

3.7 The Badi Community: The Issue of Children's Rights

Background

Badi, in Sanskrit, means a community or a group that plays instruments. In Nepal, the Badi community resides in some districts of Sudurpaschim (far-western) and Karnali Provinces. According to the 2068 Census, the population of members of Badi community in Nepal is 38,606. Researchers differ in opinion and analysis on the origins of the Badi community who have long been facing discrimination and exclusion.

Before the unification of Nepal, the *baisi-chaubisi rajya* (22 and 24 princely states) used to engage members of the Badi community in their palaces for singing, dancing and entertainment on auspicious occasions like worships, *bratabandha* (sacred thread giving ceremony), and wedding, to name a few. The person playing an instrument was called *Wadak* and the person engaged in dancing or acting was called a *Patra* or *Patri*. It is believed that these words semantically drifted into *Badi* and *Patar*. According to a report issued publicly by the Ministry of Women, Children and Social Welfare, this community, residing in Nepal's Salyan, Jajarkot and Rukum since the 18th Century now resides all over Nepal¹. Social structure and culture seem to have pushed this community, traditionally engaged in dancing, singing, crafting and selling musical instruments at the then palaces and

the houses of the feudal or the rich, into the circle of discrimination.

The Badi community has long been suppressed in the vicious circle of caste-based discrimination and harassment. Structural violence (caste and gender based) against the Badi women has subjected the past, present and future of this community to confusion. Badi community has been suffering from the vicious circle of caste-based discrimination and untouchability for ages. The impacts of ill-treatment and sexual violence faced by the Badi women has resulted in difficult livelihoods for the children of this community.

The Badi Community in Sudurpaschim Province

The Badi Communities who have been residing in various parts of Tikapur Municipality of Kailali district claim to have migrated from Salyan in 1950 A.D. (2007 B.S.) In the past, the Badi communities were used to a wandering lifestyle and did not have a permanent residence. The Badi community in various districts of Sudurpaschim and Karnali Provinces have migrated to and been living in Kailali and Kanchanpur districts.

The Badi communities also have residences in Hilly districts of the Sudurpaschim Province and places of Kailali district including Satti, Muda, Balchaur,

1. <https://mowcsc.gov.np/downloadfiles/fUL38AgqcoyggTNMKzzyiVQmsfU7xcxj3jUhisPH-1625551872.pdf>

The Badi Population in Sudurpaschim Province

S.N.	District	Women	Men	Remarks
1	Kailali	1314	1508	2822
2	Doti	1291	1667	2958
3	Achham	374	408	783
4	Bajura	889	989	1878
5	Bajhang	191	253	444
6	Kanchanpur	566	692	1258
7	Dadeldhura	134	127	261
8	Baitadi	115	117	232
9	Darchula	77	73	150
Total		4924	5834	10758

Source: Nepal Census 2011

and Chauki dada. Members of the Badi community have been earning livelihoods by playing musical instruments, singing and dancing, making pottery, fishing, engaging in daily wage labor and providing cheap labor in various cities of India. The Badi community has been facing problems like inadequate land ownership, poverty, difficulty in obtaining citizenship, caste-based discrimination, illiteracy, unemployment, homelessness, social-cultural discrimination, and inadequate access to services and facilities provided by the State. The Badi community is yet to realize education, health, employment, participation and self-respect. Although the Badis have been known as a community rich in traditional arts and culture in a historical period, social discrimination towards the members of this community and their misuse as means of entertainment has prevented generations from escaping the cycle of injustice.

In the Sudurpaschim Province too, this community is known to be engaged in singing, dancing and playing musical instruments. The Kings and Princes, village heads and landlords of hilly areas used the Badi community for dancing, singing and entertainment in events such as weddings and festivities. After the onset of migration, this community has been

residing in Kailali and Kanchanpur districts of the Terai and other districts of this Province.

After the Badi women engaged in a half-naked procession for 48 days in front of the West-gate of Singhadurbar, on January 7, 2009, the Council of Ministers declared them free of sexual exploitation and announced their rehabilitation. Although the struggle for freedom from the suffocation of harassment and suppression led to declaration of freedom from sexual exploitation of Badi women on paper, it is yet to be materialized in practice. Sexual harassment and structural violence on women have severely violated children's rights. It is evidently essential for relevant State bodies to take the responsibility of ensuring the right to identity, education, health and fundamental rights of children of Badi community. Since children are considered as change makers to end the circle of class and other harassment prevalent in the society and lead the journey towards development, it is imperative to understand their problems through this study.

