

TIED HANDS

*Fact Finding Mission Report on Harawa-Charawa:
Debt, Poverty and Climate Change in Dhanusha, Nepal*



TIED HANDS

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Community Self Reliance Centre (CSRC) established in March 1993 in Sindhupalchowk District is a social organization that has campaigned more than a quarter of a century for comprehensive agrarian reform and the land rights of working farmer and tillers. Through this time, CSRC has worked to organize and raise consciousness amongst those deprived of land rights, build public opinion in favor of progressive land reform, and conduct action research related to land and agrarian issues.

Today, it is regarded as a national resource organization concerned with land rights. CSRC has established a presence across Nepal's mountains, hills, and plains, in more than two-thirds of the nation's districts and has currently maintained working relations with communities and local governments in all of these places. CSRC is committed to the belief that social inclusion and participatory democracy must be strengthened at the roots of society.



The Asian Forum for Human Rights and Development (FORUM-ASIA) is a Bangkok based regional network of 81 member organisations across 21 Asian countries, with consultative status with the United Nations Economic and Social Council, and consultative relationship with the ASEAN Intergovernmental Commission on Human Rights. Founded in 1991, FORUM-ASIA works to strengthen movements for human rights and sustainable development through research, advocacy, capacity development and solidarity actions in Asia and beyond. It has sub-regional offices in Geneva, Jakarta, and Kathmandu.

FOREWORD

Harawa-Charawa (HC) is a form of agriculture labour system which still prevails in mid-eastern Terai. The Government of Nepal (GoN) formally declared all forms of bonded labour as illegal by virtue of the ban on the Kamaiya Labour System that was announced on 17 July 2000. The GoN promulgated the Kamaiya Labour (Prohibition) Act 2001 to prevent and rehabilitate bonded labourers under the Kamaiya system in the agriculture sector. The same act prohibited other similar forms of the 'bonded labour' system, including Haliya, Harawa, and Charawa along with Kamaiya. However, this system is still in practice seasonally or annually.

The Harawa-Charawa system is closely interlined with the land tenure security and social structure which creates unequal social relations in the form of a labour contract between landowners and farm labourers. Several research findings present that the majority of Harawa and Charawas are Dalits, who have been historically marginalised and considered as 'untouchable'. Most of this subset are also landless and their entire family unit is usually obliged to work as unpaid labourers to landlords, for whom the main male members of the family works as Harawas. The Harawa system is historically and culturally rooted in discriminatory political, economic and social state policies that leave Harawa and Charawas indebted.

The Kamaiya Labour (Prohibition) Act 2001 clearly mentions that 'all the debts obtained by a bonded labour' and 'all kinds of written and verbal agreement concluded between the creditor and the bonded labourer' are voided with the beginning of the Act. Therefore, a political-economic approach is required to explain and understand how the reproduction of such an exploitative system has continued to survive.

For the past 27 years, the Community Self Reliance Centre (CSRC) has been working to ensure the rights of: land-poor farmers; small-scale producers; tenants, Harawa, Charawa; Kamaiya and Kamalari communities. These efforts have included: organising and raising awareness and consciousness amongst those deprived of land rights; building public opinion in favour of progressive land reform and land tenure security; as well as conducting action-oriented research related to land and agrarian issues.

CSRC believes that this report on the human rights situation of Harawa and Charawa community and the impact of climate change would be extremely pertinent. Most importantly, the report provides key recommendations for Government and Non-government agencies to work cohesively in the uplifting and rehabilitation of Harawa and Charawa Community.

Jagat Basnet, PhD
Executive Director
Community Self Reliance Centre (CSRC)
April 2021

FOREWORD

The Asian Forum for Human Rights and Development (FORUM-ASIA) is committed to promoting a human rights-based approach to development that stresses the protection; promotion; and fulfilment of all human rights; including economic, social and cultural rights. Additionally, within its own research; capacity building; and advocacy efforts, the organisation remains increasingly cognizant of the: magnitude; urgency and intersectional impact of climate change on human rights.

Therefore, this report is an output of a daunting yet essential task at hand: bridging the gaps between poverty, climate change, and human rights; through the lived realities of some of the most marginalised people.

As starkly stressed in a 2017 report by Philip Alston, the former United Nations Special Rapporteur on extreme poverty and human rights, ‘...an important starting point is for both governmental and non-governmental actors to start collecting relevant data so that they are able to identify the extent to which the poor are affected by different types of violations.’

Two years later, the Special Rapporteur’s 2019 report on climate change and extreme poverty re-iterated a similarly message in its assertion that ‘...climate change represents the ultimate challenge to humankind, with those living in poverty destined to be the most negatively affected group across the globe.’¹

The collected testimonies and data grimly mirror the aforementioned reports by the Special Rapporteur.

Harawa-Charawa in Dhanauji village, especially women and girls, are already feeling the brunt of climate change, and the situation is made even more complicated by conditions of poverty and debt bondage. Accompanying this bleak scenario is the systemic discrimination and neglect from all levels of government, which has fuelled violations of civil and political rights.

As a contribution to the growing discourse on poverty, climate change, and human rights, this report takes stock of common standalone topics, and makes the case for the importance of recognising intersectionalities within our own human rights agendas.

I truly hope that the testimonies and data contained in the report provide an emphatic call for the action that we desperately need.

