay for equal work etc. Nepal is a member of United Nations. So it has been a party state of Universal Declaration of Human Rights. Nepal has provided many fundamental rights and legal rights by the fundamental law of the land (constitution) and other statutes but they are only in paper, practical aspect is weak.

#### **4.2 United Nations Declaration on the Elimination of all forms of Racial Discrimination, 1963**

Any doctrine of racial discrimination or superiority is scientifically false, morally condemnable, socially unjust and dangerous, and there is no justification for racial discrimination either in theory or in practice.<sup>9</sup> Discrimination between human beings on the ground of race, colour or ethnic origin is an offence to human dignity and will be condemned as a denial of the principles of the UN Charter, as violation of the human rights and fundamental freedom proclaimed in the Universal Declaration of Human Rights, as an obstacle to friendly and peaceful relation among nations and as a fact capable of distributing peace and security among peoples.<sup>10</sup> Article 6 of UN Declaration on the Elimination of all forms of Racial Discrimination, 1963 focuses that everyone has the rights of equal access to public service in the country.

This declaration was passed by UN General Assembly in December 21, 1963. This declaration is the fundamental background of international convention on the elimination of all forms of racial discrimination. It has also become an international instrument against untouchability.

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9 *UN Resolution, United Nation's Declaration on the Elimination of all forms of Racial Discrimination, 1940 (XVIII), New York: UNGA, 1963.*

10 *UN Declaration on the Elimination of all forms of Racial Discrimination, 1963, Article 1.*

### **4.3 International Convention on the Elimination of all forms of Racial Discrimination (ICERD), 1965**

This convention was passed by UN General Assembly on 21 December 1965. This came into force on 4 January 1969. Nepal ratified this convention on 30 January 1971 and it is enforced in Nepal since 1 March 1971. This convention is classified into one preamble, three parts and twenty-five articles.

It condemns discrimination as being morally condemnable, socially unjust and lacking in a scientific basis. It goes on to say that, there is no justification for racial discrimination in theory or in practice anywhere.<sup>11</sup> It has determined the obligation of each party to eliminate untouchability and racial discrimination. Article 1 of this convention states that the term racial discrimination shall mean any distinction, exclusion, restriction or preference based on race, colour, descent or national or ethnic origin. This convention is legally binding for Nepal and it is active since January 4, 1969 in international community. This convention has formed a community for monitoring called Committee on the Elimination of the Racial Discrimination (CERD).

The *ICERD, 1965* has compelled the state parties to condemn racial discrimination and to take forward step for elimination of all forms of racial discrimination.<sup>12</sup> State parties particularly condemn racial segregation and apartheid and undertake to prevent, prohibit and eradicate all practices of this nature in territories under their jurisdiction.<sup>13</sup> International Convention on the Elimination of all Forms of Racial Discrimination has given obligation to the state parties to declare all forms of racial discrimination is punishable and illegal practice.<sup>14</sup> State parties shall guarantee the right of

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11 Upendra Poudel et.al. (2004), Is there Room Enough? *Dalit Recruitment Policies and Practices in Selected I/ NGOs and Bi/ Multilateral Organisations of Nepal: A Research Report*, Kathmandu: Save the Children US and Informal Sector Service Center, P. 4.

12 *International Convention on the Elimination of All Forms of Racial Discrimination, 1965*. Article 2.

13 *International Convention on the Elimination of All Forms of Racial Discrimination, 1965*. Article. 3.

14 *International Convention on the Elimination of All Forms of Racial Discrimination, 1965*. Article. 4.

everybody without any distinction.<sup>15</sup> State parties shall assure effective protection and remedies through the competent national tribunals and other state institutions against any act of racial discrimination, which violates human rights and fundamental freedoms contrary to this convention.<sup>16</sup> State parties undertake to adopt immediate and effective measures particularly in the fields of teaching, education, culture and information with a view to combating prejudices, which led to racial discrimination.<sup>17</sup>

Committee on Elimination of Racial Discrimination (CERD) is the monitoring body of this convention. According to this convention, each state party shall Submit the exact situation of the Human Rights violation, promotion and evaluation. Nepal has been state party of International Convention on the Elimination of all Forms of Racial Discrimination by ratification and accession. It has been Submitting periodic report in each two year to Committee on Elimination of Racial Discrimination through General Secretary of United Nations. Shadow report has also been submitting from civil society (non-governmental sector). It is important to make actual and factual which has been submitted by the Government of Nepal. On the basis of this convention Nepal has initiated from some positive steps to eliminate practice of untouchability, although these steps are not adequate for elimination of untouchability. Day-to-day, inhuman practices including untouchability has been occurring in the different parts of Nepal.

To introduce declaration and convention against all forms of racial discrimination by UNO. One happening was impelled. Sixty-nine protestors were brutally murdered in Sharpville city of South Africa by then government in the protest "Pass Laws" in March 21, 1960. This painful happening attracted the attention of the world. As a result, by taking sympathy, UNO introduced declaration and convention against all forms of racial discrimination. As a remembrance of Sharpville incident, UN General Assembly

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15 *International Convention on the Elimination of all Forms of Racial Discrimination, 1965. Article 5.*

16 *International Convention on the Elimination of All Forms of Racial Discrimination, 1965. Article 6.*

17 *International Convention on the Elimination of All Forms of Racial Discrimination, 1965. Article 7.*

declared to celebrate March 21 as international day for the elimination of racial discrimination.

#### **4.4 International Covenant on Economic, Social and Cultural Rights (ICESCR), 1966**

This Covenant was unanimously passed by UN General Assembly on 16 December 1966. This went into force on 1976. Nepal ratified this covenant on 14 May 1991. It is divided into one preamble, five parts and thirty-one articles.

The *ICESCR, 1966* specially ensures equal opportunity for everyone to be promoted in his or her employment to an appropriate higher level, subject to no considerations other than those of seniority and competence.<sup>18</sup> It has ascertained a lot of economic, social and cultural rights to people.

#### **4.5 International Covenant on Civil and Political Rights (ICCPR), 1966**

The *ICCPR* unanimously passed by UN General Assembly on 16 December 1966. This went into force on 23 March 1976. Nepal ratified this covenant on 14 May 1991. It runs through one preamble, six parts and fifty-three articles. It has granted various civil and political rights to people.

All persons are equal before the law and are entitled without any discrimination to receive the equal protection of the law in this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other ideology, national or social origin, property, birth or other status.<sup>19</sup> So, it is said that covenant condemns racial discrimination and untouchability and ensures equality before the law.

Apart from above mentioned international instruments, Discrimination (Employment and Occupation) Convention of 1958, Convention against Discrimination in Education of 1960, Declaration on the Granting of Independence to Colonial Countries and People's of 1960, United Nations Convention on the

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18 *International Covenant on Economic, Social and Cultural Rights (ICESCR), 1966*. Article 7(C).

19 *International Covenant on Economic, Social and Cultural Rights (ICESCR), 1966*. Article 26.



Suppression of the Crime of Apartheid of 1973, United Nations Declaration against Apartheid in Sports of 1977, United Nations Conventions against Apartheid in Sports of 1985, Declaration on Race and Racial Prejudice of 1978, Declaration on the Elimination of all forms of Discrimination of 1967, Convention on the Elimination of all forms of Discrimination against Women of 1979 and so on have been directly or indirectly fighting against racial discrimination.

#### **4.6 International Attempts for Abolition of Untouchability**

The first session of UN Human Rights Commissions established sub-commission on Prevention of Discrimination and Protection of Minorities in February 1947. United Nations General Assembly celebrated decades for action to combat racism and racial discrimination from 1973 to 1983 and 1983 to 1993.

International Conference of Human Rights (Tehran, 1968) considered various aspects of the problem of racial discrimination. The proclamation of Tehran is that the people of the world must be made fully aware of the evils of racial discrimination and must join in combating them. All ideologies based on racial superiority and intolerance must be condemned and resisted.<sup>20</sup>

Three world conferences have accomplished against racism, racial discrimination, xenophobia and related intolerance. First and second conferences were held in Geneva in 1978 and 1983 A.D. Third conference was held in Durban of South Africa from August 31 to September 8, 2001.

The multidimensional activities of the United Nations against racial discrimination have been intensified within the framework of three decades for action to combat racism and racial discrimination. The first decade covers the period 1973-1983 A.D. The goal of first decade is stressed by the General Assembly that it should help to promote human rights and fundamental freedoms for all without distinction of any grounds like race, colour, descent or national or ethnic origins, etc. specially by eradication of racial prejudice, racism and racial discrimination, to arrest any expression of racist

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20 Symonides Janusz (2001), *The United Nations System Standard Setting Instrument to Combat Racism and Racial Discrimination, United to Combat Racism*, France: United Nations Educational, Scientific and Cultural Organisation, P. 6.

policies and to eliminate the persistence of racist policies and counteract the emergence of alliances based on mutual espousal of racism and racial discrimination.<sup>21</sup>

The General Assembly declared that second decade for action to combat racism and racial discrimination for 1983-1993 A.D. and the plan of action for the third decade (1993-2003 AD) foresees activities against racism and racial discrimination at the international regulation of system wide consultation.<sup>22</sup>

The UN General Assembly's decision to hold a world conference against racism is reflected in resolution 52/III of 12 December 1997. The main objective of the world conference was to review progress made in the fight against racism, racial discrimination, xenophobia and related intolerance. In particular sense the adoption of the Universal Declaration of Human Rights and to reappraise the obstacles to further progress in the field and ways to overcome them; to consider ways and means to better injure the application of existing instruments; to increase the level of awareness about the scourges; to formulate concrete recommendations; to review the political, historical, economic, social, cultural and other factors of leading to racism, racial discrimination, xenophobia and related intolerance.<sup>23</sup>

The third world conference against racism, racial discrimination, xenophobia and related intolerance has declared that the consequences of past and contemporary forms of racism interalia and related intolerance were serious challenges to global peace and security, the human dignity and the realization of human rights and fundamental freedoms of many people in the world. The declaration also emphasized that the state has to establish and implement without delay national policies and action plans to combat racism interalia related intolerance. It urged the state to take all necessary constitutional, legislative and administrative measure to foster equality among individuals and groups individuals who are victims of racism and related intolerance and to review existing measures

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21 *Supra* Note No. 130, pp. 6-7.

22 *Ibid.*

23 Jyoti Shankar Singh (2001), *Fighting Racism with Positive Message Importance of Youth and Education Activities, United to Combat Racism*, France: United Nations Educational, Scientific and Cultural Organisation, pp. 71-72.

with a view to amending or repealing national legislation and administrative provisions that may give rise to such forms of discrimination.

From above mentioned matters, we believe that the World Conference against Racism (WCAR) has become an effective, important and diligent international attempt to eliminate racism, racial discrimination, xenophobia, untouchability, etc. UN has important role to manage World Conference against Racism.



## CHAPTER – FIVE

# National Legal Framework and Attempts Against Untouchability in Nepal

### 5.1 The Constitution of the Kingdom of Nepal, 2047 B.S. (1990)

After the restoration of multi-party democracy in 1990, the government had been upholding the biggest challenge about the democratic principles. Nepal has become a party of various international conventions and treaties. Nepal has adopted a democratic constitution and guaranteed various fundamental rights to the people for socio-economic justice. Many laws have been enacted, implemented and amended in accordance with this constitution. The preamble of this Constitution focused on objective of securing Nepalese people for social, political and economic justice. Most essential fundamental rights have been guaranteed by the *Constitution of the Kingdom of Nepal* to protect and promote all citizens on the basis of equality.

All citizens shall be equal in the eyes of law. No person shall be denied the equal protection of the laws.<sup>1</sup> No discrimination shall be made against any citizen in the application of general laws on grounds of race, caste, etc.<sup>2</sup> The state shall not discriminate citizens among citizens on grounds of race, caste, etc. Provided that special provisions may be made by law for the protection and advancement of the interests of those who belong to a class which is economically, socially or educationally backward.<sup>3</sup> No person shall, on the basis of caste, be discriminated against as untouchable, be denied access to public place, or be deprived of the use of public utilities. Any contravention of this provision shall be punishable by law.<sup>4</sup> The *Constitution of the Kingdom of Nepal, 2047 B.S.*, for the first time, declared the practice of untouchability as a crime or illegal and punishable by law. In this way, this Constitution has

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1 *Constitution of the Kingdom of Nepal, 2047.* Article 11(1).

2 *Constitution of the Kingdom of Nepal, 2047.* Article 11(2).

3 *Constitution of the Kingdom of Nepal, 2047.* Article 11(3).

4 *Constitution of the Kingdom of Nepal, 2047.* Article 11(4).

prohibited untouchability. It has allowed the state to make any law and programmes for the protection, upliftment and advancement of backward classes from different sectors of society.

Nepal was considered multi-ethnic, multi-lingual and multi-cultural Hindu state. Article 18 of the *Constitution of Kingdom of Nepal* had guaranteed cultural right of each community. In the name of culture, untouchability had been practicing. Multi-cultural system is the positive matter of the state. To practice bad culture was not the purpose of constitution. To practice and profess was every person's own religion and also was the fundamental right which was guaranteed by Article 19 of this Constitution. In the name of religion, there had been practices of untouchability. Article 20 of this Constitution had guaranteed right against exploitation. To practise untouchability was exploitation. Untouchability was the worst form of caste discrimination. For quite a long period, the so-called lower caste people have been exploited by the state, society and so-called upper caste people in the name of untouchability.

The social objective of the state is to eliminate of all types of economic and social inequalities and establish social justice. The policy of the state is to promote the interests of the economically and socially backward groups and communities by making special provisions with regard to their education, health and employment.<sup>5</sup> Directive principles and policies of this constitution directed the state to uplift backward society and community but these were not enforceable in any court.

## **5.2 The Interim Constitution of Nepal, 2063 B.S.**

This constitution is the outcome of the People's Movement-II, 2062/63. The constitution has guaranteed various fundamental rights to the people for socio-economic justice. Among those rights, right to equality, rights against untouchability and racial discrimination as well as right to social justice are important to eradicate practices of untouchability and uplift *Dalit* community. Similarly, this constitution has made provisions for duties, directive principles and policies of the state in its part four to eliminate all types of untouchability and establish social justice.