Objectives of the Study

- ▶ To study the problems of children in the Badi community
- ▶ To ensure the fundamental rights to the Children from Badi community and improve their status by ensuring the contribution and roles of all three levels of government, policy-makers and civil society based on the information and knowledge obtained from this study

Scope of the Study

This study is limited to Kailali and Bajhang districts of the Sudurpaschim Province. It only covers the situation of rights and identity of the children from Badi community. The study is focused on the laws, policies, National Action Plan promulgated in order to ensure the rights to the children from Badi community and the effective implementation of the court

orders. This study is concerned about the education, health, birth registration and citizenship rights of the children from Badi community.

Study Methods

Meetings and discussions were held with community members, representatives of various unions/organizations, representatives of government bodies, people actively working in the issues of the Badi community, lawyers, representatives of political organizations, social service providers, and the intellectuals to analyze the commitment of the government to ensure the rights of the Badi children and the state of the implementation of these commitments. Similarly, articles and books, various research reports, various national and international laws related to the problems and concerns of the Badi community were taken into reference for this study. Conversations, discussions, interactions and question-answers were conducted with the stakeholders during the study in an effort to analyze the status of the rights and identity of the children from Badi community in Kailali district.

Relevance of the Study

Although constitutional, legal and policy provisions have ensured self respect, access to empowerment and other rights of children from Badi community, their effective implementation is yet to be seen. The Supreme court issued a mandamus order in 2005 suggesting the Government not to deny birth registration of any children—including the Badi children—who are unaware about the whereabouts of their fathers on the grounds of not having a father, and to make immediate arrangements to provide citizenship to such children under section 3(2) of Citizenship Act 2020. Despite this order, Badi children have been denied birth registration and citizenship on the grounds of not knowing the identity of their father. The

Badi children without birth registration and citizenship have not been able to access the services and facilities provided by the government, including scholarships. Because of the problems of identity, children from the Badi community have been forced to leave school and escape to India. Even today, the children from Badi community faces discriminatory practices at schools, health institutions, and government bodies. The archaic perspective about the children of the Badi community has not been changed yet and self-respect, identity and rights of the children of the Badi community have not yet been ensured.

Analysis of the Problem

The Badi community has been economically, socially, culturally, and politically oppressed. This community has been left behind by the State, disdained, untouched, exploited, extremely marginalized, and ostracized since years. The children of this community have faced discrimination since ages due to poverty, illiteracy, unemployment, superstitions, traditional norms and values, and absence of effective implementation of the laws.

There are problems in birth registration, admissions at schools, and getting citizenship for Badi children whose father's identity is unknown. Children deprived from citizenship's right are also deprived of the services and facilities provided by the State. The Badi community has weak economic and educational status. This has hindered the children of the Badi community from conducting trade and business as well. The children of the Badi community do not have access to education, health and employment. Although the constitution of Nepal has ensured compulsory and free elementary education to all the children, it is yet to benefit the children from Badi community.

The Situation of the Badi Community in the Settlements of the Sudurpaschim Province

1. The Situation of the Badi Community in Kailali district, Tikapur Municipality-8, Satti Suryapur

Fiftys families of the Badi community who migrated from Salyan have been residing in Tikapur Municipality-8, Satti Suryapur. This community with permanent residence in Satti Suryapur since 1953 has a total of 250 members. There are 50 children below the age of 18. Ten men and five women above the age of 60 have been receiving social security allowance. This community with 12 persons with disability does not have access to education, health, food, housing and employment. Children below 18 years have been dropping out of the school due to economic deprivation and seeking work in India. Members of the Badi community without employment opportunities have been earning livelihood by fishing in the Karnali river, making nets and fishing equipment, making the *madal* (musical instrument), dancing, singing and begging.

The government has not been able to run programs focused on the livelihoods and economic empowerment of the Badi community, says Rajeev Nepali, the President of Satti Suryapur Social Support Committee. The women of the Badi community have been facing problems because of their engagement in sex as a profession and registering birth, obtaining citizenship and national identity card for children whose father's identity is unknown. Even after visiting the ward office, Municipality and Area Administrative Office for seven days, an individual could not obtain a citizenship and was forced to leave for India without a citizenship, says Radha Nepali, a local resident.