Shamini Darshni Kaliemuthu
Executive Director
Asian Forum for Human Rights and Development (FORUM-ASIA)
April 2021

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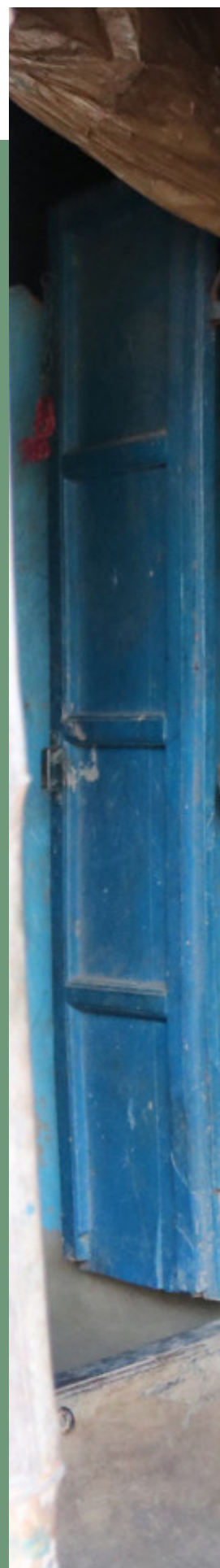




PHOTO: A Harawa-Charawa woman in front of her house



METHODOLOGY

This report is the result of an exploratory research designed to better understand the nexus between climate change, human rights and poverty. Persons living in poverty often live in ecologically fragile or marginal areas, and are therefore more susceptible to the effects of climate change. This in turn, poses a risk to their human rights.

Inequalities are interlinked: persons living in poverty often experience multilevel exclusions, such as a lack of access to assets such as land, water, and electricity; as well as a lack of an opportunity to effectively participate in decision-making processes that could impact their lives. These inequalities make vulnerable groups even more susceptible to the harms of climate change, while simultaneously eroding their ability to recuperate from them.

This research was conducted as a joint effort between FORUM-ASIA and its Nepali member, the Community Self Reliance Centre (CSRC). The research is focussed on Harawa-Charawa, a Nepalese community living in conditions of bonded labour in a country that remains amongst the most vulnerable to the impacts of climate change.²

PHOTO: The fact-finding mission team conducting a bilateral interview with a Harawa-Charawa woman

This report focuses on the Harawa-Charawa's experience of human rights violations, and observes the links between economic, social, and cultural rights; and civil and political rights; as well as climate change. CSRC's work around the human rights dimensions of agrarian reform and land management further highlighted this link.

This report is based on two focus group discussions and bilateral interviews that were held between 26 September to 2 October 2020, with 30 people from three wards of the Dhanauji Rural Municipality, including the Provincial Minister of Land Management, Agriculture and Cooperative.

In addition to desktop research, direct observation of houses and the infrastructure of water wells and field crops, contributed to the findings of this report.

On 26 September 2020, two CSRC employees accompanied by a photographer drove 253.3 kilometres to reach Dhanauji village in the Dhanusha District in Province no.2, where they were joined by a local facilitator based in Dhanauji.

CSRC employees conducted interviews based on thematic questionnaires prepared alongside FORUM-ASIA in English, and subsequently translated into Nepalese by CSRC.

Two focus group discussions were held with 15 members of Harawa-Charawa (i.e., 10 men and five women) from the Dhanauji Rural Municipality wards two, three and four while 15 bilateral interviews^{3*} were conducted with four men and eight women of Harawa-Charawa community from the three wards of Dhanauji Rural Municipality.

Three bonded labour activists, two local authorities, and one government official were also interviewed in person.

Interviews were conducted in the local Maithali language and the answers were then translated into Nepali and English.

Free, prior and informed consent was obtained from all interviewees before their participation.

Prior to the interviews, all interviewees were briefed about: the scope of the project; the release of this report; as well as potential risks of taking part in the research.

No interviewee was paid any form of compensation for their participation in this research. All participants signed the consent form voluntarily prior to being interviewed. All photos portraying people have been taken with their consent.

CSRC and FORUM-ASIA will continue to closely monitor whether the interviewees have been exposed to any acts of reprisals for their testimonies.

At present, none of the interviewees have expressed fear of possible reprisals.

BACKGROUND

NEPAL: AT A GLANCE

Nepal is a country situated in South Asia, surrounded by India on three sides and the Tibet Autonomous Region to the north.

The country is characterised by three main regions: the mountainous (Himalayan) region; the hill region; and the Terai region.^{4*} Since 2015, the country has been divided into three regions geographically and seven provinces politically.^{5*}

As of 2019, Nepal's population was approximately 29 million, with 22.3 per cent of the population being identifiable as vulnerable to multidimensional poverty by the United Nations Development Programme (UNDP).^{6*}

The agricultural sector employs the nation's poorest and about 85 per cent of forced labourers (which is estimated to include 1.2 million men and 400,000 women); In addition to this, the aforementioned sector is projected to exacerbate climate change as forced labour activities put stress on the environment.^{7*}

The country is currently classified as one of the most vulnerable to climate change impacts, ranking fourth globally in 2017.^{8*}

SOCIOECONOMIC CONTEXT

Nepal's poverty rates have been steadily declining. In 2018, the estimated national poverty headcount stood at 9.3 percent⁹, a significant improvement from 15 percent in 2010.^{10*}

Multidimensional poverty has also reduced from 39 percent in 2011 to 29 percent in

2014.¹¹ The overall decrease is attributed to notable poverty alleviation strategies in Nepal's development plans; the tenth plan, in particular, recognised: political representation; agency; and empowerment as equally important dimensions of poverty.¹²

However, more than a quarter of Nepal's population is multidimensionally poor, with Province No. 2 emerging at the top spot in 2018.^{13*} While there has been a reported decline in national poverty rates, studies reveal the Tarai region still lags on when it comes to basic provisions and services. This is further compounded by frequent floods, which isolate these areas in times of calamities.¹⁴