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5 *Constitution of the Kingdom of Nepal, 2047. Article 26(10).*

All citizens shall be equal before the law. No person shall be denied the right to equal protection of the laws.<sup>6</sup> No discrimination shall be made against any citizens in the application of general laws on grounds of race, caste, tribe, etc.<sup>7</sup> The state shall not discriminate among citizens on grounds of race, caste, tribe, etc. Provided that special provisions may be by law for the protection and advancement of the interests of *Dalit* or those who belong to a class which is economically, socially, culturally or educationally backward.<sup>8</sup> No discrimination against as untouchable shall be made against any person on the basis of caste, lineage, community or occupation. Such discriminating act shall be liable to be punished and the victim shall receive the compensation as determined by the law.<sup>9</sup> No person shall, on the basis of caste, be discriminated as untouchable, be denied access to any public place or be deprived of the use of public utilities or be denied entry into public religious places or be denied to perform any religious ceremony.<sup>10</sup> Anything, service or benefits that is produced or distributed, anyone shall not be denied from purchasing or getting those services, benefits or things nor shall those things, services or benefits be sold or distributed to certain special caste or race.<sup>11</sup> Any caste, race or people of origin or exhibiting status of people's community, that shows social discrimination on the basis of caste, race is righteous or advocates for caste supremacy and principles based on hatred or encourages any sort of racial discrimination shall be prohibited.<sup>12</sup> Any contraventions of above mentioned provisions shall be punishable according to the law.<sup>13</sup>

Article 21 of this Constitution reads that economically, socially or educationally backward and oppressed class, *Dalit* etc. shall have the right to participate in the state restructuring on the basis of proportional inclusive principles. Article 33 runs that it shall be the duties of the state to end discriminations relating to class, race, etc. to address the problems of *Dalits*/disadvantages groups, etc. and to

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6 *Interim Constitution of Nepal, 2063.* Article 13(1).

7 *Interim Constitution of Nepal, 2063.* Article 13(2).

8 *Interim Constitution of Nepal, 2063.* Article 13(3).

9 *Interim Constitution of Nepal, 2063.* Article 14(1).

10 *Interim Constitution of Nepal, 2063.* Article 14(2).

11 *Interim Constitution of Nepal, 2063.* Article 14(3).

12 *Interim Constitution of Nepal, 2063.* Article 14(4).

13 *Interim Constitution of Nepal, 2063.* Article 14(5).

terminate all discriminatory laws. Article 34 says, it shall be directive principles of the state to maintain equality, to establish a just system in all aspects of national life, to prevent economic exploitation of any class, caste, race, etc. Those principles have included the political, social and economic objective of the state. In article 35, this constitution says that it shall be policies of the state to develop healthy and harmonious social relationships based on equality and co-existence among people belonging to different castes/communities/ race/groups, etc. to uplift economically and socially backward groups/*Dalits*, etc. and to make a special provision based on positive discrimination for *Dalits* including backward communities, etc.

Finally, we know that rights against untouchability and racial discrimination as well as right to social justice are considered new fundamental rights provided by this constitution. It has made provisions of duties, directive principles and policies of the state for upliftment of *Dalit* and abolition of untouchability.

### **5.3 The *Muluki Ain* (Country Code), 2020 B.S.**

The *Muluki Ain* is also considered as the Country Code and the General Law of the Land. It has been a legal instrument to eliminate practices of untouchability. Untouchability was formally abolished with commencement of the *Muluki Ain*, 2020 B.S. In accordance with the *Constitution of Nepal*, 2019 B.S., the *Muluki Ain* repealed the legal clauses on untouchability prevailing in the *Muluki Ain*, 1910 B.S. At that time, untouchability was only abolished, not declared as a punishable crime. After promulgation of the *Constitution of the Kingdom of Nepal*, 2047 B.S., it was declared that the practice of untouchability is punishable by law. On the basis of Article 11(4) of this Constitution, parliament enacted Number 10A in the Chapter of Etiquette (*Adal*) of the *Muluki Ain*. This new provision added an imprisonment up to one year or fine up to 3,000 rupees or both for the offenders.

But parliament had intended to retain untouchability in temple and other religious place by putting explanation. It was declared void and null by the Supreme Court.<sup>14</sup> Recently there has become amendment in Number 10A of the Chapter on Etiquette (*Adal*) of

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14 *Man Bahadur Bishwakarma vs. Government of Nepal*, Writ No. 2505, Order Date 2049/11/14, Decision No. 4670, *NKP* (2049), P. 1010.

the *Muluki Ain, 2020*. The amended provision reads if a person discriminates as an untouchable or excludes or prohibits any person on grounds of caste, religion, color, class or work, the person shall be liable to the punishment of imprisonment for a term ranging from Three months to Three years or a fine of One Thousand Rupees to Twenty Five Thousand Rupees or both. Over the previous provision, the amended provision has increased the punishment for offenders who commit the crime relating to untouchability. However, it is not sufficient, just or adequate because it has provided discretionary power to the court. It has not provided provision of time limitation of the complaint for crime relating to untouchability and compensation to the victims. In this regard, we see procedural shortcomings, lacuna, dilemma and loopholes in this provision. It should be revised, reformed, reviewed and refined. However, this provision has tried to prevent offenders for committing crime relating to untouchability and isolating offenders from the society. Crime relating to untouchability is considered as crime of strict liability.

#### **5.4 Other Related Laws**

The *Civil Rights Act, 2012 B.S.*; the *Defamation Act, 2016 B.S.*; the *Citizenship Act, 2063 B.S.*; the *Cinema (Production, Exhibition and Distribution) Act, 2026 B.S.*; the *Education Act, 2028 B.S.*; the *Press and Publication Act, 2048 B.S.*; the *National Transmission Act, 2049 B.S.*; the *Social Welfare Act, 2049 B.S.*; *Human Rights Commission Act, 2053 B.S.*; the *Legal Aid Act, 2054 B.S.*; the *Child Labour (Prohibition and Regulation) Act, 2056 B.S.*; the *Local Self Governance Act, 2056 B.S.*; the *Kamaiya Labour (Eradication and Control) Act, 2058 B.S.*; the *Political Parties Act, 2058 B.S.* have also provided some legal provisions for eliminating of untouchability. The main objective of Human Rights Commission is to protect and promote human rights which are guaranteed by the constitution and existing laws. Untouchability is violation of human rights. The Civil Rights Act, 2012 B.S. says that all citizens are equal before the law and have equal protection of law. This Act has provided different kinds of legal rights to citizens. This Act permits government to bring effective programme for upliftment of backward classes of the society.



## **5.5 The Proposed Draft Criminal Code, 2058 B.S.**

This is the third effort for the development and codification of criminal law in the legal history of Nepal. This Code has made provisions of offences relating to social discrimination and insulting behaviour in its Sections 216-222 of Chapter 24. It has tried to criminalize social discrimination and insulting behaviour or to declare those as offences. In this regard, this code mentions that to exhibit discriminating behaviour against any citizens on grounds of race, caste, tribe etc.; to commit discrimination in selling, buying or distribution of any object or to provide service only to person from any specific race, caste or tribe; to disturb social customs and usage; to show discriminatory behaviour on the ground of caste or to prohibit access to public utilities or services; to torture anybody physically or mentally and to commit cruel, inhuman or insulting treatment to any person on the ground of caste, race, tribe, or to banish and boycott such person from the family and society; shall be considered as offences relating to social discrimination and insulting behaviour. In this way, whosoever commits such types of offences shall be punished with an imprisonment or a fine or on the basis of the degree or gravity of such offences. The complaint for any offence under this chapter shall not be entertained after expiry of three months from the date of commission of such offence.

However, this Code is not legalized till today in adding milestone to criminal jurisprudence. It is an urgent need to legalize this code at the ambit of criminal law. This code has played a vital role in abolishing the practices of untouchability on the grounds of caste, race, tribe, etc. from the country.

## **5.6 National Attempts for Abolition of Untouchability**

### **5.6.1 Attempts of Political Parties and Non-Government Agencies**

The researcher has already mentioned political and non-governmental attempts for abolition of untouchability in previous chapters. The movement of Nepali *Dalits* against the discrimination and social injustice is more than five decades old but not much has been achieved yet.<sup>15</sup> *Bishwa Sarvajana Sangh* formed by Bhagat

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15 *Supra* Note No. 7, P 37.

Sarvajit Bishwakarma and his fellow Bhagat Laxmi Narayan Bishwakarma, was the first organized association against caste discrimination and untouchability. Bhagat Sarvajit Bishwakarma challenged the orthodox Hindu rule of wearing sacred thread called *Janai* which was worn by *tagadharis* only.<sup>16</sup> After that, specially after the restoration of multiparty democracy, a lot of *Dalit* organisations, non-governmental organisations etc. are established to abolish practices of untouchability and uplift backward castes of the society.

On the leadership of T.R. Bishwakarma and Mohan Lal Kapali Submitted Reservation Demand Paper to government for upliftment of *Dalits* in 2059 B.S. *Nepal Utpidit Jatiya Mukti Samaj* (Society for the Liberation of Oppressed Caste) Submitted 3 immediate and 25 long term demands to government from different districts and also presented a demand paper to Prime Minister on 19 Ashad, 2058.

In 2011 B.S., Pashupati Nath Temple Entering Movement was organized. In that movement about 1100 *Dalits* participated and 750 *Dalits* were arrested by government.<sup>17</sup> NGOs and INGOs have been working in the social field for upliftment of *Dalit* people. Political parties and their sister organisations, NGOs, INGOs are making backward castes of the society aware by different programmes, campaigns and expeditions. *Dalit* Welfare Organisation (DWO) and *Dalit* NGOs Federation (DNF) have been conducting weekly radio programme named *Dalit Jana Jagaran* and *Chintanko Chautari* from Radio Nepal to make people aware and arouse society against untouchability and also to abolish it. *Dalit* Welfare Organisation has started fortnightly television programme named *Kanchuli on Nepal* television. *Utpidit Dalit Jatiya Mukti Samaj* has almost become synonymous to *Dalit* movement.

There has never been a national movement covering large population of the country at any given point of time. All the movements are either incidental or sporadic. The *Chamar* Movement of Siraha and Saptari district can be considered as the largest *Dalit* movement in last five decades.<sup>18</sup> Recently political

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16 Report of *Nepal Utpidit Jatiya Mukti Samaj* (2005), Kathmandu, P. 6.

17 *Supra* Note No.7, P.30.

18 *Supra* Note No. 7, P.37.

parties and non-government agencies are raising the issue of caste untouchability. But the question arises, has the caste untouchability been eliminated? The answer is no.<sup>19</sup>

### **5.6.2 Governmental Attempts**

In this study, government attempts for abolition of untouchability can be divided into three major significant events. Which are as follows:

- (i) Constitutional and legal provision
- (ii) The Prime Minister's pronouncements
- (iii) The government's reform agenda

Untouchability abolished with the *Muluki Ain*, 2020 B.S. It is the first attempt to abolish untouchability. The *Muluki Ain* restricted legal value of untouchability. After revival of multi-party democracy, the Constitution of the Kingdom of Nepal, 2047 not only guaranteed the fundamental right of equality but also declared the crime of untouchability as punishable by law. Number 10A added the punishment in the Chapter of *Adal* of the *Muluki Ain*. It is the second attempt of the state. Recently this section is amended by increasing punishment for the offenders of crime relating to untouchability.

After the 'People's Popular Movement-II' of 2062/63, the Interim Constitution of Nepal, 2063 came into existence adding and guaranteeing rights against untouchability and racial discrimination as well as right to social justice as fundamental rights and mentioning duties, directive principles and policies of the state for upliftment of *Dalit* and elimination of practices of untouchability in the country. It is the third attempt of the state in abolishing this mal-practice. This constitution clearly mentions about protective discrimination in Article 13(3). Prohibiting the caste-based discrimination, the constitution has pledged to initiate special programmes and welfare laws for socially and educationally backward people. The provision has directed the state towards affirmative action and reservation for the backward communities in order to ensure participatory democracy. But this provision does not seem adequate because the judiciary of Nepal has not become so dynamic for *Dalits*. The constitution provides mere formal equality, not the Substantial one

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19 *Supra* Note No. 92, P.23.

that assigns the specific job to the executives to carry out special measures for the downtrodden.

Basic laws include the *Legal Aid Act, 2054 B.S.* for legal representation, *Local Self-governance Act, 2055 B.S.* with the provision of *Dalits'* representation and several welfare policies. Some other provisions include scholarship rule reserving ten percent for *Dalit* student, Education Act providing free education to *Dalit* Students up to secondary level.

Prime Minister Sher Bahadur Deuba who pronounced an Eight-Point programme regarding *Dalit* issues and abolition of untouchability on 16 August, 2001 (32 Shrawan, 2058). The pronouncement includes:

- (i) The recognition of untouchability as a crime and declare it as strickly punishable;
- (ii) The establishment of separate commissions for *Dalit* and women; and
- (iii) The promise for *Dalit* upliftment and effective implementation of policies and initiate the land reform programmes.

According to the pronouncement, the government established the National *Dalit* commission. The government started to provide *Dalit* students free education upto class ten and scholarships at primary level. To ensure maximum involvement of the people in governance through decentralization, the *Local Self-Governance Act, 2055 B.S.* made provision of the mandatory representation of women and disadvantaged groups. Untouchability has been taken as a case that the government has to handle.

From the internal and external pressures, the government has announced various policies for affirmative action to *Dalit* community specially for education sector i.e. reservation for higher education, scholarship schemes for *Dalit* students, incentives to the colleges to enroll more *Dalit* students etc. But unfortunately, the Supreme Court gave its verdict against such policy.

Since the commencement of dialogues with Maoist, the government has announced that it would formulate a reservation policy to involve *Dalit* community in the civil services as well. Government's agenda, presented in the dialogue with Maoist on April 27, 2003, consists of the establishment of a more open and equitable system

of political representation, which might in turn lead to policies at least to reduce the worst inequalities and forms of social discrimination. Fundamental policies of these concepts include: creating equal opportunity for self-development of all Nepalese eliminating all kinds of discrimination on the basis of caste, race etc and providing the benefits of the welfare of the state through just and equitable system in all walks of national life. The concept has been mentioned below:

- A system of proportional representation in major elections;
- Reform in the structure and composition of the upper house (to make it more representatives); and
- The representation of women, the reform agenda has mentioned some sort of time-bound reservation for the *Dalit* people in the representative institutions like education, health, administrative services and other employment sectors until they reach the national average level based on Human Development Index.