The employees of the concerned bodies ask the mothers who go to obtain Nepali citizenship to fetch the father's citizenship, delay processing pointing to various reasons, look down on them; the

women even face mistreatment, says another local Meera Nepali. Even if someone is provided with a citizenship, the mention of 'father's whereabouts not known' has caused additional social insult, says Manakumari Badi-a local. Although birth registration, school registration and obtaining citizenship have been somehow easier compared to the past, not all children have easy access to this right. Ankit Nepali, another local resident shares that some of the children and young females seeking employment in India have been forced into the sex work. Although survival, protection, participation and development are key rights of the children, the children of Badi community have outrightly been deprived of these rights.

The Municipality Deputy Mayor Scholarship Program and Mayor Technical Scholarship Program aimed at the needy, helpless, downtrodden, marginalized communities will prioritize the children of the Badi community. Since the children of the Badi community do not have access to technical education they have not been able to benefit from the Mayor Scholarship Program, therefore the Municipality is planning to enhance the access of the Badi children to technical education, says Mayor Rawal.

2. The Status of the Badi Community in Jayaprithvi Municipality-10, Chainpur

The Badi community resides near the *Khulla Manch* (open platform) in Bajhang district, Jayaprithvi Municipality-10, Chainpur. 12 families of the Badi community with 37 members including nine children have been residing here since four generations. Seven of the nine children are studying at the public school. Two children have been deprived of education due to economic hardship. Since the traditional occupations of the Badi such as fishing, making net, making the *madal* and *sarangi* (musical instruments), making pottery have been in crisis, they have been struggling for two square meals a

day, reports Harina Badi. Harina Badi's 13-year-old Manoj Badi exclaims that although he wants to go to school he doesn't feel like going to school when he sees his parents struggling to feed the family through begging. Manoj currently studies at grade seven in Satyabadi Higher Secondary School, Bhojpur. The children of the Badi community have been struggling even to buy notebooks and pens due to economic deprivation. People in this community have not been able to be free from the anxiety of managing two square meals a day. Manjuri Badi reports having to drop out of school because of not having money to get admitted at school and to buy notebooks and pens. She says, "My father died very young. My mother cannot work. If I go to school, there's no one at home to take care of mother and to perform household chores. If I don't work then we have no food to eat. We live by the money we get by washing the dishes and cleaning toilets at other people's houses. My wishes to go to school will never materialize."

Although the government has provisions for free education and scholarships, the children of the Badi community are asked to pay fees under different headings which has resulted in their school drop-outs. The children of the Badi community have not been able to buy notebooks and pens with the amount of scholarship money received from the schools. The Badi community has been facing economic hardships since the government has not been able to create job opportunities for them according to their skills and abilities, and traditional occupations like fishing, making earthenware etc., says the local inhabitant Kitthi Badi. Kitthi expresses sadly that they used to run the household with the income generated from fishing and making pottery while her husband was alive, but after his death she has been struggling to make ends meet.

Amar Badi, a local resident, shares that five under-aged children got

married in the Badi community near Chainpur. Parents cannot admit their children because schools ask for fees and those admitted also drop-out in the middle, says Mausam Badi-another local. Keshari Badi, another local, sadly expresses that in the past people used to invite them for singing and dancing and pay them decently but since this tradition has been eliminated it has been difficult for them to raise their children, and they have to resort to begging to run the household.

Bhuwan Badi shares that she gave birth to eight children but lost six of them due to malnutrition. She says that many Badi families do not have a single living child because of malnutrition.

Birendra Bahadur Khadka, the Mayor of Jayaprithvi Municipality says they have paid off the loans that the Badi community had taken and provided them with warm clothes and foods. He said that they are facing challenges in investing in the Badi community since the Badi community disagreed with the Municipality to set aside a budget for the Badi to run a profession or business.