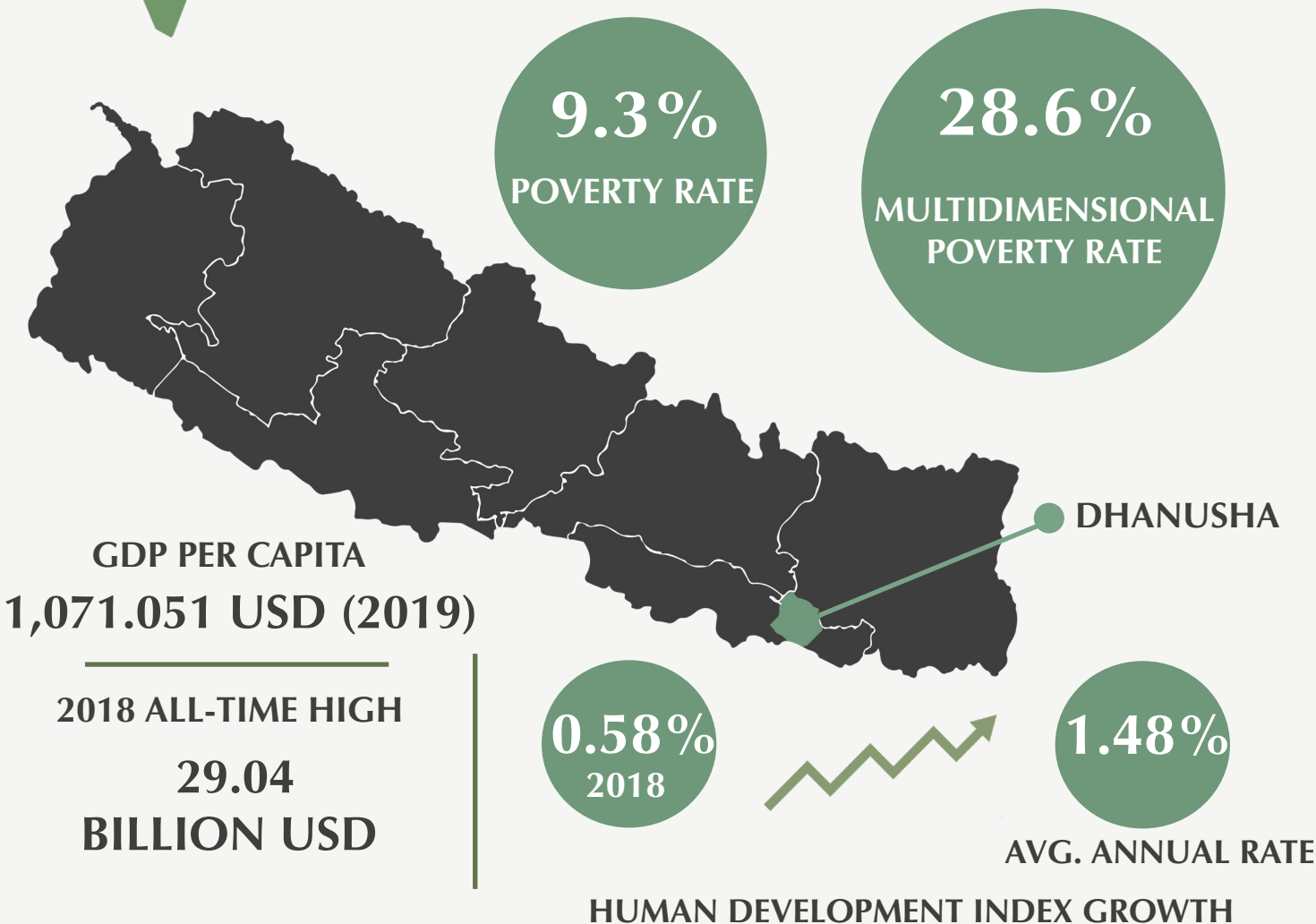
Even at the national level, poverty rates remain contested as some experts assert it is remittances and not state action plans that have pulled up Nepal's poverty rates.¹⁵ Adopted in 2020, the 15th plan seeks to cut multidimensional poverty in half, i.e., from the current 28.6 percent to 11.5 percent.¹⁶ It also aims, to reduce the national poverty rate from 18.7 percent to 9.5 percent in 2023 - 2024¹⁷, and expects the agriculture sector to contribute as much as 22.3 percent to the national GDP in the same time period.¹⁸

Nepal's Human Development Index (HDI) score of 0.58 has been growing at an annual rate of 1.48 percent.^{19*} However, this forecasted growth does not seem to align with the testimonies of people living in poverty as documented in numerous reports.^{20*} This stark disparity is apparent even though Nepal has reached high Gross Domestic Product (GDP) of 29.174 billion US dollars in 2018.²¹



NEPAL

POPULATION: NEARLY 29 MILLION



4th

MOST VULNERABLE TO CLIMATE CHANGE GLOBALLY (2017)

A major driver for this social and economic inequality is Nepal's caste system, legally abolished in 2001 but still socially observed. Caste-based discrimination further aggravates: gender; geographic; religious; and ethnic based discrimination in Nepalese society; and is seen as a major obstacle towards a holistic improvement socioeconomic conditions in the country.²² Caste-based discrimination was also recognised as one of the root causes of the decade-long armed conflict of Nepal.²³

Historic and social marginalization has also perpetuated a form of modern slavery that

finds its basis in economic conditions, and social customs that are rooted in caste. The majority of bonded labourers belong to either the Dalit or indigenous peoples, who are mainly found within the agricultural sector.²⁴

