

### 3.3 18 Years of Kamaiya “Emancipation”

According to the 2018 Global Slavery Index, an estimated 40 million people were living in modern slavery. Of these, 64 per cent were in the Asia and the Pacific region and 171,000 people in Nepal.

The Universal Declaration of Human Rights, 1948 and the Supplementary Convention on the Abolition of Slavery, 1956 have provisions for taking measures towards ending modern slavery. Modern forms of slavery include practices such as *Kamaiya*, *Haliya*, and *Haruwa/Charuwa* that have existed in Nepal.

The *Kamaiya* system was prevalent in Dang, Banke, Bardiya, Kailali and Kanchanpur districts of Province no. 5 and the Far-west Province of Nepal. Remnants of the system still remain. The word *Kamaiya* is related to land and farming. It was used to refer to the person who performed extreme physical labor on land. For a long time, those were people belonging to the Tharu ethnic group who worked as *Kamaiyas*. They lived in small huts in one corner of the land belonging to the landlord and worked their fields. This then became their means of subsistence.

A nominal wage was fixed for the *Kamaiya* for the entire year of work for the landlord. The “wage” was about six to eight sacks of rice from summer harvest and red lentils from the winter crop. This wage was hardly enough to meet the basic needs of the *Kamaiyas*. This compelled them to borrow money from landlords to meet their daily needs and expenses for festivals, clothing, among others. This

money came with a high interest rate, fines and compounded interest, and push them further into indebtedness. And no matter how much work the *Kamaiya* did or the landlord, the loan kept increasing.

The settlement and search for new “masters” or *Khojni Bhojni* took place once every year from January 16 to February 12. The debt of the *Kamaiya* was called *Sauki*, that the new master would have to pay for taking the *Kamaiya*. This dragged them deeper into debt, requiring women from *Kamaiya* households to work in the landlord’s household without compensation. Their children also had to work for no payment. Eventually, the landlords began selling the *Kamaiya* or members of his family to another landlord forcing them to be bonded to work and unable to pay back what they had borrowed.

Estimates suggest that 16,000 *Kamaiyas* were living in servitude for generations in Nepal. Following various campaigns for the *Kamaiya* system in Dang, Banke, Kailali and Kanchanpur districts, on 17 July 2000 the Government of Nepal declared their emancipation, including from debt.

Nepal is a state party to various international conventions such as the International Covenant on Civil and Political Rights (ICCPR), International Covenant on Economic, Social and Cultural Rights (ICESCR), ILO Forced Labor Convention, 1930 that bar bonded labor. Nepal’s Constitution and specific laws also prohibit all kinds of exploitation, trafficking, and slavery. [Number 18 and 24 of Chapter

3 of the National Civil (Code) Act 2017, Number 4 of Chapter 2 of the Labor Act 2017; Clause 4 of Chapter 2 of the Bonded Labour (Prohibition) Act, 2002]

However, two decades after the emancipation of the *Kamaiyas*, the government has yet to provide them with proper rehabilitation. The former *Kamaiyas* have been deprived from exercising their basic rights as all citizens. Their rights to education, health, housing, employment, and food have not been guaranteed. This study attempts to re-visit situation of former *Kamaiyas* and make recommendations for their rehabilitation in society. The chapter is based on discussions with former *Kamaiyas* in Kailali District, with government officials, and advocates for their freedom. It also uses secondary sources as appropriate. The chapter essentially focus on the implementation of economic, social and cultural commitments made by the government for their rehabilitation.

### ***Kamaiya* Emancipation Movement**

Efforts for the liberation of *Kamaiyas* began during the Rana regime (before 1950). Radha Krishna Tharu had organized a secret meeting of landless Tharus in Bardiya district in 1943 to begin a movement to demand land for the tillers. The rulers of the day formed a commission to address the issue and subsequently 25 *Bighas* of land was registered in the names of landless farmers in Bardiya District.

Farmers suffered beatings by landlords in 1951 after they demanded one-third share of the harvest. Bhimdatata Panta, and advocate for the abolition of the Haliya and *Kamaiya* systems was hanged to death in 1955. But these movements had left their mark in Nepali politics and “Land for tillers” has since been a slogan of all political parties.

The Lands Act was enacted in 1964, but it benefitted landlords more

than *Kamaiyas* and landless people leading to fresh protests. Successive governments quashed any attempt by the *Kamaiyas* to demand their rightful share, including protests led by Silta Tharu in 1988.

Multi-party democracy was reinstated in Nepal in 1990 and even though the new constitution prohibited all kinds of slavery, laws to enforce the commitment were not enacted, while the issues relating to the *Kamaiyas* caught the attention of both political parties and civil society organizations.

The Informal Sector Service Center (INSEC) surveyed *Kamaiyas* working as bonded laborers in Banke, Bardiya, Kailali, and Kanchanpur districts in 1992. The study revealed that 93 per cent of about 100,000 *Kamaiyas* came from the Tharu community, among others, which led it to launch the *Kamaiya* literacy and awareness program in 1994. It even prepared a draft Bonded Labor Abolition Act 1994 and lobbied for its enactment. INSEC also filed a writ seeking an order from the Supreme Court to order the government to make a law to end bonded labor in Nepal. The Supreme Court verdict in 1999 saw no needed for such an order as the government was committed to addressing the issue of bonded labor.

