



## **Nepal - Researched and compiled by the Refugee Documentation Centre of Ireland on 25 and 26 September 2012**

### **Information on the Hindu caste system including relations between the different caste and whether a member of a lower caste would be free to marry someone from a higher caste**

A publication in 2012 by the *International Work Group for Indigenous Affairs* states:

“The 2001 census listed the population as belonging to 50 Hindu castes, 43 indigenous peoples, 2 Muslim groups, 4 religious groups and 3 unidentified groups” (International Work Group for Indigenous Affairs (2012) *The Indigenous World 2012*, p.344).

Utilising external sources a table from the *United States Agency for International Development* in 2008 outlines the caste structure:

“Table 2.1 Nepal Social Hierarchy, 1854 Hierarchy Habitat Belief/religion  
A) WATER ACCEPTABLE (PURE)

1. Wearers of the sacred thread/tagadhari

“Upper caste” Brahmans and Chhetris (Parbatiya) Hills Hinduism

“Upper caste” (Madhesi) Tarai Hinduism

“Upper caste” (Newar) Kathmandu Valley Hinduism

2. Matwali Alcohol drinkers (non-enslavable)

Gurung, Magar, Sunuwar, Thakali, Rai, Limbu Hills Tribal/Shamanism

Newar Kathmandu Valley Buddhism

3. Matawali Alcohol drinkers (enslavable)

Bhote (including Tamang) Mountain/Hills Buddhism

Chepang, Gharti, Hayu Hills

Kumal, Tharu Inner Tarai Animism

B) WATER UN-ACCEPTABLE/Pani Nachalne (IMPURE)

4. Touchable

Dhobi, Kasai, Kusale, Kulu Kathmandu Valley Hinduism

Musalman Tarai Islam

Mlechha (foreigner) Europe Christianity, etc.

5. Untouchable (achut)

Badi, Damai, Gaine, Kadara, Kami, Sarki (Parbatiya) Hill Hinduism

Chyame, Poda (Newar) Kathmandu Valley Hinduism...” (United States Agency for International Development (2008) *Caste, Ethnic and Regional Identity in Nepal: Further Analysis of the 2006 Nepal Demographic and Health Survey*, p.2).

No.5 above are also called Dalit.

An ethnographic map of Nepal is included in a study released by the *World Bank* in 2009. (World Bank (2009) *Unequal Citizens, Gender, Caste and Ethnic Exclusion in Nepal, Summary*, p.19).

A report published in June 2012 by *Minority Rights Group International* states that:

“Multiple cases of caste discrimination were reported during 2011. In August, a Dalit man was stabbed to death after his son married a woman from another caste. Witnesses claimed the woman's family was incensed by the inter-caste union, according to the Nepal National Dalit Social Welfare Organization” (Minority Rights Group International (28 June 2012) *State of the World's Minorities and Indigenous Peoples 2012 – Nepal*)

The *Asian Human Rights Commission* in June 2012 notes the following case:

“The Asian Human Rights Commission (AHRC) has received information from the Jagaran Media Center that a 21-year-old man from the Dalit community of Pansera VDC, Siraha District was allegedly poisoned by the relatives of a non-Dalit woman who he was having a love affair with. Initially, the police sided with the perpetrators and tried to suppress the case. They refused to register the complaint made by the victim's family, forced the victim's father to put his fingerprints on a report they had prepared without letting him see the content and did not provide the death certificate to the family. Following pressure by civil society, a First Information Report on the case was registered in February, but a thorough investigation was not initiated. The case was brought to the attention of the Prime Minister who committed to provide interim relief to the family and promised that a proper investigation would be conducted in the case. Victims of human rights violations belonging to the Dalit community have a very limited access to justice. Reluctance from the police to investigate such cases and to provide the victims with protection has allowed caste-motivated violence to go unchecked in Nepal” (Asian Human Rights Commission (19 June 2012) *Nepal: Killing of a young man due to inter-caste love affair yet to be properly investigated five months on*).

A document issued in May 2012 by the *United States Department of State* commenting on events of 2011 notes that:

“Resistance to intercaste marriage remained high and in some cases resulted in forced expulsion from the community” (United States Department of State (24 May 2012) *2011 Human Rights Reports: Nepal*, Section 6. Discrimination, Societal Abuses, and Trafficking in Persons/National/Racial/Ethnic Minorities).