POLITICAL CONTEXT

Nepal's transition into a federal structure of governance was a by-product of its first constitution in 2015. The constitution was adopted years after a civil unrest between the Government of Nepal (GoN) and the Communist Party of Nepal - Maoist (CPN-M).²⁵

This conflict resulted in: the death of over 13,000²⁶; the displacement of over 100,000 people; and devastation of public infrastructure.²⁷

Reports note that: long-standing caste and ethnic grievances; overall poverty; and landlessness provoked CPN-M's call for an armed struggle in 1996.²⁸

The call for 'armed struggle' prompted an all-out violent campaign dubbed the 'People's War' against the GoN. While the conflict ended in 2006 with the signing of the Comprehensive Peace Accord (CPA), justice remains elusive for numerous victim groups, as the current administration continues to stall transitional justice reforms.^{29*}

The first election after the Maoist rebellion held promise. The 2015 constitution mandated quotas reserved for: women; indigenous groups; and other minorities in the three tiers of government, i.e. federal; provincial; and local.³⁰

Moreover, the Caste Based Discrimination and Untouchability (CBDU) Act of 2011 was already in place and legally provided for criminalisation of caste-based discrimination.

However, in practice, indirect forms of discrimination either by caste, ethnicity or gender continue to play a significant role in Nepalese politics. For instance, the same constitution has been criticised by high-caste men, who belong to traditional political parties that dominate politics and marginalise the voices of other groups,³¹ thereby shutting out other groups.

Within the politburo, the ruling CPN-United Marxist-Leninist (UML) party has also been accused of perpetuating women's political marginalisation.³²

This prevailing attitude has likewise hindered the efficient implementation of the CBDU Act of 2011, effectively confining inclusive political participation to paper.³³

Clearly, while Nepal's constitution espouses progressive ideals, including the political participation of women and other minorities, its genuine realisation remains a challenge.³⁴

In recent months, internal political dynamics have plagued the ruling CPN-UML party. A surprise dissolution of parliament at the request of the Prime Minister has prompted rallies in different parts of the capital, Kathmandu, garnering massive public participation. Police estimate around 10,000 people were on the streets to participate in one of these marches.³⁵

The CIVICUS Monitor, a research tool built by civil society³⁶ - reports that police have been using batons and water cannons to disperse protesters who were against the dissolution of Nepal's parliament, while witnesses have reported hearing specific orders to target members of civil society. This has brought turmoil to Nepal's democracy, and has left the hard fought political and social gains hanging in the balance, once again.

Clearly, while Nepal's constitution espouses progressive ideals that include the political participation of women and other minorities, its genuine realisation remains a challenge.



PHOTO: Women making handcrafts in Dhanauji, Dhanusha

CONDITIONS SURROUNDING ECONOMIC, SOCIAL AND CULTURAL RIGHTS, CIVIL AND POLITICAL RIGHTS, AND CLIMATE CHANGE

ECONOMIC, SOCIAL AND CULTURAL RIGHTS (ESCRs)

Poverty is usually understood broadly as the lack of basic capabilities to live with dignity.

This definition recognises poverty's broader features, such as hunger; poor education; discrimination; vulnerability and social exclusion - all key provisions enshrined in International Covenant on Economic, Social and Cultural Rights (ICESCR).³⁷

While the term 'poverty' does not appear in the Covenant, it is acknowledged as one of the central concerns of the Committee on Economic, Social and Cultural Rights (CESCR).^{38*} In this vein, it is the primary role of duty-bearers (in this case the State), to protect and promote the human rights guaranteed in the ICESCR.

Nepal has reportedly made progress in the implementation indicators of the Sustainable Development Goals (SDGs).³⁹ For instance, in the area of poverty, National Planning Commission (NPC) statistics reveal a steady decrease from 42 percent in 1995⁴⁰ and 23.8 percent in 2015.

These numbers, however, belie huge disparities and gaps by province, much more by gender and socio-economic standing. Nepal's situation is reflective of the increased awareness that respect for human rights is a sine qua non for socio-economic development.

While Nepal's poverty rates have been steadily declining in the post-conflict era, there appears to be a widening income inequality that disproportionately affects Dalit women and low-caste migrant workers.⁴¹

This disparity is reflected in Province No. 2. According to a Labour Force Survey Report published by the International Labour Organisation (ILO) and the Nepalese government, Province No. 2 has the highest unemployment rate, at a rate that is 8.7 percent higher than the national average.⁴²

The same report provided a modest estimate of 31,388 individuals in conditions of forced labour in the country, with males making up a majority of this subset at 56 percent.⁴³ The brick kiln industry is particularly notorious as a 2019 joint report found that of 176,373 workers doing manual work, 6,229 (i.e. 0.35 per cent) were forced labourers.⁴⁴ A far higher figure is feared, with the UN Country Assessment estimating 547,000 individuals were in forced Labour in 2011.⁴⁵ In 2013, the ILO estimated that there are about 70, 000 Harawa-Charawa households residing in the six Tarai districts of Province No. 2.⁴⁶

Nepal's health indicators also show numerous disparities.⁴⁷ Some indicators show improvements: maternal mortality rates, for instance, have reduced from 901 in 1990 to 239 in 2016.^{48*} Additionally, the proportion of births attended by skilled health personnel has gone up from 9 percent in 1996 to 58 percent in 2016.⁴⁹ Meanwhile, the mortality rate under five years of age is significantly down from 140 in 1990 to 33 in 2017.⁵⁰