The government has designed a road map for governance reform programme. It has clearly spelled out the reservation for *Dalits* (10%) at the entry level of civil services. For proper implementation of the reservation, Ministry of General Administration is working for the amendment of Civil Service Act and Regulation. The government has already started preparatory classes for such candidates. When His Majesty the King took the executive power in February 1, 2005, the first meeting of the council of ministers under the presidency of the king declared 21-point government programme. The programme includes the provision of land bank for the landless, free availability of textbooks to disabled, backward and *Dalit* students upto secondary level, such facilities to private schools and colleges and policy of affirmative action for the suitable representation of *Dalits* in the state governance.

Nepal's Ninth Plan (1997-2002 A.D.) was the first periodic plan to include a section on downtrodden and oppressed communities and included emphasis on increasing educational and income-generating opportunities for *Dalits* among others.<sup>20</sup> The *Dalit* issue

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20 *Supra* Note No. 121, P.5.

was not taken seriously until the Ninth Plan. The Ninth Plan focused on capability enhancement of marginalized people, reservation in scholarship, compulsory and informal education system, fixing certain portion of grant in the local government authorities for the upliftment of *Dalit*, etc. The Ninth Plan proposed the establishment of a *Dalit* Council with district level committees.<sup>21</sup> During the period of Ninth Plan, *Upekshit, Utpidit Ra Dalit Barga Utthan Bikas Samiti* and National *Dalit* Commission were formed. *Upekshit Utpidit Ra Dalit Barga Utthan Bikas Samiti* was formed to address the needs of 23 different groups including 15 *Dalit* groups. This body focuses on administering scholarship and some income generating activities. In 2002 A.D., this committee was joined by the National *Dalit* Commission, which was formed to coordinate the implementation of programmes targeted at *Dalit Upekshit, Utpidit Ra Dalit Barga Utthan Bikas Samiti* was established under the chairmanship of Ministry of Local Development in 2054 (1997 AD.). It was formed by order of Government on the basis of Development Committee Act (2013 B.S.). It is the first step of Government of Nepal for upliftment of victimized *Dalit* people. After the composition of this committee, a weekly radio programme has been conducting from radio Nepal in present time. The radio programme is named as *Janachetana*. According to announcement of council of ministers, National *Dalit* commission was composed of 10 members on the chairmanship of Padam Singh Bishwakarma in 6 Chaitra, 2058 B.S.

The Tenth Five-Year Plan (2002-2007 A.D.) has a separate section for the development of *Dalit* and downtrodden communities, again focusing on socio-economic development opportunities for these groups.<sup>22</sup> The Tenth Plan in respect to the Poverty Reduction Strategy Paper (PRSP) recognizes the centrality of socially inclusive development. This paper has taken social inclusion as vital and targeted program as one of the four pillars and has focused (i) mainstreaming the excluded groups to ensure equitable access to all, (ii) providing targeted programmes, to hardcore poor. It has focused on various welfare programmes, which are as follows:<sup>23</sup>

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21 *Supra* Note No.3, P.18.

22 *Supra* Note No. 121, P. 5.

23 *Supra* Note No.3, pp. 18-19.

- Employment for *Dalits*;
- Preference in foreign employment;
- Sensitization programmes against untouchability at the local level;
- Encouragement of *Dalit* women for school teacher;
- Scholarship programmes;
- Housing arrangement for homeless *Dalits*;
- Skill promotion for income generation;
- Training for modernizing their traditional occupations;
- Arrangement of leasehold forest within community forests for *Dalit* forest users;
- Provision of grants to poor *Dalit* for micro-irrigation;
- Provision of focal point in government agencies for *Dalit* issues;
- Abolition of all discriminations by enacting new special law; and
- Mandating political parties to nominate *Dalits* in each level.

The government's recently promulgated Poverty Reduction Strategy Paper (2003-2007), includes social inclusion and targeted programmes as one of its four pillars (in addition to broad-based economic growth, human development, and good governance). And as recently as January, 2004 three advisory committees were constituted to look into development issues including the implementation of a reservation plan through which specific opportunities will be reserved for selected disadvantaged groups.<sup>24</sup> Issuing a notice on 11 November 2003, the Home Ministry condemned caste-based discriminations and encouraged general people to lodge complaints challenging acts against caste based discrimination to the state agencies and directed the agencies to initiate themselves to punish the perpetrators. On 2 January 2004, three advisory committees were constituted to look into the development issues including the implementation of reservation plan for selected disadvantages groups and on 26 July 2004, the

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24 *Supra* note No. 121, P. 5.

government decided to make the untouchability cases of the government case.

There are positive constitutional and legal provisions, affirmative promulgation/ pronouncement, policy, welfare programmes and reform agendas of government to fight against deep-seated caste-based discrimination and untouchability in the country. But *Dalit* council with district level committees proposed by the Ninth Five-Year Plan has not yet been established. Paper legal provisions, rules, regulations, policies and planning programmes have not been translated into action. National *Dalit* Commission Act is not yet enacted. There is not specific separate law to abolish the practice of untouchability. Inhuman practices including untouchability are occurring in different parts of Nepal. We are not so hopeful regarding effective implementation of the policy of the government.





## CHAPTER – SIX

# Efforts for Abolition of Untouchability in India and Other Countries

Practice of untouchability is not only a national issue. It is also a transnational and universal phenomenon. If we study the history of the world, we can find division of labour based on caste system in Yunan, Pharas, Rome, China, Japan and so on in ancient period but there was no discrimination and untouchability like in the Indian sub-continent. Also at present, whites look down blacks on the basis of feeling of antipathy but it has not gone down to the level of practice of untouchability.

## 6.1 Efforts for Abolition of Untouchability in India

### 6.1.1 The Caste System as a Parent Institution of Untouchability

Particularly, caste system commenced from India. Only later, it entered into Nepal from India. India, a country with a lot of traditions, culture and beauty, has an unwanted, ugly and inhuman structure called 'Caste System'. One can not but feel ashamed of the caste system in India. The caste system discriminates the human persons and stratified them into different groups. In Hindu Society caste is still the most powerful factor in determining a person's dignity. The caste system is the result of the Hindu belief in 'Reincarnation and *Karma*.' The four castes eventually developed into a social mosaic of 3000 Sub-castes, with the untouchables at the bottom of the list and actually outside the list. Such a rigid caste system is not found anywhere in the world outside India. A person is born into a caste. Once born in that caste, his status is predetermined and immutable. Birth decides one's status and this can not be altered by any talent of the person. Birth decides the occupation of the person in question.

The term 'caste system' is defined by the dictionary as "discrimination on the basis of caste" "for one caste to treat another with the intention of degrading." The caste system gives special rights to the upper classes ' and is restrictive to the lower classes.

Untouchability is a distinct Indian Social institution that legitimizes and enforces practices of discrimination against people born into particular castes and legitimizes practices that are humiliating, exclusionary and exploitative. Although comparable forms of discrimination are found all over the world, untouchability is made unique by the fact that its parent institution the 'caste system' which is found only in the Indian Sub-continent. The caste system divides society into closed hereditary groups ranked by ritual status. Castes are hereditary groups because membership is decided by birth alone and they are closed because intermarriage and often food sharing between castes are prohibited. Caste is a system because it is an interrelated structure in which each part or castes. In the classical version, castes derive their meaning and status from their relative position vis-à-vis others in a hierarchical ranking based on traditional/religious notions of ritual purity and pollution. Caste has entered among all other religious communities of the Indian sub-continent including Muslims, Christians and Sikhs. Hindu scriptural and religious-social tradition are responsible factors to originate caste system. Historically, the caste system classified people by their occupation and status. Every caste was associated with an occupation, which meant that persons born into a particular caste were also born into the occupation associated with their caste. They had no choice.<sup>1</sup>

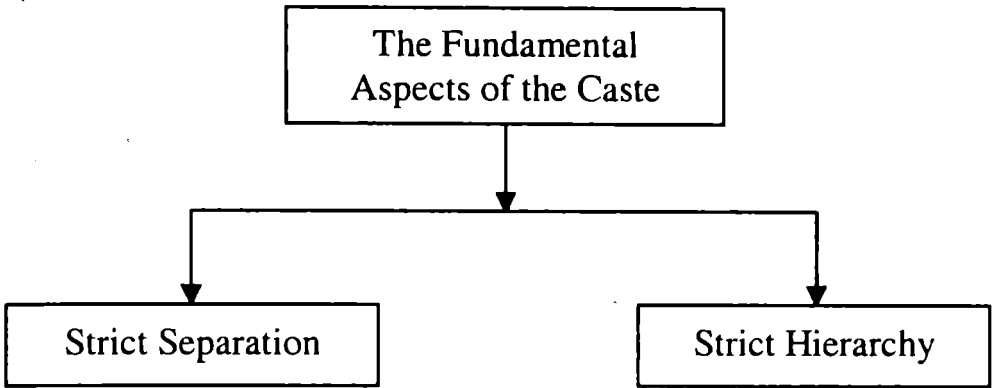
Untouchability is an extreme and particularly vicious aspect of the caste system that prescribes stringent social sanction against members of castes located at the bottom of the purity-pollution scale. The limited literal meaning of the word, the institution of 'untouchability' refers not just to the avoidance or prohibition of physical contact but to a much broader set of social sanctions. Untouchability may also involve forced inclusion in a subordinated role, such as being compelled to play the drums at a religious event. The performance of publicly visible acts of (self) humiliation and Subordination is an important part of the practice of untouchability. It is almost always associated with economic exploitation of various kinds, most commonly through the imposition of forces, unpaid labour or the confiscation of property. At last, we can say that Untouchability is a pan-Indian phenomenon, although its specific

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1 *Supra* Note No. 11, P. 19.

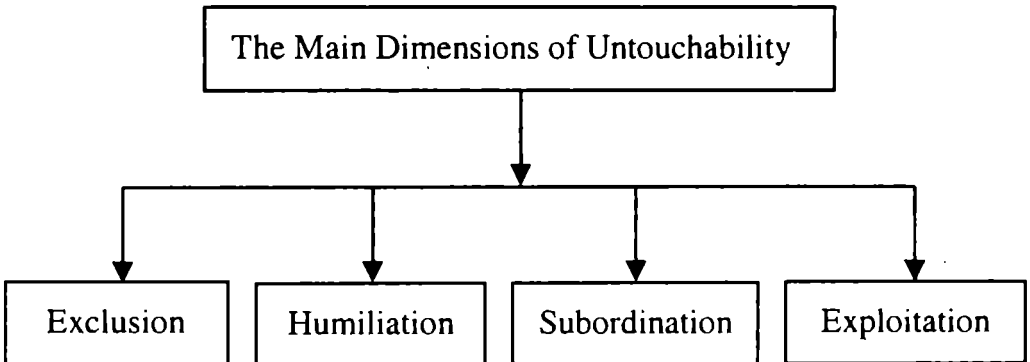
forms and intensity vary considerably across regions and socio-historical context.<sup>2</sup>

**Chart No. 6.1**



Strict separation and strict hierarchy are the fundamental aspects of the caste system. Every caste is rigidly separated from every other castes and intermarriage and interdining are prohibited across all caste boundaries.

**Chart No. 6.2**



It is important to emphasize that the aforesaid dimensions are all equally important in defining the phenomenon 'untouchability'.

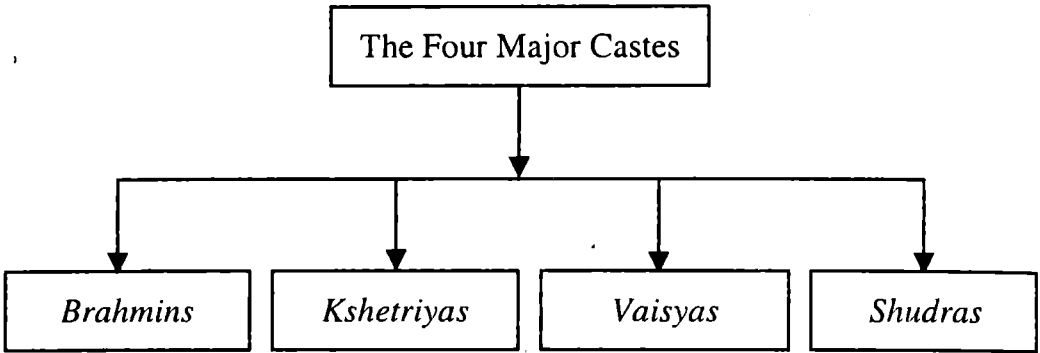
In actual historical practice, economic and social status tended to coincide. Thus, there was a fairly close correlation between social (i.e. caste) status and economic status. The 'high' castes were almost invariably of high economic status, while the 'low' castes were almost always of low economic status. In modern times and particularly since the 19<sup>th</sup> century, the link between caste and occupation has become much less rigid in the sense that ritual religious prohibitions on occupational change are not easily

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2 *Supra* Note No. 11, P. 21.

imposed today and it is easier than before to change one's occupation.<sup>3</sup> *Manu dharma* states that the Hindu religious code of conduct divides human being into four *varnas* (colours, castes)

**Chart No. 6.3**



**(i) The Brahmins (Priests and Teachers)**

The *Brahmins* considered as the priestly, class are believed to have come from the head of God. They are eligible for learning and teaching and perform sacrifices. The others can not teach and perform sacrifices.

**(ii) The Kshetriyas (Rulers and Soldiers/Warriors)**

The *Kshetriyas* are considered to be the warrior class. They are supposed to have come from the shoulder of God. They are eligible for learning. Their work is to protect the people by fighting war against enemies.

**(iii) The Vaisyas (Merchants and Traders)**

The *Vaisyas* are considered as the trading class, that came from the thigh of God. Their work is to trade and feed the above two classes.

**(iv) The Shudras (Cultivators, Labourers and Artisans)**

The *Shudras* are considered the servants. They are assumed to have come from the feet of God and their work is to do all menial works to the above three classes. They are not entitled to learn anything.

[N.B. Tribal and Indigenous people do not fall under the aforementioned four castes structure.]

Besides these major castes mentioned above, there are more than other 3000 sub-castes in number with the 'untouchables' or '*Dalits*'

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3 *Supra* Note No. 11, P. 20.

at the bottom and outside. They are the slaves of the above groups and they are absolutely forbidden to learn and teach.