The *Kamaiya* Liberation Forum and *Kamaiya* Concern Group were formed in 1996 that was followed by various campaigns for emancipation of the *Kamaiya*. A study by Anti-Slavery International and INSEC (1997) that reconfirmed the existence of bonded labor in Nepal and led INSEC and General Federation of Nepalese Trade Union (GEFONT) to jointly organize a program to demand fixation of minimum wages for agricultural laborers. Meantime the Backward Society Education (BASE) had collected household statistics of *Kamaiyas* in five districts in 1994 and forwarded the information to the government. The data said there were

35, 874 *Kamaiya* households. In January 2000 the government fixed Rs. 60 as the minimum wage of agro-laborers.

However, the landlords did not abide by the government decision and instead physically attacked the *Kamaiyas* demanding the minimum wage. Around the same time, 19 *Kamaiya* households protested at the house of former minister Shivaraj Panta of Geta, Kailali demanding the minimum wage and cancellation of Sauki. This protest was supported by human rights activists, political parties and organizations working for the liberation of *Kamaiyas*. Such protests multiplied leading to the government declaration emancipating the *Kamaiyas* in July 2000.

Many organizations and communities have worked for liberating and rehabilitating the *Kamaiyas*. These included the *Kamaiya* System Abolition Society, Freed *Kamaiya* Society and Freed *Kamaiya* Development Forum. These organizations/agencies continued awareness campaigns for better lives for former *Kamaiyas*.

### **Situation of former *Kamaiyas* in Kailali**

According to a study by the Freed *Kamaiya* and Haliya Rehabilitation and Livelihood Development Program in 2017, 8,373 former *Kamaiya* households out of 8,910 in Kailali had been rehabilitated in 42 VDCs of the district. Arrangements had been made for rehabilitating 173 former *Kamaiyas* while 364 remained to be supported. So far, 3,642 former *Kamaiyas* of Kailali have received red identity cards and 4,731 had received blue identity cards. These colors indicate the vulnerability of the *Kamaiyas*.

In all 1284 *bigha* 12 *kattha* 19.5 *dhur* land was distributed to *Kamaiyas* in different parts of the district. They now live in Janaki, Lamkichuha, Joshipur, Bardgoriya and Kilari Rural Municipalities and Bhajani, Ghodaghodi, Gauriganga

and Godabari Municipalities and in Dhangadhi Sub-metropolis. Another 118 former *Kamaiyas* were resettled at the old airport in Dhangadhi, Fulbari, Manikapur, Pratappur, and Nawalpur on land purchased using support received from the Freed *Kamaiya* Rehabilitation Program at Rs. 200,000 in 2018/2019.

Office of Land Reform, Kailali distributes four kinds of identity cards – Category A Red, Category B Blue, Category C Yellow and Category D White - to Freed *Kamaiyas* of Kailali. 3,753 Freed *Kamaiyas* have received Red identity cards, 5,157 have received Blue cards, 189 have received Yellow cards and 598 have received White cards. These cards showed the intensity of their vulnerability.

### **Rehabilitation Efforts of the Government**

The government has formed a Freed Bonded Laborer Rehabilitation Issues Resolution Commission at the national level and Freed Bonded Laborer Rehabilitation Committees at the district level but these bodies have yet to play effective roles. According to data at the Office of Land Reforms, Kailali, 9,697 Freed *Kamaiyas* still need to be rehabilitated while 8,910 have been rehabilitated. Most of the former *Kamaiyas* were rehabilitated on poor lands – on river banks, areas likely to be inundated, on sandy soil, disputed land and near forests, with no attention to their basic needs such as water, electricity, health, education, and transportation. The government has promised to provide five *kathha* land per household, 25 cubic feet wood and Rs. 10,000 for the rehabilitation. However, not of those eligible had received this and many have still not been able to build a house.

Freed *Kamaiyas* took to the streets demanding proper rehabilitation after their issues were not resolved by the government's rehabilitation program. In August 2015 the government again de-

## Former *Kamaiyas* at Godawari Metropolis-9, Dhanchauri

Khutiya River flows north and east of the Dhanchauri settlement of Godawari Municipality-9 of Kailali. There is a forest south of the settlement while a river bordering Sehari village flows on the west side.

In June 2001, the government rehabilitated 65 former *Kamaiya* households at Dhanchauri that is bordered by rivers on three sides. Each household was provided five *kaththa* of land. In 2019 there were 243 former *Kamaiyas* there (113 men and 130 women).

The soil has high volume of sand and gravel and is unsuited for agriculture. One former *Kamaiya* said, the first 4/5 years here were difficult as they had to survive by collecting and selling firewood in Dhangadhi. The produce of the land barely saw them through for three months.

The difficulties had forced 13 households to leave the settlement in search of employment. There were 52 households in the settlement. Of them, 20 said even though the land ownership certificates state that they own five *kaththa* land, the land in the field is less than that on paper.