Other indicators, on the other hand, have deteriorated; for example, death due to non-communicable diseases has been steadily rising, from 42.9 percent in 2000 to 66.2 percent in 2016.^{51*} Province No. 2 also lags behind in the percentage of vaccinated children at only 65 percent vaccinated as opposed to the Gandaki Province that has vaccinated 93 percent of its children.⁵²

The most significant adverse change to life expectancy has been due to air pollution, and is projected to affect the concentration of particulate matter - a mixture of solid particles and liquid droplets found in the air - in the top 10 worst affected districts, which all happen to be in the Tarai region.⁵³ Overall, substantial differences among caste/ethnic groups persist, with analysis by caste/ethnicity highlighting how the Dalit, especially in Province no.2, consistently show poor performance in most health indicators, including child mortality.⁵⁴

Water supply and sanitation conditions also reflect a dismal reality. There is disparity between the rich and the poor in accessing and using piped water; collected data revealed that 65 per cent of households within the richest quintiles used improved flush toilets whereas only 16 per cent of the poorest quintiles have access to improved flush toilets.^{55*} The same data indicates that only 25 percent of water supply systems are well functioning and that 68 percent of the systems have the ability to adequately supply water to taps throughout the year.

In terms of education, 770,000 Nepali children aged 5-12 years are still out of school with attendance of early childhood education resting at only 51 percent.⁵⁶ At the height of the COVID-19 pandemic in October 2020, children's education was declared as the most pressing need by Nepali households, followed by financial support, and employment.⁵⁷

CIVIL AND POLITICAL RIGHTS (CPRs)

Nepal is party to seven core international human rights instruments.^{58*} Like most countries in the South Asian region, the country lags in the implementation of these treaties, as documented human rights violations continue to rise.

In 2019 alone, there was a 23 percent increase in human rights violations in Nepal, a majority of which consisted of violations against women.⁵⁹ In the Dhanusha district alone, there were 121 counts of rights violations,⁶⁰ with extrajudicial killings remaining a key concern in the district and in the country as a whole.

A landmark report from the Office of the High Commissioner on Human Rights (OHCHR) documented nine incidents of extrajudicial killings in Dhanusha from 2008-2010, which was the highest number amongst all districts mentioned.⁶¹

Violence has been a continuing concern, especially caste-based violence. In 2020, killings continue to be of concern as emblematic cases of Dalit killings took place during the COVID-19 pandemic.⁶²

In further concern over the violations of human rights, civil society organisations have expressed worry over repressive laws, including the 2017 Media Council Bill;⁶³ the Information Technology Bill; the Mass Communications Bill;⁶⁴ and the Special Service Bill⁶⁵ citing the overly broad provisions and inadequate safeguards that tend to plague most amendments. The 2008 Electronic Transactions Act (ETA) has also been repeatedly misused to detain any person who writes content that is deemed to challenge 'public morality' and 'harmonious relations' between groups.⁶⁶

Meanwhile, the avenues for remedy for increasing violations are becoming more scarce. Nepal's national human rights institution has come under threat, as a 2019 draft bill proposing to amend the National Human Rights Commission Act of 2012 enables the Attorney-General to circumvent any decision made by the National Human Rights

Commission of Nepal (NHRCN) and remove the provisions related to the decentralised presence of NHRCN.⁶⁷

CLIMATE CHANGE

Climate change intensifies and alters the effects of natural disasters, especially in South Asia.⁶⁸ Nowhere is climate change more visible than in the melting glaciers of the Himalayan region. Scientific evidence proves that the Himalayan glaciers have seen significant ice loss over the past 40 years with an average rate of ice loss remaining 'twice as rapid in the 21st century compared to the end of the 20th century.'⁶⁹

Additionally, some areas are melting more than others; the Tibetan Plateau and the eastern stretches of the mountain range have experienced ice loss rates of somewhere between 20 to 47 percent since 2000.⁷⁰

Nepal's contribution to global greenhouse gas (GHG) emissions is marginal at 61.25 million tonnes in 2016 as compared to India at 3.24 billion tonnes, and China at 11.58 billion tonnes.⁷¹ Methane, a strong GHG mainly produced through agricultural activities (e.g., livestock and rice production), contributed to 1.31 tonnes per capita in emissions in 2016. Consequently, agriculture accounted for a cumulative 19.16 million tonnes of methane emissions in the same year making it the largest contributor to GHG emissions.^{72*} Nepal's scientific indicators state that all of its districts will be experiencing pronounced warmer and wetter climate between 2016 to 2045.^{73*} As a result of higher temperatures, it is projected that: droughts and floods will be more persistent; moisture will evaporate from land; lakes; rivers; and other bodies of water.⁷⁴

Furthermore, when rain falls on drought-stricken areas, the drier soil it comes in contact with remains less able to absorb the water, thereby increasing the likelihood of

flooding.⁷⁵ A warmer climate is also set to increase evaporation in flora, which affects plant life and can reduce rainfall even more.⁷⁶

Unfortunately, the intensification of natural hazards will not only expose an increasing number of people to more risks, but will also have disproportionate impacts on the poorest groups⁷⁷ through adverse changes in their livelihoods and health, among other aspects, thereby compromising their resilience even further.

Nepal seems receptive to various initiatives and measures in relation to climate change at the international level. As part of its commitments made during the 16th session of the United Nations Framework Convention on Climate Change (UNFCCC) (COP 16), Nepal adopted a National Adaptation Plan, which was used to prepare its National Adaptation Programme of Action (NAPA) in 2010.