The caste system survived for centuries because the religious leaders transmitted the Hindu scriptures to the common people and attributed the caste system to divine ordinance. Individually or collectively, any breaking of this system was tantamount to breaking the divine law. Painstakingly, every dimension of the divine ordinance of caste was included in the scriptures. *Bhagavad Geeta* is regarded as the noblest of all the scriptures. Perhaps, India's caste system is the world's longest surviving social hierarchy. A defining feature of Hinduism, caste encompasses a complex ordering of social groups on the basis of ritual purity. A person is considered a member of the caste into which he or she is born and remain within that caste until death. The particular ranking of that caste may vary among regions and overtime. Differences are traditionally justified by the religious doctrine of *karma* in status. A belief that one's place in life is determined by one's deeds in previous life times. Within the context of the four principal *varnas* or large caste categories, caste system has been described by traditional scholarship as more than 2,000 years old system. There are thousand of sub-castes within the four principal castes. They are also called Jatis, endogamous groups and are further divided along occupational sectarian, regional and linguistic lines. Sometimes, collectively all of these are referred to as 'Caste Hindus' or those falling within the caste system.

From the above observations, finally, we can say that caste system is regarded as the parent institution of untouchability in India. Thus, India is called the fertile land for untouchability.

### **6.1.2 Sites and forms of Untouchability**

The practice of untouchability was originally related to the avoidance of physical contact with persons of particular castes because of religious beliefs regarding pollution. In certain regions, the practice of avoiding physical contact has now disappeared but discriminatory attitudes and behaviour towards persons belonging to traditionally untouchable *jatis* continue to persist. It is said that there is not only on the practice of physical untouchability in the public and private spheres, there is also other kinds of discriminatory behaviour including denying *Dalits* access to public

utilities and services. In this context, there are following sites and forms of untouchability:<sup>4</sup>

a) *Untouchability in the private sphere is reflected in these activities:*

- Entry into a *savarna* (upper-caste ) house
- Facility for drinking water (Common source of water, separate source of water and no facility for drinking water)
- Entry into a temple
- Entry into the shop
- Giving and receiving things and money in the shop
- Services of the barber
- Buying pots from the potter
- Tailor taking measurements for stitching clothes
- Paying wages to *Dalit* workers
- *Dalit* worker working in the field with the *savarna* worker
- Employment of *Dalits* in the constructions of the houses
- Movement on the public road in the village

b) *Untouchability in the public sphere is practiced in:*

- Seating arrangement in *Panchayat* meetings
- Seating arrangement of the students in the primary schools
- Use of drinking water facility for the students in the village primary school
- Eating together in the primary school (mid-day meal)
- Relationship between *savarna* and *Dalit* teacher in the primary school
- Interaction between *savarna* teacher and *Dalit* teacher in the school

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4 *Supra* Note No. 11, pp. 58-59.

- Interaction between *savarna* student and *Dalit* teacher in the school
  - Relationship between *savarna* and *Dalit* primary students outside the school
  - Housing for *Dalit* teacher in the village
  - Buying stamps in the post office
  - Delivery of letters, etc. by the postman
  - Traveling by public transport (bus, tempo, tractor, etc. )
- c) *Other spheres where untouchability is practised*
- Public Distribution Shop
  - Health services, especially Primary Health Centre (in the village or nearest to the village)
  - Visit of health workers to *Dalit* households and providing services
  - Cremation /burial places
  - Weddings, funerals and festivals
  - Tea shops and hotels
  - Washing at village streams, etc.

Many urban upper caste households maintain separate drinking water glasses for domestic workers, especially cleaners and scavengers. Many will not allow scavengers into certain areas of their house, especially the kitchen, on the grounds that they are 'dirty' people. Such special prejudices are merely ill-disguised forms of untouchability<sup>5</sup>

### **6.1.3 The So-Called Untouchables**

There is also another category of people who don't come under any of above four caste groups since they are not considered as human beings. They are called the 'untouchables'. The 'untouchables' are also considered as the 'Out castes' or the 'unseeables'. There are hundred of codes of conduct written for them.

The so-called 'untouchables' have been referred to collectively by many names over the centuries, names like *chandala*, *mlechchha*,

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5 *Supra* Note No. 11, P.14.

*asprishya, achhoot, ati-shudra, dasyu, dasa, panchama*. In addition to these names which refer to *Dalits* in general, there are also the names of specific castes that are often, but not always, associated with particular occupations such as *dhobi, bhangi, chamar, holeya, mahar, maang, paraiyan, pulaya* and so on. Whatever the specific etymology of these names, they are all derogatory and carry a strongly pejorative charge. In fact, many of them continue to be used as forms of abuse even today, although their use is now a criminal offence. Mahatma Gandhi had popularized the term *Harijan* (which means children of God) in the 1930s to counter the pejorative allusions of caste names. The ex-untouchable communities and their leaders have coined another term *Dalit* which is now the generally accepted term for referring to these groups. In Indian languages, the term *Dalit* literally means 'downtrodden' and conveys the sense of an oppressed people.<sup>6</sup>

The word '*Harijans*' called by Mahatma Gandhi does not describe their condition adequately. Therefore, the outcastes preferred to call themselves as *Dalits*. The word *Dalit* means 'broken', 'torn', 'scattered' and 'crushed'. The *Dalits* are described as *varna-shankar*. They are outside the system. Even the mere presence or the shadow of an untouchable person is considered polluting. Strictly speaking, the 'untouchables' castes are outside the caste hierarchy. They are considered to be so 'impure' that their mere touch severely pollutes members of all other castes. Even as outcastes, they themselves are divided into further sub-castes. *Dalits* have generally been confined to the occupational structure into which they are born whereas the first four *varnas* are free to choose and change their occupation. The *Dalits* are deprived of education, right to possess assets, right to possess weapons to protect themselves and so on. Therefore, they are owned as the property of the caste people. The code of conduct that deprives them of these rights was written three thousand years back. One may wonder why this is still in practice. The *Dalits* experience that the agony of Untouchability is very deeply in all walks of life: social, economic and political. One cannot understand the pain of being a *Dalit* unless one experiences it. It is said as reality of *Dalits*. To understand the *Dalits* as an indigenous people, there are their historical roots-archaeological and literary evidence.

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6 *Supra* Note No. 11, P. 22.



Caste-based oppression and discrimination is still alive and flourishing in India. *Dalits* are most often targeted by the upper castes when they seek to assert their constitutional right to equality when *Dalit* demands for justice threaten upper caste dominance, they are met with violent force. In numerous quotidian acts, *Dalits* are constantly reminded of their Subordinate status. There are 150 million *Dalits* in India today. *Dalit* comprise about one sixth of the entire population. Among all the underprivileged groups in India, only *Dalits* are marked by a legacy of the deepest social degradation in the form of centuries –old tradition of untouchability. The stigma of untouchability is unique, the suffering that it entailed equally distinctive in the comprehensive manner that it pervaded all aspects of everyday life, present, past and future. The more prevalent definition as it focuses on *Dalits* that are officially designated as the 'scheduled castes'.<sup>7</sup>

#### **6.1.4 Anti-Untouchability Movement: A Historical Overview**

In the 6<sup>th</sup> century B.C., *Chawark* philosophers criticized the *varna* system based on the writings in the *Vedas* and *Upanishads*. The *Sankhya* philosophers were explicitly anti- *vaidic* descriptions and free from *Brahmanist* tendencies. In that time, another school of thought within Hinduism, the *Baisheshik* philosophy also emerged. After that period, there were a number of individual leaders who criticized Hinduism. 5<sup>th</sup> and 6<sup>th</sup> century philosophers such as Prakudh Katyanan, Makhali Goshal, Purna Kashyap, Sanjay Belathiputra and Nigandhanath Putra each had their own religious sects but had in common their opposition to *vaidic* religious beliefs. In the writings of Katyanan (400 A.D.), there is indication that there were battalions of untouchables and that there were untouchable organisations. In the medieval period, saints and poets such as Kabir, Nanak and Ravidas initiated campaigns for untouchable liberation. They sought to prove that false pride and superstitions were the base of untouchability belief, sought to bring everyone into the fold of equality and brotherhood and sought to create freedom of religion. There were also other social reformers, such as the Emperor Akbar (1556-1605 A.D.), who was the then King of Bengal; Dayananda Saraswati (1824-1883 A.D.), who was the Jain Swami of North India; Annie Besant in South India and Jyoti Rao

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7 *Supra* Note No. 11, pp. 12-13.

Phule (1827-1890 A.D.) in central India, who envisioned bringing together all castes into a single caste.

Karl Marx and Engels write in their *The Communist Manifesto* that class struggles have been and continued to be part of society. In Hindu societies, they have taken various forms, such as conflicts between *Aryans* and non-*Aryans*, between feudal lords and the landless, between the twice born castes and the *Shudras*, between atheists and theists and between the rulers (*Brahmins* and *Kshetriyas*) and the ruled (*Vaishyas* and *Shudras*).

*Dalits* have appeared in history not only in the role of victims but also resisting and struggling against their Subjugation. *Dalits* revolts, protests and assertions against oppression and injustice have occurred all over the country and in all periods of history. Although, there are diverse nature, modes of organisation and scale of struggles. Generally, these struggles were ignored by mainstream historians and scholars.<sup>8</sup>

The following anti-untouchability movements were launched in India:

### **1. The Bhakti Movement**

This movement spread over many regions of India between the 10<sup>th</sup> and 13<sup>th</sup> centuries. It is famed for its revolutionary poet-preachers who opposed caste distinctions and hypocrisy of *Brahminist* rituals that had overtaken the Hindu religion. *Bhakti* saints like Kabir, Tukaram and Basavanna popularized their teachings through the popular folklores and songs which often addressed caste injustices.

### **2. The Arya Samaj as Part of a Major Movement**

Dayanand Saraswati is regarded as the founder of *Arya Samaj*. He believed that caste was a political institution created by the rulers for the common good of society and not a natural or religious distinction. The *Arya Samaj* which emerged as part of a major movements for Hindu revival in north India, opened schools for *Dalit* children and also launched movements against the practice of untouchability by upper castes in some places. The influence of *Arya Samaj* was limited to Punjab, Uttar Pradesh and other parts of north-west India.

### **3. The Mamai and the Uravinmural as Caste Organisations as Parts of a Major Movement**

Traditionally, the *Nadars* (*Shanars*) were toddy-tappers in Southern India. They were treated as exterior *jatis* by Caste Hindus. Until the end of the 19<sup>th</sup> century, they were forbidden entry into Hindu temples and completely barred from using public wells and roads. They were also prohibited from carrying umbrellas and wearing shoes. Their women were not allowed to wear upper garments to cover the breast.

Besides, toddy-tapping, the *Nadars* engaged in petty trade-selling palmyra products, salts and dried fish. In these harsh situations, the *Nadars* of Tamil Nadu crossed the boundary of untouchability. With the advent of British rule, road communications improved and taxes on internal trade were abolished, which helped the *Nadars* improve their economic condition. Under the influence of missionaries a section of the *Nadars* became *Christians*. Others formed caste organisations called the '*Mahimai*' and the *Uravinmural* to strengthen unity among the *Nadars* in certain villages and towns. These organisations constructed wells, schools and public buildings for the community.<sup>9</sup>

The *Nadars* began to imitate the dress and rituals of the upper castes. These attempts launched by these castes were violently opposed by upper caste Hindus. Hundreds of *Nadar* villages were looted, hundreds of *Nadar* houses were destroyed and some *Nadars* were killed. To control the riots, the army had to be deployed. The local courts, the High Court and even the Privy Council in London gave verdicts against the *Nadars* for their attempts to enter the temple. The courts declared that the *Nadars* had gone beyond their hereditary callings. Also in these obstacles, they continued their efforts to raise their status, though they put off the temple entry program. They succeeded in registering themselves as *Nadar-Kshetriyas* with the change in their economic condition in the 1921 census. They mobilized to obtain political positions. At present, they have moved from the lower rungs of the ritual hierarchy to a position of status and power. These organisations attempted to seek higher status within the socio-religious framework of Hinduism.

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9 *Supra* Note No. 11, P. 31.

#### **4. The Sree Narayana Dharma Paripalana Yogam as Caste Organisation as Part of a Major Movement**

The *Ezhavas* of Kerala formed their caste organisation called the *Sree Narayana Dharma paripalana Yogam* to collectively improve their status in the social structure. They launched a *satyagraha* for entering into temples in the 1920s. Through this organisation, they bargained with the government and political parties for economic opportunities and political positions. The struggles conducted by *Ezhavas* attempted to seek higher status within the socio-religious framework of Hinduism.

#### **5. The Anti-Brahmin Movement**

In the mid-19<sup>th</sup> century, in Maharashtra and Tamil Nadu, the anti-*Brahmin* movements mounted a major challenge to *Brahminical* hegemony. Jotirao Phule and Shahu Maharaj of Kolhapur in Maharashtra and E.V. Ramaswami Naicker or 'Periyar' in Tamil Nadu were the pioneers of the movement.

#### **6. Satya Shodhak Samaj (Society of Truth Seekers) as Anti-Untouchability Movement**

Jotirao Phule is regarded as founder of *Satya Shodhak Samaj*. This was established in 1873 to liberate the *Shudras* and *ati-Shudras* and to prevent their exploitation by the *Brahmins*. Phule was a leader of the anti-*Brahmin* movement.

#### **7. Adi Dravida Movement as anti-Untouchability Movement**

This movement was led by E.V. Ramaswami Naiker or 'Periyar' in South India. This movement was mobilized to liberate the *Shudras* and *ati-Shudras* and to prevent their exploitation by the *Brahmins*. Hindu dogmas were the root cause of *Brahminical* dominance, as a staunch rationalist, asserted Periyar. *Adi-Dravida* movement asserted that the *Adi-Dravidians* were the original natives of the land and *Brahmins* were the *Aryan* invaders. Similarly in Punjab, Mangoo Ram and other leaders argued "we are the original people of this country and our religion is *Adi-Dharma*". The leaders of the *Dravid Jatiya Andolan*, Periyar, at one point said that if a *Brahman* and a snake are seen at the same time, the *Brahmin* should be killed first.

## **8. Indian Independence Movement as Anti-Untouchability Movement**

This movement was led by Mahatma Gandhi. Many Nepali *Dalits* were inspired by this movement. At the outset, Mahatma Gandhi struggled against racial discrimination in South Africa. Later, he forwarded movement against practice of untouchability in India. Mahatma Gandhi also organized a number of welfare activities through the *Harijan Sevak Sangh* to educate *Dalit* children and organize cooperative societies for *Dalit* artisans such as weavers and cobblers in Gujarat and Maharashtra. After independence, the Indian state has also launched a number of welfare programmes specifically aimed at empowering *Dalits*.