3. The Status of the Badi Settlement in Kailali District, Lamkichuha Municipality-3, Balchaur

191 families of the Badi community have been residing in Lamkichuha Municipality-3 Balchaur of Kailali district. The community living in the forest area attached to the East-West Highway has a total population of 978 out of which 365 are women, 344 are men and 279 are children. Although the children of the Badi community are found at the Child Development Centers (CDC) and Primary Schools, they have been facing problems for obtaining Secondary and Higher-level education due to financial constraints. Because of the inability to pay the fees fixed by the Schools, children of the Badi community have been dropping out of school and leaving for India for employment. Although the schools where the Badi children are studying receive scholarships

from the Government, they do not have seats allocated for teachers. These schools have been running with teachers on relief quota. The CDC has been operating with the support of the various organizations. The elders of the Badi community alleged the Government of not supporting the functioning of the CDC. In the past, it had been difficult to register birth and obtain citizenship for children whose father's identity was unknown but the Supreme Court's order of 2007 has facilitated this. Yet, the citizenship of the members of the Badi community mentions *Bhad, Patar, Badeni*; this has affected our self-esteem, complaints Nandaram Badi, a leader of the Badi community. He expresses that replacing words like *Bhad, Patar, Badeni* with desired surnames would save them from social insults. Even now, the right to education, health, employment and housing for members of the Badi community have not been fulfilled. The Badi community sidelined for years still faces exclusion, neglect and contempt. Although the Constitution envisions participation based on proportional inclusion, the Badi community is yet to have access to political, social, and cultural areas. Although the political parties express various commitments during elections, they neither show active engagement nor concerns in solving the problems faced by the Badi community, shared Parbati Badi who is a ward member of Lamkichuha Municipality-3. Due to the economic hardships of the families, the children of the Badi community are compelled to leave school in the middle of the school years and offer cheap labor for strenuous jobs in various Indian cities.

4. The Status of the Badi Settlement in Kailali District, Godavari Municipality-3, Chaukidada

The members of the Badi community who migrated from districts of the Sudurpaschim Province including Bajura, Bajhang, Doti, and Achham currently reside in Malika Tole of Godavari Muni-

ality-3, Chaukidada of Kailali district. Of the 32 families that migrated from the hilly districts of the Far-West at different times, seven individuals have land titles with areas between five and 10 *dhur*. The other 25 families have no land titles. In the absence of adequate land due to the expansion in family members, 25 families have built temporary settlements in the Malika Community Forest area adjoining the East-West Mahendra Highway. These families earn livelihoods through labor (carrying bricks and stones), begging, and few by working daily wages in Shimla, India. The scholarship of NPR 400 provided for the education of children is not enough to buy educational materials, says Mitthu Badi, a leader of the Badi community. There is only one public tap for the 25 families living in the community forest area adjoining the Mahendra Highway. There are no toilet facilities and they do not have electricity. People living in these temporary huts have been sleeping on beds made out of straw. The members of this settlement have to rely on others even to manage two square meals a day. The youth of the Badi community express that if the government offered skill-based training and income generating programs, it would facilitate their livelihoods. It has been a struggle to provide basic food to the children, medicines and treatment due to economic deprivation, complaints Sitadevi Badi. The Deputy Mayor of Godavari Municipality Ms. Ratna Kathayat shares that the small annual budget of 2-3 lakhs, they have been appropriating is not enough to address the complex problems of the Badi community. She added that it is necessary to develop programs for skills and capacities development and income generation for the community based on the study of their conditions.

Government's Commitments and their Implementation Status

The Government had officially formed a task force on October 2, 2007 be-

cause of the movements conducted by the Badi community from time to time and particularly in response to the 64-day long movement centered in Kathmandu. Taking the recommendations of the task force into consideration, a two-point agreement was signed between Badi community and the Government, represented by the leader of the Badi community Umadevi Badi and the then Peace and Reconstruction Minister Ramchandra Paudel respectively. The second point of the two-point agreement mentions providing scholarships to the children of the Badi community but its effective implementation is yet to be seen even after 14 years of the agreement.

Supreme Court's Order for the Protection of the Rights of the Badi Children

On September 15, 2005, the Supreme Court ordered Nepal Government's concerned authorities, members of the Badi community and organizations studying the Badi community to understand the problems of the Badi community, to prioritize and implement the solutions for these problems and to inform the Supreme Court about their activities. The same order instructed not to deny birth registration to any children, including the children from Badi community merely on the grounds of not knowing the whereabouts of the fathers, and make immediate arrangements to provide such children with citizenship based on section 3(2) of the Citizenship Act, 2020. Although this order by the Supreme Court facilitates the members of the Badi community to obtain citizenship in their mother's name, they have been facing problems in the absence of the effective implementation of this order. This has hindered the protection of right to identity of the children from Badi community.