NAPA is primarily aimed at increasing funding for climate change adaptation.⁷⁸ The Nepal Climate Change Knowledge Management Centre (NCKMC) and the Nepal Climate Change and Development Portal was born out of NAPA.*

In 2018, Nepal co-sponsored the Framework on Human Rights and the Environment at the Human Rights Council⁷⁹ recognising the right to a safe; healthy; clean and sustainable environment as important aspects of human rights.

Climate-induced disasters have been prevalent in Province no. 2. This is highly visible in the Dhanusha and the Tarai region, where recurrent and frequent flooding barely allow for crop and land recovery, thereby impacting the resilience of the communities.



PHOTO: Fields surrounding Dhanauji, Dhanusha

In 2020, Nepal submitted its Second Nationally Determined Contribution (NDC) outlining Energy; Industrial Processes and Product Use (IPPU); Agriculture; Forestry and Other Land Use (AFOLU); as well as Waste as key sectors.⁸⁰

In its most ambitious bid to mitigate climate change, Nepal passed its Climate Change Policy in September 2019; the policy aims to address a range of priority areas including: nation-wide climate adaptation; promotion of a green economy; and climate change programmes related to agriculture and food security.⁸¹

Climate-induced disasters have been prevalent in Province No. 2. This is highly visible in the Dhanusha and the Tarai region, where recurrent and frequent flooding barely allow for crop and land recovery, thereby impacting the resilience of the communities.

Dhanusha is particularly vulnerable to both prolonged droughts and incessant flooding.⁸² Intense episodes of flooding have been recorded in the past, with the most recent flooding that occurred in July 2019 resulting in waterlogged roads and flooded houses.⁸³

The neighbouring Kamala River exacerbates flooding when its water levels rise.⁸⁴ This scenario is unfortunately mirrored in six other districts within Province no. 2, whose areas are much more heavily affected by such episodes than other provinces.

Furthermore, reports indicate that highly relevant climate change projects are found to have been depleting in Nepal with little attention being given to vulnerable groups and those situated in far flung provinces.⁸⁵

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2010

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2018

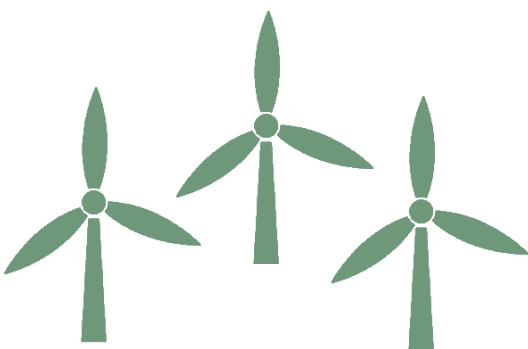
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2019

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2020

In 2020, Nepal submitted its Second Nationally Determined Contribution (NDC) outlining: Energy; Industrial Processes and Product Use; Agriculture, Forestry and Other Land use; and waste as key actors.



Dhanusha is particularly vulnerable to both prolonged droughts and incessant flooding. Intense flooding has been recorded in the past years, with the most recent flooding in July 2019 resulting in waterlogged roads and flooded houses. The neighbouring Kamala River exacerbates flooding when its water levels rise. This scenario is unfortunately mirrored in Nepal's six other districts, with some areas being more heavily affected than others. Further, reports indicate that "highly relevant" climate change projects are found to have been depleting in Nepal, with vulnerable groups, especially those that are situated in far flung provinces, not receiving adequate attention. This is highly visible in Dhanusha and the Tarai region, where recurrent and frequent flooding barely give enough time for crop and land recovery.



PHOTO: A Harawa-Charawa man in his home

ESTABLISHING THE NEXUS: BONDED LABOUR AND THE HARAWA-CHARAWA

Bonded labour, also known as debt bondage,^{86*} is the most common form of modern slavery and is broadly defined as a slavery-like practice or condition.⁸⁷ Bonded labourers are forced to work to pay off a debt, however, the amount of their labour does not offset the amount of the debt.⁸⁸ In most instances, landowners impose exorbitant interest rates.

The debt then becomes too high and is thus passed on for generations until the debts are repaid. Landowners typically provide little to no salary for bonded labourers, but offer food, accommodation, and clothing in exchange for their work. This cycle essentially leaves bonded labourers fully indebted and dependent on the landowners.⁸⁹

At the international level, bonded labour is prohibited by two ILO Conventions, namely the Forced Labour Convention 1930 (No. 29) and the Abolition of Forced Labour Convention 1957 (no. 105), both of which Nepal has ratified.^{90*}

At the national level, Nepal has also outlawed bonded labour. The country's constitution guarantees freedom from any form of forced or bonded labour⁹¹ and safeguards the right of every individual to choose their employment freely.⁹²

PHOTO: A Harawa-Charawa man pumping water in Dhanauji, Dhanusha



NOMENCLATURE FOR VARIOUS FORMS OF LABOUR SYSTEMS IN NEPAL

Bonded labour appears in various forms in different parts of Nepal

KAMAIYA

Kamaiya is a term used to define a hard-working person who earns his livelihood through manual labour.⁹³ The term denotes exploitation for agricultural and similarly related work, with wages often being too low to meet the need for a square meal for a family. Consequently, a Kamaiya is 'compelled to borrow from the landowners to cover expenses for: food; medical expenses; social obligations; and other unusual circumstances. These additional borrowings add to the debt'.⁹⁴

18400+ families (more than 100,000 population only in districts Dang, Banke, Bardiya, Kailali and Kanchanpur) †

Information on the Kamaiya system prevalent in the last four districts is limited to Sharma and Thakurathi (1998). There are hardly any other sources of information available.