Mahatma Gandhi was a leader whose efforts to address untouchability were significant. He mentioned that India had become a slave of the British due to her own system of caste discrimination rather than the fear of British weapons. He gave the untouchables the name *Harijan* which means 'peoples of God'. He believed that the *varnashrama* of the *Vedas* was based on absolute equality of status. He did much to support the anti-untouchability movement; he still maintained himself as a Hindu and supported many Hindu philosophies and texts. Jawaharlal Nehru, Jaya Prakash Narayan and Jag Jivan Ram also contributed to the anti-untouchability movement.

## **9. The Indian Dalit Liberation Movement as Anti-Untouchability Movement**

This movement was initiated and led by Dr. Bhimrao Ramji Ambedkar (1891-1956). Many Nepali *Dalits* were inspired by this movement also. This movement is considered as major radical anti-untouchability movement which has a widespread impact on the mobilization of *Dalits* in the 20<sup>th</sup> century. Initially, Dr Ambedkar organized the *Dalits* of Maharashtra for temple entry and to chair access to drinking water from public tanks. He exhorted *Dalit* to educate organize and struggle for their rights. As per him, social and economic equality could be attained only through political means. He observed, "Graded inequality is the fundamental principle of the caste system".

Dr. Ambedkar pleaded that the depressed classes be given separate electorates. Representation was made to the British government in the late 1920s for this provision, but it was rejected due to

opposition from the majority upper-caste Hindus. Dr Ambedkar gave up the demand under pressure, large-scale *Satyagra* protests were launched for separate electorates before the state assemblies in Poona, Nagpur, Lucknow and Kanpur in 1946. The Independent Labour Party was formed to organize all members of the labouring classes in the 1930s. Later, the scheduled caste Federation (SCF) was formed in 1954 to fight elections and to promote the interest of the *Dalit*. The SCF later reorganized itself as the Republican Party of India. Along with his political campaign, Dr. Ambedkar also launched a struggle for collective spiritual enlightenment. He told other *Dalits* that they would remain untouchable as long as they remained within the Hindu fold. They had to renounce Hinduism as it was the root cause of inequality and untouchability. He chose Buddhism as the alternative because he believed it was an emancipator religion that preached egalitarian. Buddhism has no place for God and soul, said a leading *Dalit* Buddhist intellectual, Shan Karrao Kharat.<sup>10</sup>

Dr. Ambedkar strongly rejected the racial theory. He argued that there is no evidence in the *Vedas* of any invasion of India by the *Aryan* race and its having conquered the *Dasas* and *Dasyus* supposed to be natives of India. According to him, there was no racial discrimination between *Aryans* and *Dasas*. As far as physical characteristics are concerned, there were hardly any difference between the *Brahmins* and untouchables belonging to the same region. Dr. Ambedkar asserted that during the *vaidic* period, there was no separate *Shudra varna*. The *Shudra* ranked as part of the *Kshetriya Varna* in the Indo-*Aryan* society.<sup>11</sup> *Mahad Satyagraha* on March 20, 1927 & *Nasik Satyagraha* on March 2, 1930 were launched at the leadership of Dr. Ambedkar against untouchability.

### **10. Revolutionary Groups in Favour of Anti-Untouchability Movement**

There were revolutionary groups that were also working for *Dalits* in India. The *Dalits panther* and the *Naxalites* that were considered as revolutionary groups. That even authorized killing in the name of *Dalit* liberation.

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10 *Supra* Note No. 11, pp. 34-35.

11 *Supra* Note No. 11, pp. 24-25.

The *Dalit Panthers*, a radical group that emerged in western India during the early 1970s, used the term to assert their identity as part of their struggle for rights and dignity. Over time, it has emerged as a political category associated with an ideology that advocates social transformation in the direction of an egalitarian, just and human social order. It is an ideology advocating fundamental change in the social structure and relationships among individuals. A *Dalit* writer, Gangadhar Patawane says that '*Dalit* is not a caste. *Dalit* is a symbol of change and revolution.'<sup>12</sup>

*Dalit* organisations are running for anti-untouchability movement. Essential to the project of *Dalits* assertion and empowerment is the organisation of *Dalits* into groups for collective reflection and united action. Such organisational initiatives were flourishing all over the country, not only in the state and district levels but also in several villages. While some organisations have started libraries and discussion groups, others undertake sports and cultural activities. Many organisations have mobilized around development programmes such as Self- Help and Saving Groups, while others have launched struggles against atrocities. Most of the organisations have included Dr. Ambedkar's name in their titles, signifying their collective identity and aspirations, calling themselves Ambedkar Youth *Mandal*, Ambedkar Club, Ambedkar Welfare Society and so on. There are also *Jai Jagannath Mandals*, *Kabir Mandali*, Gandhi Clubs, *Harijan Mandals*, *Harijan Yuvak Sangh* and so on. In Karnataka, a conclave of *Dalit* poets, writers and artisans held at Bhadravathi in 1973 resulted in the formation of *Dalit Sangharsha Samiti* (DSS), a form to educate, organize and lead *Dalits* in their agitation against their oppressors and the exploitative system as a whole. The already existing Ambedkar *Yuvak Mandal* merged with DSS<sup>13</sup>. Indian *Dalit* Literature Academy has established the following rewards in the name of famous Indian *Dalit* leader and constitutionalist Dr. Bhimrao Ramji Ambedkar. These rewards are given to those persons who have contributed to *Dalit* upliftment and against untouchability:

- Dr. Ambedkar International Excellence Reward
- Dr. Ambedkar International Brotherhood Reward

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12 *Supra* Note No. 11. P.22.

13 *Ibid*, pp. 152-154.

- Dr. Ambedkar International Art- Brilliance Reward
- Dr. Ambedkar Fellowship

*Dalits* have also expressed their agony and protest against untouchability, discrimination and injustice through writing, poetry, memories and fictions in their own dialects. The expressions against these acts have been flowing from *Dalit* pens since the 1980s. The number of Journals in print indicates the proliferation of *Dalit* literature: *Dalit voice*, *Dalit Shakti*, *Dalit Panther*, *Sangharsh*, *Vacha*, *Bhim Nairnayak*, *Dalit Mukti*, *Vidule*, *Asmita* and so on. These *Dalit* literatures are also regarded as parts of anti-untouchability movement. *Dalits* have been demanding rights, equality and dignity through their organized movements. They have believed that the democratic political system is an important institutional mechanism for asserting the rights they have acquired after Indian independence. Overcoming the obstacles created by the dominant strata to prevent them from voting, *Dalits* increasingly exercised their franchise. Over a period, they have shifted their support to different parties in different states. They have formed their own parties such as the Republican Party of India and the *Bahujan Samaj Party*. In the 1990s, *Dalits* began a concentrated effort in the north Indian states of UP and Bihar. In this context, we can say that *Dalits* have actively shown political participations to forward anti-untouchability movement.

However, untouchability has been practiced in Punjab, Uttar Pradesh, Bihar, Madhya Pradesh (including Chhattisgarh) Rajasthan, Maharashtra, Orissa, Andhra Pradesh, Karnataka, Kerala, Tamil Nadu and other states of India. Individual and organized *Dalit* movements have been launching for elimination of untouchability. At various times, Indian religious reformers, social reformers, great saints, poets, philosophers, writers and even kings have opposed the caste system and untouchability. However, such type of social evil is not totally removed from India.

### **6.1.5 State Provisions for the Abolition of Untouchability**

Legally, the ex-untouchables or *Dalits* are defined as person belonging to the castes listed in the statutory 'Schedule' created by the *Government of India Act, 1935* passed by the British Indian Government. Earlier, the government used to refer to them as the 'Depressed Classes' but the term 'Scheduled castes' came into use after 1935 and after independence it has become part of everyday



language. It is true that the 1935 schedule does not include all the *Jatis* who experience untouchability.<sup>14</sup>

The *Indian Constitution, 1950* takes formal cognizance of the problem of untouchability. It has made a number of provisions under various Articles. The Indian Constitution has stated within its part III that 'equality before law', 'prohibition of discrimination on grounds of religion, race, caste, sex or place of birth', 'equality of opportunity in matters of public employment', 'abolition of untouchability' and 'protection of interests of minorities' are fundamental rights.

"Untouchability" is abolished and its practice in any form is forbidden. The enforcement of any disability arising out of "untouchability" shall be an offence punishable in accordance with law.<sup>15</sup> The principal object of Article 17 is to ban the practice of untouchability in any form. This expression refers to the social disabilities imposed on certain classes of persons by reason of their birth in certain castes and does not cover social boycott based on conduct. [*Devarajiah v. Padmanna, AIR (1961). Mad 35, 39*]. A curious question was raised in a Madras case. After the directive order of the court, The State Legislature passed a law to improve the conditions of living of untouchables, by providing for the acquisition of land to construct a colony for them. The argument was advanced that such a construction would result in the segregation of those persons and would not be in conformity with Article 17 but the argument was not accepted [*Pavadai v. State of Madras, AIR (1973). Mad 458*]<sup>16</sup>

In 'Directive Principles of State Policy' of Part IV, *the Constitution of India* has provided provision regarding promotion of educational and economic interests of scheduled castes, scheduled tribes and other weaker sections.<sup>17</sup> In 'Special Provisions relating to Certain Classes' of Part XVI, *the Constitution of India* has mentioned the following provisions:<sup>18</sup>

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14 *Supra* Note No. 11, pp. 36-37.

15 *Constitution of India, 1950*. Article 17.

16 P.M. Bakshi (2005), *The Constitution of India* (6th ed.), Delhi: Universal Law Publishing Co.Pvt. Ltd., P. 33.

17 *Constitution of India, 1950*. Article 46.

18 *Constitution of India, 1950*. Articles 330, 332, 335, 338, 338A, 339, 340.

- Reservation of Seats for Scheduled castes and scheduled tribes in the House of the People
- Reservation of Seats for Scheduled castes and scheduled tribes in the Legislative assemblies of the States
- Claims of Scheduled castes and scheduled tribes to Services and posts
- National Commission for Scheduled castes and scheduled tribes
- Control of the Union over the administration of scheduled Areas and the Welfare of Scheduled tribes
- Appointment of a commission to investigate the conditions of backward classes

The *Indian Constitution* has directed the state to ameliorate the conditions of the weaker sections in general and the scheduled castes and scheduled tribes in particular. These state provisions relate to electoral reservations, reservation of seats in educational institutions and reservation in government jobs.

Article 35 of the Constitution provides that parliament shall have and the legislature of a state shall not have power to make laws for prescribing punishment for those acts which are declared to be offences under the part of Fundamental Rights. Parliament exercised its exclusive power and passed the *Untouchability (Offences) Act* in 1955. This outlawed the enforcement of disabilities on the ground of untouchability in public places. Later, under pressure from the *Dalit* groups, this Act was amended. As a result, the *Untouchability (Offences) Amendment Bill* renamed the *Protection of Civil Rights (Amendment) Act* and came into force on 19 November 1976. The Act provides for enhanced and stringent punishment including collective fines for offences relating to untouchability.

The *Protection of Civil Rights Act, 1955* has 17 Sections including the following provisions:<sup>19</sup>

- Punishment for enforcing religious disabilities
- Punishment for enforcing Social disabilities

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19 *Protection of Civil Rights Act, 1955*. Sections 3,4,5,6,7,7A and 15A.

- Punishment for refusing to admit persons to hospitals and so on
- Punishment for refusing to sell goods or render services
- Punishment for other offences arising out of untouchability
- Unlawful compulsory labour when to be deemed to be a practice of untouchability a
- Duty of State Government to ensure that the rights accruing from the abolition of untouchability may be availed of by the concerned persons

This Act defines the following forms of untouchability and caste-based discrimination by high castes against the lower of untouchable Castes:

- Denial of access to temples/places of public worship
- Denial of access to teashops, hotels and restaurants, etc.
- Denial of access to drinking water resources
- Denial of barber services
- Denial of services by the *dhobi* (washing clothes)
- Denial of participation in social ceremonies
- Denial of access to village chaupal (meeting place) or *Gram Sabha*
- Discrimination in educational institutions, Public Health Centres (PHCs), etc.
- Discrimination in the use of utensils kept public hotels and restaurants
- Being forced to carry out occupations like removal of carcasses and sweeping
- Prevention from carrying any occupation trade or business
- Preventing the use of public cremation/burial groups
- Denial of the use of public passages, road, etc.
- Use of abusive or insulting language
- Prevention of construction or acquiring of any residential premises

- Denial of the access to *Dharmshala, Sarai* (boarding houses, inns), etc.
- Denial of the use jewellery, ornaments, etc.
- Non-supply of goods from general shops

As per presented Act, aforementioned forms of discriminatory social behaviour are identified as forms of illegal discrimination. To eliminate such forms of untouchability aforesaid Act has prescribed punishment.

In the exercise of powers conferred by Section 16B of the *Protection of Civil Rights Act, 1955*, the Central Government hereby made the *Protection of Civil Rights Rules, 1977*. These rules were made by the Central Government to carry out the provisions of aforesaid Act.

In the next decade a new Act, the *Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989*, was also promulgated to revamp the previous acts. The main objectives of this Act are: <sup>20</sup>

- To prevent the commission of offences of atrocities against the members of the scheduled castes and the scheduled tribes
- To provide special Courts for the trial of such offences and for the relief and rehabilitation of the victims of such offences and for matters connected therewith or incidental thereto

In the exercise of the powers conferred by sub-section of Section 23 of the above said Act, the Central Government hereby made the *Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Rules, 1995* to carry out the provisions of the aforesaid Act.

The State has made constitutional and legal provisions to eradicate practice of untouchability. It has also taken positive measures to improve the socio-economic condition of *Dalits*. The National Commission for scheduled castes and scheduled tribes, the premier government body is established to protect the rights of *Dalits* and

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20 *Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989*. Preamble.

*Adivasis* (Natives). However, it has been widely accepted that legal measures to punish and abolish untouchability are not enough to eradicate the practice. The National Commission for scheduled castes and scheduled tribes has not seen as a significant social science studies of untouchability. The forms of untouchability are not entirely abolished from the country.

## **6.2 Efforts for Abolition of Racial Discrimination in United States of America (USA)**

In the United State of America, there is Racial Discrimination (RD) between Blacks and Whites. Blacks, who are also African descent and Negro, are discriminated by Whites on the basis of race and colour. There are strong racial prejudices against black community. In a report Submitted to the United Nations, America has acknowledged that racism still exists in America. The black community in America is taken as the third world in the first world.

Blacks are discriminated in schools, public transportation, hotels, and theatres.<sup>21</sup> Before fifteenth amendment of the *Constitution of USA*, Blacks were deprived of the right to vote.<sup>22</sup> Civil right movement has played vital role to remove RD in America.<sup>23</sup> Due to the racism, critical race theory is propounded in the range of jurisprudence<sup>24</sup>. In United States of America, Blacks are exploited by whites by means of discrimination.