In March 2012 the *Asian Human Rights Commission* notes:

“The Asian Human Rights Commission (AHRC) has received information from the Feminist Dalit Organization (FEDO) a human rights group working for the rights of Dalit women and the Dalit National Federation (DNF), regarding the caste-based murder of Mr. Sete Damai and the violence and threats his family has been receiving since Sete's son, Santa, married a girl from a so-called upper-caste family, Raj Kumari, on August 13, 2011. On August 30, 2011, a group of masked men visited Sete's family to attack them, stabbed Sete's chest with a curved knife and beat his other family members randomly. On the following day, Sete succumbed to his injuries. Since then, the family members are under constant threat to their lives. On 14 February 2012 Sete's eldest son and Santa's brother, Nara Bahadur Damai were ambushed and beaten up by five masked men who threatened to kill him with a knife saying

that he would face the same fate as his father if he reported the incident to the police.” (Asian Human Rights Commission (9 March 2012) *Nepal: A Dalit man stabbed to death -- his family members are under threat following an inter-caste marriage*).

In December 2011 a paper released by the *United Nations Office of The High Commissioner Nepal* notes:

“Despite credible fears of reprisals, in most of the cases investigated by OHCHR, the police failed to take adequate steps to ensure victim and witness protection, despite being requested to do so. For example, in Kanchanpur district in October 2010, during the assault of a woman who had participated in an inter-caste marriage, the police did not intervene or provide protection to the victim - one of the police officers even participated in the assault. On a number of occasions victims of caste-based discrimination and untouchability spoke to OHCHR of their lack of faith in the effectiveness of the police and the justice system. Their sense of insecurity is exacerbated by the fact that they continue to live in the same community as the alleged perpetrators without any effective protection. This in turn increases their reluctance to seek justice” (United Nations Office of The High Commissioner Nepal (December 2011) *Opening The Door To Equality: Access to Justice for Dalits in Nepal*, p.60).

This document also states:

“Dalit communities normally do not have the political influence, substantive representation or power required to challenge the social structure and to access justice. Despite progress made regarding Dalit representation in the Constituent Assembly following the 2008 elections, Dalits remain poorly represented – if at all – in national and local administration, decision making bodies and State institutions such as the police and the judiciary, particularly at the senior levels. As a result of discrimination and inequality, Dalit communities are often politically isolated and are in weak positions within local power structures. Dalit individuals have explicitly told OHCHR that as a result of being Dalits and poor, they ‘have no influence’ in their local societies. Such unequal power structures can expose Dalit communities to intimidation, threats and violence when they do not conform to the expected traditional practices of the caste system. OHCHR has found that where Dalits challenge these roles, such as through using communal water sources or choosing to marry persons from other castes, they can be exposed to physical violence and verbal abuse. In several of the cases investigated and documented, inter-caste marriages have led to violent reactions, including Dalit houses being destroyed or even Dalits being murdered” (ibid, p.65).

A report by the *United Nations Human Rights Council* issued in December 2011 states:

“During 2011, OHCHR-Nepal continued to receive reports of incidents of caste-based discrimination, including the killing – reportedly by the bride’s family – of the father of a Dalit man who had married a woman from a dominant caste. While the seriousness of the case and the publicity it generated has resulted in the detention of a number of alleged perpetrators, in general, access to justice for victims of caste-based discrimination is limited, with very few prosecutions taking place” (United Nations Human

Rights Council (16 December 2011) *Report on the human rights situation and the activities of the Office of the High Commissioner, including technical cooperation, in Nepal*, p.8)

The Asian Human Rights Commission note in a report issued in December 2011 that:

“In the Hindu religion, the Dalit community is considered as being the lowest group in the caste hierarchy. The Dalit community remains the most marginalized and disadvantaged group in Nepalese society. The feudal hierarchical caste system, based on orthodox Hindu tradition, continues to influence the structure of Nepalese society and leads to the exclusion of Dalits from every sphere of public life. Dalits continue to be prevented from sharing water taps with the rest of the community or from entering temples, for example. Dalits remain segregated from non-Dalits when they take part in socio-cultural activities, such as marriage, worshipping and other ceremonies” (Asian Human Rights Commission (December 2011) *The State of Human Rights in Nepal in 2011*, p.51).