HALIYA

A Haliya is defined as a ploughman who works as an agricultural labourer on a contract that is usually short-term. In many places, this system entails debt bondage and related characteristics.⁹⁵

60 000 families

Terms and conditions of this system differ in various districts. A few studies on the Haliya have been conducted, including (Robertson and Mishra 1998) and (Sharma and Sharma 2002).

HARAWA-CHARAWA

Harawa-Charawa means forced tiller, and are titles assigned to adult males hired to plough land for landlords in exchange for in-kind payments, or to repay a debt owed to them. Charawa, meaning forced cattle-herder, are mainly young males, usually the son of the Harawa, employed to herd cattle.

70 000 families

There is little data to document how Harawa-Charawa experience civil and political rights and violations.

BHUNDE

Bhunde is usually found in Banjura and other districts of the Karnali zone in Nepal

60 000 families

Like the Haliya system, the terms and conditions of this system are different across various districts. Not many studies on this system have been conducted, however, (Robertson and Mishra, 1998) and (Sharma and Sharma, 2002) have covered this issue.

† Figure adapted from General Federation of Nepalese Trade Unions. Paying Back in Sweat and Tear, 2007.
<https://www.ituc-csi.org/IMG/pdf/nepal_paying_back_in_sweat_and_tear.pdf>

The Bonded Labour (Prohibition) Act 2002 specifically provides for the abolition of the Kamaiya (Bonded) Labour system, which also includes the Harawa-Charawa system. 'Kamaiya', originating from the Tharu language, means persons who work hard. Eventually, the modern meaning of the word Kamaiya has become bonded labor.

In the implementation of the Act, the Government of Nepal's attitude and approach towards the Harawa-Charawa labourers remains discriminatory and exclusionary.

Over the last 20 years, the Government has identified bonded labourers and implemented the Kamaiya Rehabilitation Program targeting the Kamaiya (bonded) labourers, most of whom are from the indigenous Tharu community in five districts (Banke, Bardiya, Dang, Kailali and Kanchanpur).

Compelled by an intervention from the Supreme Court of Nepal, the Government also initiated and implemented a Haliya Rehabilitation Program, which was mostly targeted at bonded labourers from Hill Dalit communities in mid and far western Nepal.

Despite the fact the same Bonded Labour (Prohibition) act applies to the HCs, no such initiative has been implemented for them.

The Act's effective implementation at local levels proves to be a concrete challenge as former bonded labourers easily back-slide into poverty due to the lack of government safety nets, which leaves them worse off economically than they were before they were freed.^{96*}

The subject of this report, the Harawa-Charawa, reside mainly in the Tarai districts. Harawa, which means 'forced tiller', are titles assigned to adult males hired to plough land for landowners in exchange for in-kind

payments, or repayments for debts owed to them. Charawa, meaning 'forced cattle-herder', are mainly young males, (usually the sons of the Harawa), who are employed to herd cattle.⁹⁷

Harawas plough the field of the landowners under a long-term labour contract and are attached to the landowners' family.⁹⁸ A Harawa's wife and children also serve the landowners' family, often without being paid. They are usually supported by the landowner through the provision of leftover food, used clothes', and in some cases, physical and financial protection.⁹⁹

Data collected in 2013 indicate that two-thirds of almost 70,000 Harawa-Charawa households in the seven Tarai districts, including Province No. 2, are comprised of Tarai Dalits; whereby 95 percent of this subset live in conditions of forced labour.¹⁰⁰

The same data illustrates their dismal living conditions, with a mere 3.9 percent having access to piped water, 1.8 percent having access to toilet facilities, and 16.5 percent having access to electricity.^{101*}

There is a dearth of data that documents the Harawa-Charawa's experiences with civil and political rights violations, particularly, in relation to the rights to freedom of expression, assembly and association.

However, caste-based violence remains rampant, coupled with extreme cases of gang rapes and killings.¹⁰² In 2019 alone, 61 cases of the human rights violations that were recorded in Nepal were related to the practice of untouchability, and Dalits were among the three most targeted groups.¹⁰³