In the condition of discriminatory behaviour to black community by white community on the basis of colour, American 16<sup>th</sup> president Abraham Lincoln made commitment to end racial discrimination and getting people's mandate became vanquisher in the election of president post. After vanquishing in the post of president, he prohibited exploitation and unjust behaviour and made provisions of the harsh punishment on these acts. Even white community raised the voice against his such type of movement. Jr. Martin Luther King struggled against American Segregation Law. This law

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21 Thomas M. Cooley (1994), *The General Principles of Constitutional Law in the United States of America* (4th ed.), Calcutta: Hindustani Law Book Company, P. 286.

22 XV Amendment of the Constitution of USA.

23 Masilmani Azariah (2001), *Racism and Casteism are the same-Umpteen Reasons Why*, Chennai: Dalit Liberation Education Trust et.al., P.2.

24 M.D.A. Freeman (2001), *Lloyd's Introduction to Jurisprudence* (7th ed.), London: Sweet and Maxwell Ltd., P.1335.

was like approximately apartheid and human civilization antagonistic law. James Arlate said that by accepting racial discrimination, America is the country of whites not of blacks. Dr. Martin Luther King was murdered by James Arlate on the charge of buying ancestral home of white. American President John F. Kennedy was in favour of racial unity and equality. After the cruel murder of humanist leader, tremendous pressure was created against brutal murder as a result Negro's demands were fulfilled. Soon, bill relating to Negro's residence was passed. Negro got opportunities in the field of employment, education and political appointment. Whites were compelled to provide reservation for blacks.

### **6.3 Efforts for Abolition of Racial Discrimination in United Kingdom (UK)**

Racial Discrimination (RD), on the basis of colour and race, has prevailed in UK. In 1965, parliament enacted the *Act Relating to Race, 1965*. The law is now found in the *Act Relating to Race, 1976*. Race discrimination is defined under this Act as being discrimination based on the ground of colour, race, nationality, ethnic or national origins. It may be direct or indirect.<sup>25</sup> The first attempt of protecting persons from racial hatred was contained in the *Act Relating to Race, 1965*. Incitement to racial hatred is now regulated under the *Public Order Act, 1978*. Section 17 of this Act defines racial hatred as hatred against any group of persons in Great Britain defined by reference to colour, race, nationality or ethnic or national origins under this Act. Section 19-23 of this Act has declared it as an offence.<sup>26</sup> Section 70 has declared that this is an offence with 6 months or fine of £ 1000/- or both punishment or summary conviction or with two years imprisonment or an unlimited fine or both and indictment.<sup>27</sup>

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25 Hilarire Bennett (1996), *Constitutional and Administrative Law*, UK: Cavendish Publishing Ltd., P.590.

26 *Ibid*, pp.609-610.

27 J.C. Smith and Brian Hogan (1983), *Criminal Law*. (5th ed.), London: Butter Worth and Co. Ltd., P.744.

## **6.4 Efforts for Abolition of Racial Discrimination in South Africa**

The *International Convention on the Suppression and Punishment for the Crime of Apartheid*, 1973 declared that similar policies and practices of racial segregation and discriminations practiced in South Africa, is the Crime of Apartheid.<sup>28</sup> African and African descendants share a common history shaped by the slave trade, slavery, conquest, colonization and apartheid, and a common experience of anti-black racism.<sup>29</sup> People of African descent have, for centuries, been victims of racism, racial discrimination and enslavement and of the denial by history of many of their rights in many parts of the world. Africans and people of African descent face barriers as a result of social biases and discrimination prevailing in public and private institution.<sup>30</sup>

In South Africa, there was racial discrimination between whites and blacks. Blacks were discriminated and segregated in different aspects of life from whites. In 1948, in South Africa, 13 percent whites' government of national party brought policy relating to discrimination of colour (apartheid policy) to maintain dominance and exploitation of whites over blacks. African people opposed such type of policy. The voices against racial discrimination were raised. International community opposed such type of policy since 1961. South Africa was segregated from common wealth. A reproach against this human civilization antagonistic policy reached to the United Nations. The boards were hung up by whites in public places where it was written that "blacks and dogs are not allowed". The humanist leader Nelson Mandela led the movement against racial discrimination and said that all human beings are equal and there should not be unjust on any person. At that time, the punishment of life imprisonment was imposed over him. He became familiar all over the world as a champion against racial discrimination. After being released from imprisonment, he became president of South Africa and brought significant policy to get liberation from racial discrimination and oppression.

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28 *International Convention on the Suppress and Punishment of the Crime of Apartheid*, 1973. Articles 1 and 2.

29 *WCAR NGO Forum Declaration*, August 28-September 1, 2001, P.10.

30 *Supra* Note No. 134, P.9.

## **6.5 Efforts for Abolition of Racial Discrimination in Japan**

Japan has its own problem of caste discrimination that affects about 3 million *Buraku* people<sup>31</sup> based on work and descent which has existed for over 400 years. *Buraku* people suffer marginalization, maltreatment and unequal economic opportunities among many others.<sup>32</sup> From these facts, we see that Japan has been facing caste discrimination and untouchability.

Racial discrimination and untouchability have drawn a line of division in society. Efforts have been made to end such types of social evils in the world at large. Humanists and social reformers have raised voice to maintain universal brotherhood and said that there should be end of racial discrimination. States have attempted to minimize and finally eradicate such types of social prejudices through their constitutional/legal measures and judicial interventions.



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31 *Asia Pacific NGO Networking Meeting in Preparation for WCAR*, Press Release. April 29, 2001.

32 *Supra* Note No. 186, P.15.



## CHAPTER – SEVEN

# Judicial Attitudes of Nepalese Court Towards Untouchability

Judiciary is one of major wings of the state. The judiciary is for the execution of laws and their interpretation whenever there is any legal and constitutional problem. The Supreme Court is the highest court in the court system of Nepal. Article 102 of the *Interim Constitution of Nepal, 2063 B.S.* says that Supreme Court shall be the highest court in the judicial hierarchy. The door of the court is always open for all those seeking justice.

The court is the symbol of justice. The faith of the people towards the court is very high in democracy, the role of judiciary is very important. The court has all the authority to work for the dignity of the constitution. Judiciary is the soul of democracy and the corner stone of constitution.<sup>1</sup>

Judiciary is entrusted, in the position, as the guardian of the constitution, guarantor of fundamental and human rights, protector of life, liberty and property of Nepalese citizens. It is the guardian and watch dog of the rights of the citizens. The role of judiciary is very important and essential to abolish untouchability from the society because practice of untouchability is a kind of crime. Court should play pro-active role for the elimination of untouchability in some rare cases, our courts have played important role. Courts have not been conservative in the issue of untouchability. Supreme Court has given directive orders to the government in some cases of untouchability. In this study, some landmark cases, which are decided by Supreme Court (SC) and inferior courts have been taken as follows:

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1 Tek Tamrakar (2004). "Trends of Supreme Court on Social Justice 'Special Focus on Dalits', Rights", *Nepal Law Review*, Vol. 17, No. 1 & 2. Kathmandu: Nepal Law Campus. Faculty of Law, pp.315-316.

### **7.1 Man Bahadur Bishwakarma vs. Government of Nepal et.al. [Writ No. 2505, Oder Date 2049/11/14, Decision No. 4670, NKP (2049), P. 1010]<sup>2</sup>**

This is the first case, challenging untouchability in the Supreme Court. The legislative wing of the government had enacted a provision, which prohibited some people from entering the temple. So, the petitioner challenged the constitutionality of explanation of the Chapter on Etiquette (*Adal*) of the *Muluki Ain, 2020*. Number 10A outlaws untouchability and discriminatory practices based on the caste system and entitles all citizens to attend any public places and to make use of public utilities but its explanation legitimizes the practices traditionally adhered to in any temple or any religious places as non-discriminatory. The constitution prohibits discrimination on the basis of caste against untouchables and prohibits them access to any public places or the use of public utilities. Any contravention of this provision shall be punishable by law.

### **7.2 Krishna Prasad Siwakoti vs. Government of Nepal et.al.[Supreme Court Bulletin (2059), No. 2, P. 4]<sup>3</sup>**

On the basis of Article 11(4) of the *Constitution of the Kingdom of Nepal, 2047 B.S.*, the writ petitioner filed a writ petition demanding with mandamus against Nepal Government and Parliament to make special law for the upliftment of *Dalit* people and to make more punishable law for the culprits who practice caste discrimination and untouchability. In this case, SC denied issuing order of mandamus. Court gave her verdict that provision of Number 10 of the Chapter on Etiquette (*Adal*) of the *Muluki Ain* is not contrary with constitution but it is for the restriction of disorder of social rituals. It does not allow to discriminate on the basis of caste and untouchability. Every caste and tribe have their own culture and traditions. No any caste and tribe can interfere in other's culture and rituals. This is the spirit of its provision. That's why, it is not

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2 *Supra* Note No. 190, pp. 321-322.

3 Tek Prasad Dhungana (2004). "An Overview of Judicial Efforts towards Maintaining Rule of Law in Nepal", *Nepal Law Review*, Vol. 17, No. 1 and 2, Kathmandu: Nepal Law Campus, Faculty of Law, Tribhuvan University, pp. 255-256.

contrary with article 11 of the *Constitution of the Kingdom of Nepal, 2047*. On the basis of Article 11(3) and 11(4) of this Constitution state can make any law when it feels necessary. This kind of right, duty and obligation is given to executive and parliament. Article 11(4) of this Constitution has restricted to discriminate on the basis of caste and untouchability, and has made such discrimination punishable. Parliament added Number 10A in *Adalko Mahal* and made a provision of punishments.

### **7.3 Durga Sob on Behalf of Dalit NGOs Federation vs. Government of Nepal et.al.<sup>4</sup>**

The petitioner herself was victimized while she was trying to enter into the temple named Shaileshwory Mandir in Doti district. Mr. Daman Nath Dhungana, a member of a constitution recommendation committee, was also prohibited from entering the temple. Though the event took place before the eyes of all, the local administration and government authorities were silent. So, the petitioner asked the court in the petition to formulate special legal measures and plan to abolish such discriminatory practices which directly breached the constitutionally guaranteed fundamental rights. The Supreme Court made a directive order to the government authorities to formulate special programmes and legal tools, in order to guarantee the fundamental right regarding equality. But the directive order issued in this case is not specific and time bounded.

### **7.4 Subhadra Bishwakarma vs. Government of Nepal et.al. [Supreme Court Bulletin (2059), No. 10, P. 12]<sup>5</sup>**

In this case, the writ petitioner demanded that Number 10A of the Chapter on Etiquette (*Adal*) of the *Muluki Ain* be deemed as state action under the act relating to the government litigation. But the Supreme Court quashed the writ on the ground that the inclusion of any crimes under the government litigation is purely a state action. The government has absolute power and jurisdiction to decide whether the provision against untouchability is to be included within the government litigation or not. Therefore, the court cannot

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4 *Supra* Note No. 190, P. 322.

5 *Ibid*, P.323.

intervene. This decision of the Supreme Court shows the juristic interpretation rather than socialistic and proactive interpretation. The Supreme Court could not give positive decision recognizing the problem of untouchability.

### **7.5 The Case Relating to Number 10 of the Chapter on Etiquette (*Adal*) of the *Muluki Ain*, 2020<sup>6</sup>**

This case was filed by a human rights lawyer in 2058 B.S. seeking the court for the issuance of a directive order to nullify the provision enshrined in the Chapter on Etiquette (*Adal*) of the *Muluki Ain*. The petitioner argued that provision encouraged the caste discrimination in the name of custom. This provision allowed the so-called upper caste people to deny the *Dalits* from entering the temple and other public places. This provision perpetrated the inhumane and degrading usages. The Supreme Court quashed the petition after issuing the show cause notice in the name of respondents. The respondents argued that the laws have to respect the social values. However, if analysed a social value does not mean immoral practices. Such provision only helps to the adherent of caste discrimination in society.

### **7.6 Dil Bahadur Bishwakarma et.al. vs. Secretariat of Council of Ministers et.al. (Writ No. 44 of 2062 B.S., Order Date 2062/10/6)<sup>7</sup>**

This case was filed in the Supreme Court which was sought to nullify the provision of *Tin Dhara Sanskrit Hostel Rule*, 2048. It was inconsistent with Article 11 of the *Constitution of the Kingdom of Nepal*, 2047 and Section 12 of *Mahendra Sanskrit University Act*, 2043 B.S. This Rule considered only *Batuk* students as eligible for staying in the hostel. This requirement clearly discriminated the *Dalits*. The Supreme Court issued a show cause notice in the name of the respondents. At last, Supreme Court issued directive orders in the name of *Mahendra Sanskrit University* to manage necessary legal provision.

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6 *Supra* Note No. 190, pp. 323-324.

7 *Ibid*, pp. 325-326.

### **7.7 Kamananda Ram et.al vs. Government of Nepal et.al. (Writ No. 3643, Decided on 2059/06/11)<sup>8</sup>**

The petitioners alleged that the defendants who were legally obligated to carry out the obligations of the state did not undertake their duties of providing administrative support and initiatives in eradicating untouchability and discouraging such mal-practices. The petitioners who belonged to the *Dalit* community of Siraha and Saptari districts were allegedly forced by the people belonging to the upper caste of Hindus to do the menial service of disposing corpses (dead bodies of animals). On their refusal to do so, they were Subjected to social and financial boycott and segregation. Finally, the apex court held at in view of the constitutional commitment towards eradication of mal-practice of untouchability and discrimination on the ground of caste, it was not appropriate for government office like District Administration Office, District Police Office and local offices like District Development Committee (DDC), Municipalities and Village Development Committee (VDC) to display apathy and negligence in carrying out their legal obligation in this regard.

### **7.8 Dalit NGOs Federation vs. Government of Nepal et.al. (Decided on 2057 B.S. by SC)<sup>9</sup>**

This case is called *chhotabada* case. *Dalit* NGOs federation filed a case challenging the terminology enshrined in the preamble of the *Muluki Ain*, 2020. The petitioner asked the Supreme Court to make such terminology null and void. The petitioner argued that such terminologies illustrated stereotype perception of the legislature and encouraged caste discrimination. But, the Supreme Court quashed the petition without issuing show cause notice. The court held that the terminology enshrined in the preamble focus on the equality and rule of law. The provision says that no one is above but equal in the eyes of law.