Forests provided a source of livelihood for many families but this also changed as forests were registered under community ownership. Khushiram Chaudhary, 81, a former *Kamaiya* said their problems remain unchanged despite promises made by different parties during the elections. He said he had become bonded to his master for generations for Rs.1,700 he had borrowed.

Women from the settlement sell crushed boulders and extracted sand from the river to support their families. Most of the able men went to India to work as a wage laborer.

Thirty-two youths from Dhanchauki had completed Grade 12. One worked as Assistant Nurse Midwife (ANM) on a contract basis, one as Child Development Teacher and another as a policeman. The others had not found jobs and did not have funds to support higher education.

Budhani Chaudhary, 45, a mother of four children, had not yet obtained her citizenship certificate. This had prevented her from registering the birth of her four daughters.

There is a health post in the adjoining Sehari village, but the former *Kamaiya* said it lacked medicines and that forced them to travel to Dhangadhi for treating minor ailments. Some have not been able take children to hospital because they lack the resources.

There were eight senior citizens in the settlement but only four had been receiving the allowance provided by the government. The remaining four did not have citizenship certificates required for eligibility. This also prevented them from accessing other government services.

The Dhanchauki settlement had to rely on the river for drinking water. They were provided piped water only after two years of rehabilitation in 2003. The settlement did not also have electricity connection until five years after settlement. Electricity reaches the area in 2006.

*Badghar* Shova Chaudhary said that the local government had graveled the road, made embankments along the riverbank, distributed goats to five women, and offered mushroom cultivation training to another five women after the local election.

decided to provide Rs. 55,000 instead of 10 thousand and Rs. 100,000 instead of 35 cubic feet of wood, and Rs. 200,000 to buy land. This helped 2,042 former *Kamaiya*

households to buy land. However, 434 of these families have not been able to use the land as ownership of the plot was disputed.

In fiscal year 2019/20 the federal government made rehabilitation the responsibility of local governments. But the local governments lack procedures to provide land because the provincial government had not made a clear policy on this.

### **Situation update December 2019**

As of December 2019, 380 former *Kamaiyas* had not been rehabilitated in Kailali. Even those who were rehabilitated remain deprived of various basic services such as free education, free health care and skills training for their children. Many development agencies have tried to assist the former *Kamaiyas* by supporting them in building houses, drinking water systems, schools and through livelihood programs. But most of the former *Kamaiya* settlements have not been reached either by government or these organizations.

There are 434 former *Kamaiyas* now facing problems because of the disputed land that was provided to them. But the data at the Office of Land Reforms shows them to have been rehabilitated. Further, thousands of *Kamaiyas* missed out by the *Kamaiya* identification program have not received ID cards,

needed for accessing government support. The sections below discuss the situation of former *Kamaiyas*:

### **Education**

The provision of the Bonded Labor (Prohibition) Act 2002 to provide free education for children of *Kamaiyas* remains to be implemented. Most of the children former *Kamaiyas* do not go to school, and those attending school are required to pay fees and many leave because their families cannot pay the fees. Many of the parents were engaged in high-risk jobs in various parts of India and cities of Nepal.

### **Health**

The Government provides 72 types of medicines free of cost at various levels, but health posts lack all kinds of medicines on the list. For example, Beladevipur Health Post in Godavari Municipality-9 was visited by 10-15 service seekers daily. This health post did not have 35 types of medicines it should have in stock.

### **Employment**

Children of former *Kamaiyas* have no choice but to work as a wage laborers in Nepal and abroad because they were

### **Former *Kamaiyas* in Political Party Manifestos in 2017/18**

The following are excerpts from the election manifestoes of different political parties. The Communist Party of Nepal (formed through unification of the CPN-UML and CPN Maoist) has been the party in government since the 2017/18 elections.

**Nepali Congress:** Rights, social security and development of landless people, *Kamaiya*, Badi and other marginalized community would be taken forward with priority.

**CPN UML:** Landless squatters, including Freed *Kamaiyas*, would be made owners of land and their issues regarding education, health would be solved.

**CPN Maoist:** A revolutionary land reform program will be implemented. Feudal land relations, absentee landownership in agriculture will be terminated. Land will be distributed free of cost to real land tillers, Freed *Kamaiya*, landless farmers, and poor farmers.

**Janamorcha Nepal:** Employment and housing would be guaranteed for Haliya, *Kamaiya*, Haruwa/Charuwa. Provisions of a proper settlement would be made for all squatters and Freed *Kamaiyas*.

not able to complete education. The Office of District Land Reforms provided 4,450 former *Kamaiyas* skills training for self-employment. However, the former *Kamaiyas* said they could not start businesses for lack of capital or join the job market because they were semi-skilled. Not even one of those trained had started a business.

### ***Political representation***

Six former *Kamaiya* leaders had contested in the first Constituent Assembly election in 2008. One of them Sukdaiya Chaudhary was elected as a Constituent Assembly member. Similarly, one out of five candidates who contested in the second Constituent Assembly election (2013) was elected. In the local elections (2017) 10 women and four former *Kamaiyas* were elected to different local government positions. Even though some former *Kamaiyas* have been elected to public office, they have very little influence in policy and decision making.

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