This report also notes:

“Violence following inter-caste marriage, untouchability, sexual exploitation, trafficking and accusations of witchcraft all affect the daily lives of Dalit women in Nepal, and which deny them their dignity and equal rights as citizens” (ibid, p.52).

It is also stated in this report that:

“The State has started encouraging inter-caste marriages by awarding involved couples with NRs. 100,000” (ibid, p.54).

This document also points out:

“A historic achievement for the movement came in 2011 with the adoption of a law criminalizing caste based discrimination. ‘The Caste-based Discrimination and Untouchability Crime Elimination and Punishment Act’ was adopted unanimously by Nepal’s interim Parliament on May 24, 2011. It includes the prohibition of the practices of ‘untouchability’ both in the public and private spheres, which has been a major demand of the Dalit movement. The law also criminalizes incitement to others to commit caste-based discrimination, as well as acts that prevent a person, on the ground of his or her caste, from accessing public services. It provides for increased punishments for public officials found responsible of discrimination. It contains provisions making it mandatory for perpetrators to provide compensation to victims. The law also criminalizes opposition to inter-caste marriages, expulsions of people on the basis of their caste and social boycotting” (ibid, p.55).

It is also stated in this publication that:

“Violence following inter-caste marriages remains alarming and is emblematic of the continuing caste-based violence in the country. The violent reaction by sections of society to those who challenge the orthodox structure of castes has been witnessed in a number of cases in 2011, leading to the expulsion

and shunning of the couple from the community or violent attacks against them, as seen in the following example: In Dailekh district, on August 13, 2011, Santa Bahadur Damai, a Dalit man, married Raj Kumari Shahi, who belongs to a so-called higher caste family. The couple had been in love for two years and had to escape to get married, due to the reluctance of the bride's family resulting from their different castes. After learning about the marriage, the Shahi family went to the groom's family home and beat the groom's father Sete Damai to ask him where their girl had been taken. The girl's family tried to file a case in the Illaka Police Office, Dailekh on the same day, but the police refused to search for the couple after learning that both had reached the legal age of consent concerning marriage. They did, however, threaten the young man's family with death. On August 30, the newly-weds returned to their home. Nine members of the girl's family then attacked the groom's family with knives and the groom's father was killed after being stabbed in the chest. The police investigation is going on. This case reflects the stigma and violence surrounding inter-caste marriages which result from these posing a direct challenge to the orthodox system of castes. Although the State has created a 100,000 Nrs allowance for inter-caste couples and the law on caste-based discrimination has criminalized the attempts to prevent an inter-caste marriage, social barriers often remain insurmountable for couples. Dalit women are particularly vulnerable as, traditionally, by marrying they enter their husband's family and are therefore directly exposed to abuse and harassment by their in-laws. In a number of cases, the in-laws have pressured the husband into abandoning his wife, who then finds herself left without financial or social support" (ibid, pp.56-57).

A document released in November 2011 by the *United Nations Office of the High Commissioner for Human Rights* notes:

"In August, following the marriage of a Dalit man to a non-Dalit woman in Dailekh, a remote district 375 kilometres west of Kathmandu in Nepal, the father of the groom was attacked and subsequently died. As Dalits, the groom and his family are on the lowest rung of the caste hierarchy in Nepali society, traditionally regarded as 'untouchables'. Caste discrimination is based on perceptions of impurity and pollution associated with those identified as belonging to low-caste groups. The alleged perpetrators of the murder are the non-Dalit family members of the bride, a number of whom have been arrested and charged. Dalits in Nepal experience discrimination at every level of their daily lives, limiting their employment and educational opportunities, the places where they can collect water or worship, and their choice of who to marry" (United Nations Office of the High Commissioner for Human Rights (8 November 2011) "*I commit to end caste discrimination and untouchability*").

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This response was prepared after researching publicly accessible information currently available to the Refugee Documentation Centre within time constraints. This response is not and does not purport to be conclusive as to the merit of any particular claim to refugee status or asylum. Please read in full all documents referred to.

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