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8 *Supra* Note No. 192, P. 265.

9 *Supra* Note No. 190, P. 324.

### **7.9 Durga Sob vs. Government of Nepal Cabinet Secretariat et.al.**<sup>10</sup>

The petition was filed to nullify and avoid Number 10 of the Chapter on Etiquette (*Adal*) of the *Muluki Ain, 2020*. The claim was taken by writ petitioner that this section is inconsistent with Article 11 of the *Constitution of the Kingdom of Nepal, 2047 B.S.* But, Supreme Court did not nullify and void this section; however, court issued directive order in the name of Nepal government to be active and effective in bearing legal obligation.

### **7.10 Ratna Bahadur Bagchand et.al. vs. Prime Minister and Office of the Council of Ministers et.al.**<sup>11</sup>

In this case, Supreme Court of Nepal issued directive order in the name of government to increase effective awareness programmes for abolition of discrimination and untouchability but directive order was not issued by the Supreme Court for obtaining effective policy from the government for this purpose.

Similarly, in the case of *Durga Sob on behalf of Dalit NGOs Federation vs. Government of Nepal*, the Supreme Court of Nepal issued directive orders to the defendants in carrying out their legal obligations. This case is popularly known as case against social exclusion or *Chamar* case. In the contempt of court case for the state's negligence to implement the court's directives on *Chamar* case, the Supreme Court quashed the petition case even without issuing a show cause notice in the name of respondents. This case was also filed by DNF et.al. against Nepal Government et.al. on 2059 B.S. In the case against the establishment of *Dalits' Commission and National Academy of Ethnic*, Supreme Court quashed the petition filed by Lal Bahadur Bishwakarma.

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10 Narendra Prasad Pathak/Narendra Prakash Khanal (2060 B.S.), *Supreme Court Judgment on Constitutional Issues, Part-2*, Kathmandu: Sakuntala Khanal, pp.185-187.

11 *Ibid*, Part-3, pp. 56-59.

## **7.11 Ram Bahadur Basel et.al. vs. Narendra Bikram Shah et.al.<sup>12</sup>**

Plaintiffs were so-called lower caste people. They wanted to pray in the Dhola Mandir (temple) of Dhola Village Development Committee of Dhading district. There was restriction to enter and pray into the temple for *Dalits*. For a long time, in the leadership of Ram Bahadur Basel and others, more than hundred *Dalit* people went to the temple for prayer and to issue their rights which are guaranteed by the constitution and laws. But, in the leadership of Narendra Bikram Shah, Krishna Lal Shrestha, Mukti Namsal who were elected of Dhola Village Development Committee and others restricted plaintiffs and others to enter into the temple and attacked them. Plaintiffs filed a case in Dhading District Court on the basis of Article 11 of the *Constitution of the Kingdom of Nepal, 2047 B.S.* and Number 10A of the Chapter on Etiquette (*Adal*) of the *Muluki Ain, 2020 B.S.* demanding with punishment in this case, Dhading district court gave verdict that to restrict enter into the temple and restrict to pray on the basis of caste untouchability is the violation of Article 11 of this Constitution and Number 10A of *Adalko Mahal* of the *Muluki Ain*. On the basis of the legal provision, the court fined each culprit 2000/- rupees.

In *Tulasa Devi Bishwakarma vs. Shyam Sharma's* case of Dang district<sup>13</sup> and *Ram Bahadur Bishwakarma vs. Maila Bohora and others'* case of Rasuwa district<sup>14</sup> had done misleading. These cases were sued under the *Defamation Act, 2016 B.S.* These kinds of leading are not right. These are called misleading judicial practices. These cases were misled by lawyers.

Judges are a part of the constitutional set-up. They have to play their role in securing to all citizens their social and economic justice. The role of lawyer is also equally important in making the judges responsible towards the issue of the oppressed classes. The lawyers can guide the judges for promoting dynamism. The lawyer must file real Public Interest Litigation (PIL) cases and try to sensitize Supreme Court to be real watchdog of the socio-economic

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12 This case was decided by Dhading District Court on 2058-02-03.

13 This case was decided by Dang District Court on 2054 B.S.

14 This case was decided by Rasuwa District Court on 2057-10-10.

and other human rights of the downtrodden, the oppressed and backward classes.<sup>15</sup>

The judiciary of Nepal has played important role to abolish untouchability and uplift backward classes of the society. But, in some sensitive cases court has not played vital role according to the interest of people, constitutional and international conventional provisions. In some cases, judges are given differ order. Judges have no depth theoretical knowledge. Court has not been success to understand the implementation of own orders. In this way, court is restrained in many issues where it should play proactive role. The kind of judicial attitudes and tendencies show that judiciary is not serious in the issue of the upliftment of backward *Dalit* people and elimination of untouchability.



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15 *Supra* Note No. 190, pp.316 and 328.



# BIBLIOGRAPHY

## A. Constitutions

*The Constitution of India, 1950 A.D.*

*The Constitution of Nepal, 2019 B.S.*

*The Constitution of the Kingdom of Nepal, 2015 B.S.*

*The Constitution of the Kingdom of Nepal, 2047 B.S.*

*The Government of Nepal Act, 2004 B.S.*

*The Interim Constitution of Nepal, 2007 B.S.*

*The Interim Constitution of Nepal, 2063 B.S.*

## B. Acts, Rules and Codes

*The Cinema (Production, Exhibition and Distribution) Act, 2026 B.S.*

*The Civil Rights Act, 2012 B.S.*

*The Education Act, 2028 B.S.*

*The Legal Code (The Muluki Ain), 1910 B.S.*

*The Legal Code (The Muluki Ain), 2020 B.S.*

*The Local Self-Governance Act, 2055 B.S.*

*The Mahendra Sanskrit University Act, 2043 B.S.*

*The National Transmission Act, 2049 B.S.*

*The Proposed Draft Criminal Code, 2058 B.S.*

*The Protection of Civil Rights Act of India, 1955 A.D.*

*The Protection of Civil Rights Rules of India, 1977 A.D.*

*The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act of India, 1989 A.D.*

*The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Rules of India, 1995 A.D.*

*The Social Welfare Act, 2049 B.S.*

## C. International Instruments

*The Asia Pacific NGO Forum Declaration, 2001 A.D.*

*The Charter of the UNO, 1945 A.D.*

The *Declaration of WCAR, 2001 A.D.*

The *International Bill of Human Rights*

The *International Convention on the Elimination of All Forms of Racial Discrimination, 1965 A.D.*

The *International Convention on the Suppression and Punishment of the Crime of Apartheid, 1973 A.D.*

The *International Covenant on Civil and Political Rights, 1966 A.D.*

The *International Covenant on Economic, Social and Cultural Rights, 1966 A.D.*

The *NGO Forum Declaration of WCAR, 2001 A.D.*

The *UN Declaration of the Elimination of All Forms of Racial Discrimination, 1963 A.D.*

The *Universal Declaration of Human Rights, 1948 A.D.*

#### **D. Dictionaries**

Black, Henry Campbell (1990), *Black's Law Dictionary* (6<sup>th</sup> ed.), St. Paul Minn. West Publishing Co.

Gautam, Choodamani (2059 B.S. ), *Gautam's Up-To-Date Nepali English Dictionary* (Revised ed.), Biratnagar: Gautam Prakashan.

Hornby A.S. (1996), *Oxford Advanced Learner's Dictionary of Current English* (5<sup>th</sup> ed.), Oxford University Press (Indian Reprint).

Pradhan, Babulal (1991), *English Nepali Dictionary*, Kathmandu: Ratna Pustak Bhandar.

Pradhan, Babulal (2005), *Ratna's Nepali English Nepali Dictionary*, Varanasi: Trimurti Prakashan.

Shrestha, Shankar Kumar (2004), *Dictionary of Law and Justice (English-English-Nepali)*. Kathmandu: Pairavi Prakashan.

#### **E. Books**

Acharya, Madhav Prasad (2051 B.S.), *Criminology* (4<sup>th</sup>ed.), Kathmandu: Ratna Pustak Bhandar.

Acharya, Madhav Prasad et.al. (2063 B.S.), *Phoujdari Kanoon Ek Samikshatmak Bibechana (A Critical Study of Criminal Law)*, (1<sup>st</sup>ed.), Kathmandu: Bhrikuti Academic Publications.

- Azariah, Masilimani (2001), *Racism and Casteism are the Same-Umpteenth Reasons Why?*, Chennai: Dalit Liberation Education Trust et.al.
- B.K., Man Bahadur (2005), *Dalits in State Governance*, Kathmandu: Jana Utthan Pratisthan.
- Bagchand, Ratna Bahadur (2005), *Chhuwachhut Piditka Lagi Kanoon: Hate Pustika (Legal Hand Book for Victims of Untouchability)*, Kathmandu: Lawyers' National Campaign Against Untouchability.
- Bakshi, P.M. (2005), *The Constitution of India* (6<sup>th</sup>ed.), Delhi: Universal Law Publishing Co.Pvt. Ltd.
- Barnett, Hilarire (1995), *Constitutional and Administrative Law* (1<sup>st</sup>ed.), UK: Cavendish Publishing, 1<sup>st</sup> Indian Reprint.
- Bishwakarma, Padma Lal (2060 B.S.), *Brahamanbad, Dalit Ra Arakshan (Brahamanism, Dalit and Reservation)*, (1<sup>st</sup>ed.), Dharan: Ratnamaya Dalit Sahityik Pratisthan.
- Bishwakarma, Padma Lal/Sunder Malla K. (2006), *Rajya Punasamrachana Sambandhi Avadharana: Dalit Ra Madhesi Ko Sawal (Concept Regarding State Restructuring: Interrogation of Dalit and Madhesi)*, (1<sup>st</sup>ed.), Kathmandu: National Coalition Against Racial Discrimination.
- Chalam, K.S. (2004), *Globalization and The Future of Dalits*, Mumbai: Vikas Adhyayan Kendra.
- Cooley, Thomas M. (1994), *The General Principles of Constitutional Law in the United States of America* (4<sup>th</sup> ed.), Calcutta: Hindustani Law Book Company.
- Devkota, Prabodh M. (ed.), (2002), *Dalits of Nepal Issues and Challenges*, Lalitpur: Feminist Dalit Organisation.
- Freeman, MDA (2001), *Lloyd's Introduction to Jurisprudence* (7<sup>th</sup> ed.), London: Sweet and Maxwell Ltd.
- Human Rights Year Book* (1993), Kathmandu: Informal Sector Service Center.
- Kisan, Yam Bahadur (2005), *The Nepali Dalit Social Movement* (1<sup>st</sup> English ed.), Lalitpur: Legal Rights Protection Society Nepal.
- Koirala, Vidhyanath (Prof./Dr.) et.al. (ed.), (2063 B.S.), Kathmandu: Editors themselves.

- Lamgade, Bhojman (2004), *Nepalma Dalit Manabadhikarako Abastha -2004 Ra Kanooni Vyabastha* (Situation of Dalit Human Rights in Nepal-2004 and Legal Provision), (1<sup>st</sup> ed.), Kathmandu: Jana Utthan Pratisthan.
- Luitel, Naranath/Timilsina, Devikananda (ed.), (2053 B.S.), *Manabadhikar Sachetanamala* (2<sup>nd</sup> ed.), Kathmadnu: Informal Sector Service Centre.
- Maamo, Ethel/Brandes, Raymond (ed.), (2005), *International Aid and Dalit Communities in Nepal*. Kathmandu: Dalit NGO Federation
- Mainali, Laxmi Prasad (2002), *Durban Ghoshana Ra Karyayojana Tatha Nepalma Jatiya Bibhed (Durban Declaration and Working Plan and Racial Discrimination in Nepal)*, (1<sup>st</sup>ed.), Kathmandu: National Coalition Against Racial Discrimination.
- Mainali, Laxmi Prasad (2059 B.S.), *Nepalma Jatiya Bhedbhavako Awastha Ra Yasko Vishwabyapi Sandarbha (Situation of Racial Discriminatioon in Nepal and it's Global Context)* (1<sup>st</sup> ed.), Kathmandu: Jana Utthan Pratisthan.
- Mainali, Laxmi Prasad (2060 B.S.), *Chhuwachhut Biruddha Nyayalaya (Judiciary Against Untouchability)*, Kathmandu: Academy for Legal and Human Resources Development Study and Action Aid Nepal.
- Nepalma Jatiya Chhuwachhut (Caste based Untouchability in Nepal)*, (1<sup>st</sup>ed.), Kathmandu: Informal Sector Service Centre, (2053 B.S.).
- Pandeya, Madhusudan (2062 B.S.), *Nepalka Dalitharu*, Kathmandu: Pairavi Prakashan.
- Pathak, Narendra Prasad /Khanal, Narendra Prakash (2060 B.S.), *Supreme Court Judgements on Constitutional Issues, Part -2*, Kathmandu: Shakuntala Khanal.
- Pathak, Narendra Prasad /Khanal, Narendra Prakash (2063 B.S.), *Supreme Court Judgements on Constitutional Issues, Part-3*, Kathmandu: Editors themselves.
- Pradhananga, Rajit Bhakta (Prof./Dr.) et.al. (2062 B.S.), *Introduction to Criminal Law*, Kathmandu: Bhrikuti Academic publications

- Prashit, Modnath (2058 B.S.), *Manavtako Kalanka Jatpat Ra Chhuwachhut Pratha* (1<sup>st</sup> ed.), Tamghas: Kiran Pustakalaya
- Sastri, Rajanikant (1997), *Upliftment and Failure of Hindu Caste*. Ilahabad: Kitabmahal.
- Schmallegger, Frank. *Criminology Today* (4<sup>th</sup> ed.), New Jersey: Pearson Prentice Hall.
- Shah, Ghanshyam et. al (2006), *Untouchability in Rural India*. New Delhi: Sage Publications India Pvt. Ltd.
- Sharma, Prayag Raj (2004), *The Caste Hierarchy and the State in Nepal (A Study of the Muluki Ain of 1854)*, (2<sup>nd</sup> ed.), Lalitpur: Himal Books.
- Smarika 2059 B.S.*, Government of Nepal, National Dalit Commission.
- Smith, J.C. & Hogan, Brian (1983), *Criminal Law* (5<sup>th</sup> ed.), London: Butter Worth and Co. Ltd.
- Sunar, Gomati et.al. *Dalit Sawalma Sarvajanic Sarokaraka Muddaharu Ra Sarvochcha Adalatko Bhumika (Public Interest Litigations on the Issues of Dalitand Role of Supreme Court)*, Kathmandu: Dalit NGO Federation
- United to Combat Racism*, France: United Nations Educational, Scientific and Cultural Organisation, (2001).
- Upadhyaya, Shri Ram Prasad (2056 B.S.), *Social, Economic and Administrative History of Nepal* (2<sup>nd</sup> ed.), Kathmandu: Ratna Pustak Bhandar, (in Nepali).
- Vaidya, Tulasi Ram /Manandhar, Tri Ratna (1985), *Crime and Punishment in Nepal A Historical Perspective* (1<sup>st</sup>ed.), Katmandu: Bini Vaidya and Purna Devi Manandhar.