The Public Housing Program

The Public Housing Program has been operated in districts of the Sudurpashchim and Karnali Provinces with

dense settlements. The needy members of the Badi community have not been able to benefit from this program because land titles are needed to secure housing according to the program directives.

The Badi community residing in Balchaur in Kailali, Satti Suryapur in Tikapur Municipality having land titles have houses built under The Public Housing Program. However, a majority of the Badis are squatters and have not been able to receive the program benefits. The economic condition of the squatters Badi community is poor and their children have not been able to live in a protected environment. The children of the real Badi community are still forced to live in hardships in temporary houses and huts.

Special Scholarships Procedures, 2015

This procedure was intended for students in higher education coming from low-income communities like the *Dome, Badi, Chamaar*, and for students from the *Musahar* community pursuing a Bachelors in Engineering or Medicine. This procedure enacted in the Fiscal Year 2015/2016 required applicants to secure first division in the School Leaving Certificate from community schools. Since the children of the Badi community have not obtained first division from community schools they are deprived of this opportunity. This procedure has also deprived Badi students who have secured first division from other types of schools.

Conclusion

Despite caste-based discrimination, untouchability and social discrimination being constitutionally and legally punishable, in the absence of effective implementation the Badi community and their children are still facing caste-based discrimination, untouchability, harassment, and social discrimination. A majority of the members of the Badi community, who have earned livelihoods for centuries by singing, dancing, and begging, and lived nomadic lives, do not

have permanent land and housing. Registering birth and obtaining citizenship is still difficult for the children of the Badi community whose identities of the father's not known. The children of the Badi community, who face extreme ostracization and discrimination even within the Dalit communities, are forced to drop-out of schools because of their inability to pay fees and offer cheap labor in return for difficult tasks in various Indian cities. The children of the Badi communities residing in the Hilly districts have been suffering from hunger and diseases. Children in families within the Badi community facing economic deprivation have been practicing child marriage. A lack of plans and programs for ensuring the rights of the Badi community and their children is seen at each level of government: Federal, Provincial and local. No change can be seen in the society's perception blinded by archaic values, opinion and behavior towards the children of the Badi community. Even the local government that is closest to the community does not have long-term strategies and plans for ensuring the rights of the children of the Badi community. Although political parties have been expressing commitments to the education, health, housing and employment for the Badi community, these issues do not seem to be their priority post-election.

Suggestions

- ▶ The movements led by government and non-governmental organizations against caste-based discrimination and untouchability should be operated effectively and the laws against untouchability should be implemented effectively since caste-based discrimination, untouchability and social discrimination against the Badi community and their children is still prevalent.
- ▶ The majority of the Badi community have exhibited problems of land and housing, so all the three levels of gov-

ernment should formulate and implement short-term, mid-term and long-term plans and programs to combat these problems.

- ▶ Since the Badi community has weak economic conditions, this has direct impacts on the education, health and security of their children. Hence, the provincial and local government should operate skill-based and income generating programs for economic empowerment of the Badi community and make them self-reliant.
- ▶ The Supreme Court's order issued in the name of Nepal government has to be effectively implemented and the legal provision for obtaining birth registration and citizenship thorough mother's name for the children of the Badi community whose father's identities are unknown should be additionally made easy and simplified and should be implemented effectively.

Source Materials

1. The Act Relating to Children 2075
2. The Act Relating to Children, Section 5(1)
3. Convention on the Rights of the Child Part II
4. Nepal's Constitution 2072, Article 39(1) and Article 40(2) of the Fundamental Rights
5. The 2076 study report titled 'Badi Community's Identity and Status' published by Community Empowerment and Transformation Committee Nepal
6. The 2078 study report by Yes Nepal on youths in empowerment of the Badi Community in Balchaur in Kailali district concerning the social, cultural, economic status (and future path)
7. 1226_1357136650_field-bulletin-the-badi-community-of-nepal-issue-50.pdf (ecoi.net)
8. Nepal's Badi community finds itself in a bottomless pit of despair (kathmandupost.com)