## **F. Reports and Journals**

- A Comprehensive Report of National Consultation Program on the Problems of Dalit community*, Kathmandu: Group for International Solidarity, (2054 B.S.)
- A Report on Children and Traditional Caste Employment in Siraha District, Kahtmandu: SAVE the Children, US et.al.
- Acharya. Bhimarjun (ed.), (2002). *Annual Survey of Nepalese Law 2001*, Kathmandu: Nepal Bar Council.

- Annual Report 2004 on Campaign Against the Crime of Untouchability*, Kathmandu: Lawyers' National Campaign Against Untouchability, (2005).
- Annual Report 2005/2006*, Kathmandu: Lawyers' National Campaign Against Untouchability.
- Anveshan* (2061 B.S.), No. 5, Biratnagar: Department of History and Culture, Post-Graduate Campus, Tribhuvan University.
- Anveshan* (2062 B.S.), No. 6, Biratnagar: Department of History and Culture, Post-Graduate Campus, Tribhuvan University.
- Bhattachan, Krishna B. et.al. (2003), *Existing Practices of Caste-Based Untouchability in Nepal and Strategy for A Campaign for its Elimination*, Kathmandu: Action Aid Nepal.
- Bishwakarma, Bimal / Shakya, Yagya Man (ed.), (2006), *A Survey Report on Caste Based Prejudice and Discrimination in Nepal (1<sup>st</sup> ed.)*, Kathmandu: Dalit NGO Federation Legal Aid and Advisory Division.
- Bishwakarma, Bimal /Bishwakarma, Lumasingh (2061 B.S.), *Research Report on Reservation Modality for Dalit community in Nepal*, Kathmandu: Dalit NGO Federation Legal Aid and Advisory Division.
- Bishwkarma, Padmalal /Niraula, Ambika Prasad (ed.), *A Comprehensive Report of National Consultation Program on the Problems of Dalit community*, Kathmandu: Group for International Solidarity.
- Bulletin* (2060 B.S.), Kathmandu: National Dalit Commission.
- Dalit Particiation in Restructure of the State* (2063 B.S.), Kathmandu: Prof. Dr. Bidhyanath Koirala et.al.
- Fifty Years of the Supreme Court of Nepal Golden Jubilee Publication*, Kathmandu: Supreme Court of Nepal, (2006).
- Free Students' Union Journal* (2065 B.S.). No. 8, Kathmandu: Free Students' Union, Nepal Law Campus.
- Giri, Santosh (2005), *A Case Study with Equality Perspective on Status of Discrimination of Drinking Water and Nutritious Food, Status of Text Books and Implementation of Legal Provisions for Eliminating the Crime of Untouchability*, Kathmandu: Lawyers' National Campaign Against Untouchability.

- Katwal, Sanju (2006), *Intra- Dalit Discrimination A Study Report on Status of Tarai Dalits*, Kathmandu: Lawyers' National Campaign Against Untouchability.
- Milan Smarika (2060 B.S.), Year 4, No. 4, Bhadrapur: Adhikrit Karmachari, Milan Kendra.
- National Dalit Strategy Report* (2002), (Prepared for National Planning Commission/GON), Kathmandu: Action Aid Nepal /CARE Nepal/Save the Children.
- Nepal Law Review* (2007-2008), Vol. 20, No. 1 and 2, Kathmandu: Nepal Law Campus, Faculty of Law, Tribhuvan University.
- Nepal Law Review* (2004), Vol. 17, No. 1 and 2, Kathmandu: Nepal Law Campus, Faculty of Law, Tribhuvan University.
- Nyayadoot* (2065 B.S.). Year 39, No. 6, Kathmandu: Nepal Bar Association.
- Nyayadoot* (2062), Year 36, No. 5, Kathmandu: Nepal Bar Association.
- Poudel, Upendra et.al. (2004), *Is There Room Enough?, Dalit Recruitment Policies and Practices in Selected I/NGOs & Bi/Multilateral Organisations of Nepal: A Research Report*, Kathmandu: Save the Children US and Informal Sector Service Center.
- Report of the Seminar on the Political, Historical, Economic, Social and Cultural Factors Contributing to Racism, Racial Discrimination and Apartheid (1991), New York: United Nations.
- Sagar, D.B. (ed.), (2001), *Dalit in Nepal and Alternative Report for WCAR-2001*, Kathmandu: Jana Utthan Pratisthan.
- Sapkota, Bishnu (ed.), (1999). *Solidarity*, Vol. 10, No. 1, Kathmandu: Groups for International Solidarity.
- Sharma, Anup Raj (ed.), (2001), *Essays on Constitutional Law*, Vol. 38, Kathmandu: Nepal Law Society.
- Sharma, Gopal (Executive ed.), (2005), *Intra-Dalit Discrimination A Fact Finding Report*, Kathmandu: Lawyers' National Campaign Against Untouchability Nepal.
- Untouchability Elimination Campaign* (2004), Kathmandu: Lawyers' National Campaign Against Untouchability.

## G. Articles

- Bhattachan, Krishna B., "Social and Economic Conditions of *Dalit* Women", *Dalits of Nepal Issues and Challenges*, Kathmandu: Feminist *Dalit* Organisation, (2002).
- Bishwakarma, Hira, "*Dalits* of Nepal: Their Movement Now and Then", *Dalit of Nepal Issues and Challenges*. Lalitpur: Feminist *Dalit* Organisation, (2002).
- Dhungana, Tek Prasad (2004), "An Overview of Judicial Efforts towards Maintaining Rule of Law in Nepal", *Nepal Law Review*, Vol. 17, 1 and 2. Kathmandu: Nepal Law Campus, Faculty of Law, Tribhuvan University. P. 265.
- Kattel, Bal Krishna/ Thapa, Ranjana, "Fighting an End to Untouchability", *Chhuwachhoot Unmoolan Abhiyan*, Kathmandu: Lawyers' National Campaign Against Untouchability, (2004).
- Mainali, Laxmi Prasad (2007-2008). "Efforts for Abolition of Untouchability in India", *Nepal Law Review*, Vol. 20, No. 1 and 2. Kathmandu: Nepal Law Campus, Faculty of Law, Tribhuvan University.
- Mainali, Laxmi Prasad. (2061 B.S.), "International Campaign Against Racial Discrimination", *Anveshan*, No. 5, Biratnagar: Department of History and Culture, Post-Graduate Campus, Tribhuvan University.
- Mainali, Laxmi Prasad. (2062 B.S.), "Government Efforts on Dalit: An Analitical Study", *Anveshan*, No. 6, Biratnagar: Department of History and Culture, Post-Graduate Campus, Tribhuvan University.
- Mainali, Laxmi Prasad. (2063 B.S.), "National and Internatoinal Legal Provisoins for the Abolition of Untouchability", *Dalit Particiation in Restructure of the State*, Kathmandu: Prof. Dr. Bidhyanath Koirala et.al.
- Mainali, Laxmi Prasad. (2065 B.S.), "Efforts of Religious and Literacy Sector Against Caste Discrimination and Untouchability", *Nyayadoot*. Year 39, No. 6. Kathmandu: Nepal Bar Association.
- Mainali, Laxmi Prasad. (2065 B.S.), "Emergence of Untouchablity in Nepal." *Nyayik Aawaj (Judicial Voice)*, Free Students'



Union Journal No. 8. Kathmandu: Free Students' Union, Nepal Law Campus.

Mainali, Laxmi Prasad. (2063 B.S.), "National and International Legal Provisions for Elimination of Untouchability", *Dalit Participation in Restructuring of the State*, Kathmandu: Bidhyanath Koirala (Prof./ Dr).et.el.,

Mainali, Laxmi Prasad. (2060 B.S.), "The Role of INSEC at the Campaign of Dalit Liberation", *Milan Smarika*, Year 4, No. 4, Bhadrapur: Adhikrit Karmachari, Milan Kendra.

Ojha, Pawan Kumar. (2053 B.S.), "Elimination of Racial Discrimination in Nepal: Law and Implementation", Report and Working Paper of INSEC National Human Rights Conference, Kathmandu: Informal Sector Service Centre.

Tamrakar, Tek (2004), "Trends of Supreme Court on Social Justice 'Special Focus on Dalits' Rights", *Nepal Law Review*, Vol. 17, No. 1 and 2, Kathmandu: Nepal Law Campus, Faculty of Law, T.U.

#### **H. Seminar Paper**

Luma Singh Bishowkarma (2059 B.S.), *Practice of Caste Discrimination as a Crime in Nepal : An Analytical Study*, a seminar paper submitted to Central Department of Law, Faculty of Law, Tribhuvan University.





# Correction of Footnote Nos.

## Chapter- One

### Been

19. *Supra* Note No. 12, p. 43  
23. *Supra* Note No. 1, pp. 83-85

### Should be

19. *Ibid*, p. 43  
23. *Ibid*, pp. 83-85

## Chapter- Two

### Been

- 1  
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6.*Supra* Note No. 10, p.19  
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### Should be

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29. *Ibid*.  
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### Been

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### Should be

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## Chapter- Three

### Been

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### Should be

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6.	59
7	60
8	61
9	62
10	63
11. <i>Supra</i> Note No. 4, pp. 93-94	64. <i>Ibid</i> , pp. 93-94
12	65
13. <i>Supra</i> Note No. 4, P. 94	66. <i>Ibid</i> .
14. <i>Ibid</i> , P. 95	67. <i>Id</i> , P. 95
15	68
16	69
17	70
18. <i>Supra</i> Note No. 4, P. 99	71. <i>Ibid</i> , P. 99
19	72
20	73
21	74
22	75
23	76
24	77
25	78
26	79
27	80
28. <i>Supra</i> Note No. 4, P. 105	81. <i>Id</i> .
29. <i>Ibid</i> , pp. 105-107, 136-138, 141-142, 147, 149, 151, 154	82. <i>Id.</i> , pp. 105-107, 136- 138, 141-142, 147, 149, 151 and 154
30	83
31	84
32	85

33	86
34. <i>Supra</i> Note No. 4, pp. 109, 148	87. <i>Ibid</i> , 109 and 148
35	88
36	89
37. <i>Supra</i> Note No. 4, P. 111	90. <i>Ibid</i> .
38	91
39	92
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46	99
47	100
48	101
49	102
50	103
51	104
52	105
53	106
54	107
55	108
56	109
57	110

**Chapter- Four**

<u>Been</u>	<u>Should be</u>	<u>Been</u>	<u>Should be</u>
1	111	13	123
2	112	14	124
3	113	15	125
4	114	16	126

5	115	17	127
6	116	18	128
7	117	19	129
8	118	20	130
9	119	21	131
10	120	22	132
11	121	23	133
12	122		

**Chapter- Five**

<u>Been</u>	<u>Should be</u>	<u>Been</u>	<u>Should be</u>
1	134	13	146
2	135	14	147
3	136	15	148
4	137	16	149
5	138	17	150
6	139	18. <i>Supra</i> Note No. 7, P. 37	151. <i>Ibid</i> , P. 37
7	140	19	152
8	141	20	153
9	142	21	154
10	143	22	155
11	144	23	156
12	145	24	157

**Chapter- Six**

<u>Been</u>	<u>Should be</u>	<u>Been</u>	<u>Should be</u>
1	158	17	174
2	159	18	175
3	160	19	176
4	161	20	177
5	162	21	178

6	163	22	179
7	164	23	180
8	165	24	181
9	166	25	182
10	167	26	183
11. <i>Supra</i> Note No. 11, pp. 24-25	168. <i>Ibid</i> , pp. 24-25	27	184
12	169	28	185
13	170	29	186
14	171	30	187
15	172	31	188
16	173	32	189

### Chapter- Seven

<u>Been</u>	<u>Should be</u>	<u>Been</u>	<u>Should be</u>
1	190	9	198
2	191	10	199
3	192	11	200
4	193	12	201
5	194	13	202
6	195	14	203
7	196	15	204
8	197		





### **Academic Qualifications**

- LL.M. (Criminal Law), M.A. (Political Science) and B.Ed.

### **Teaching Experience**

- Twenty One years teaching experience in Law (from 11 Kartik, 2045 B.S. till now)

### **Academic and Administrative Responsibilities**

- Executive member, Criminal Law Subject Committee, Faculty of Law, Tribhuvan University (from 29 Ashad, 2065 B.S. till now)
- Head, Teaching Department of Law, Mechi Multiple Campus, Tribhuvan University, Bhadrapur, Jhapa (from 9 Chaitra, 2057 B.S. to 7 Falgun, 2062 B.S.)
- Member, Constitutional Law Subject Committee, Faculty of Law, Tribhuvan University (from 8 Ashad, 2051 B.S. to 7 Ashad, 2054 B.S.)
- Assistant Campus Chief, Mechi Multiple Campus, Tribhuvan University, Bhadrapur, Jhapa (from 8 Chitra, 2051 B.S. to 31 Ashad, 2056 B.S.)

### **Trainings**

- Basic Training of Trainers, jointly conducted by Nepal Bar Association, European Union and Staff College (from 26 December, 2004 to 1 January, 2005)
- Three Weeks Second Writing Sanctuary Scholarship, conducted by Social Development and Research Center, Kathmandu (2003)
- Teacher Training Forum on the Use of the Civics in Nepal Text Book and Teachers Guide for the Plus-Two Contemporary Society Course, conducted by National Democratic Institute for International Affairs held in Biratnagar (from 19 to 20 August, 2002 and from 28 to 30 August, 2003)
- Two Weeks Training on Basic Skills for Lawyers, jointly conducted by Nepal Bar Association and British Government, College of Law held on May, 1998)
- Refresher Course for Law Teachers on Humanitarian Law, Human Rights and Refugee Law, conducted by National Law School of India University, Bangalore (from 3 to 23 February, 1997)

### **Publications**

- Various research reports and articles on untouchability, child rights, and so on.



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