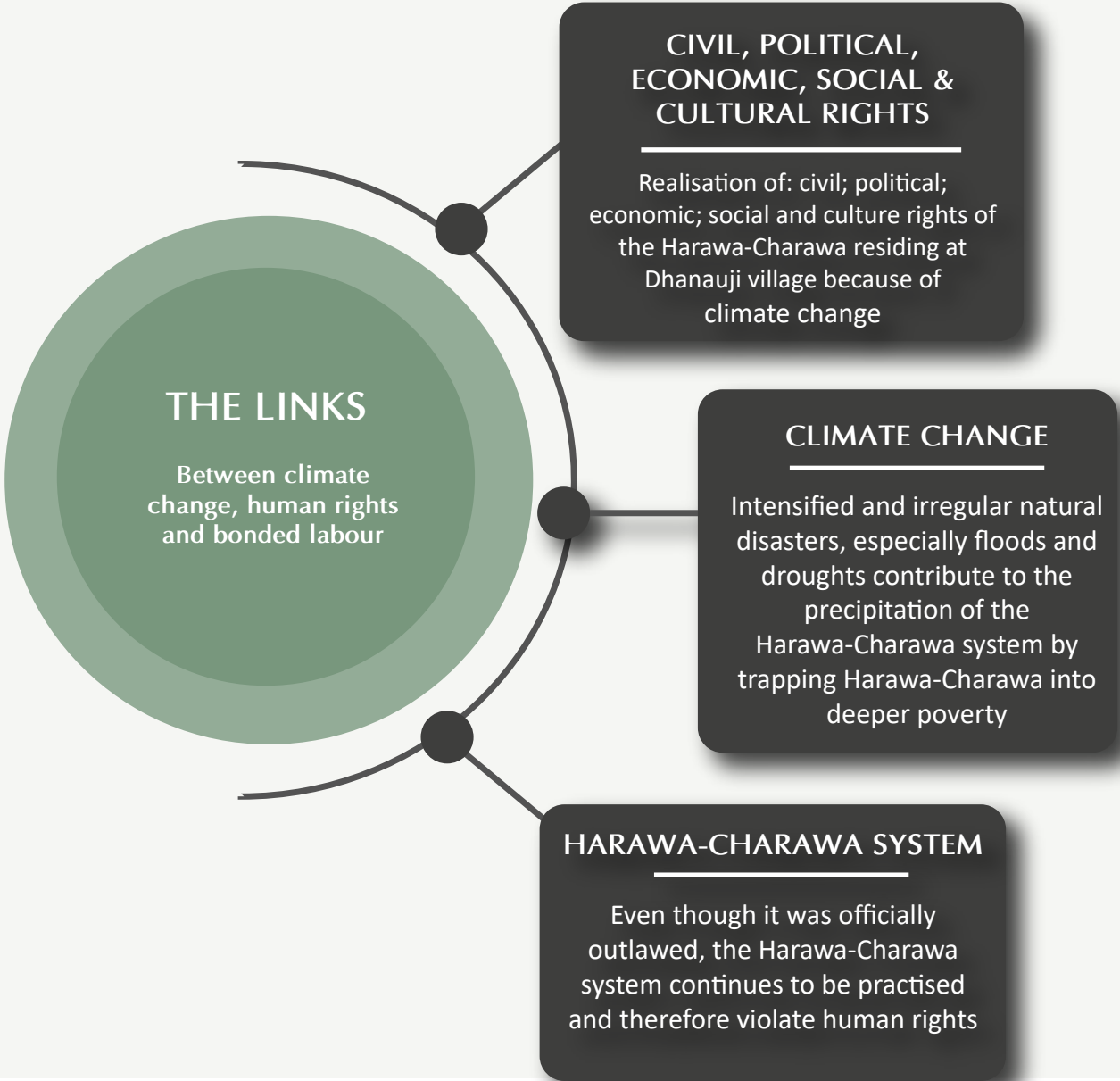
The same holds true for violations faced by the Harawa-Charawa in the face of climate change. Media reports are just beginning to

capture exacerbated vulnerabilities borne by current and former bonded labourers. Even after their liberation in 2002, land given to former bonded labourers in five districts (Banke, Bardiya, Kailali, Kanchanpur and Dang) are found to be flood prone: this entails needing to rebuild their houses using savings, and in some cases, accessing new loans every time flooding occurs.¹⁰⁴

It is important to note that such cases of displacement vis-à-vis climate change are merely subjects of media reports and have not permeated the international human rights architecture in a substantive way.¹⁰⁵ Furthermore, little connection is made between climate change and the Harawa-Charawa’s situation, and the way in which

a shrinking civic space can become a huge impediment to this group realising their rights. Comprehensive research linking these issues is still emerging. In a study by the University of Nottingham, the brick kiln factory sector was found to contribute to air pollution, GHG emissions and climate change in South Asia.¹⁰⁶ However, the study does not indicate any connection between the agricultural sector and climate change in South Asia.

This report, therefore, attempts to draw on these commonly stand-alone topics, i.e. ESCRs, CPRS, and climate change, to paint a holistic picture of the condition of the Harawa-Charawa in Dhanauji village.



ECONOMIC, SOCIAL & CULTURAL RIGHTS

The Constitution of Nepal guarantees a plethora of economic, social and cultural rights (ESCRs) as fundamental. In addition to this, Nepal has wholeheartedly accepted human rights obligations, including the provisions set forth in the International Covenant on Economic, Social and Cultural Rights (ICESCR).¹⁰⁷

Despite constitutional adoptions and treaty accessions, the reality of Harawa-Charawa households shows a huge gap between national and international obligations and the current state of their rights.

All elements under the Harawa-Charawa system provide fertile ground for exploitation. The field mission revealed that interviewees are deprived of the minimum core elements of ESCRs. The key issues that were identified as relating to debt-traps and unjust working conditions include: landlessness; hunger; lack of safe housing and drinking water; proper sanitation; deprivation of adequate health care facilities; lack of access to free and compulsory education; the practice of untouchability in public and cultural life; and the adverse effects of COVID-19.

DEBT-TRAPS AND UNJUST WORKING CONDITIONS

Testimonies point to a myriad of challenges faced by the Harawa-Charawa in their struggle to make a living through a system designed to keep them indebted to their landowners. Interviewed individuals are all engaged in agricultural field work.

Planting, harvesting, and cultivating mostly staple crops such as paddy, wheat, and maize,

as well as caring for animals comprises the bulk of the work of the Harawa-Charawa. Women engage in household chores such as washing dishes, collecting firewood, fetching water, cooking and caring for livestock, in addition to fieldwork.

In order to gather firewood, the women usually have to walk a minimum of 30 minutes every day to the forest.

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“I start my day from 4 am at the early morning and it takes almost 2 hours for normal sanitation of home and caring [for] three goats and one buffalo, then need to go to work at the landowner’s home and almost all days 8-10 hours goes for farming related work... little time goes for the livestock related work and collecting water and cooking food for family...”

- Dhanauji Resident



PHOTO: Harawa-Charawa men and women in Dhanauji, Dhanusha

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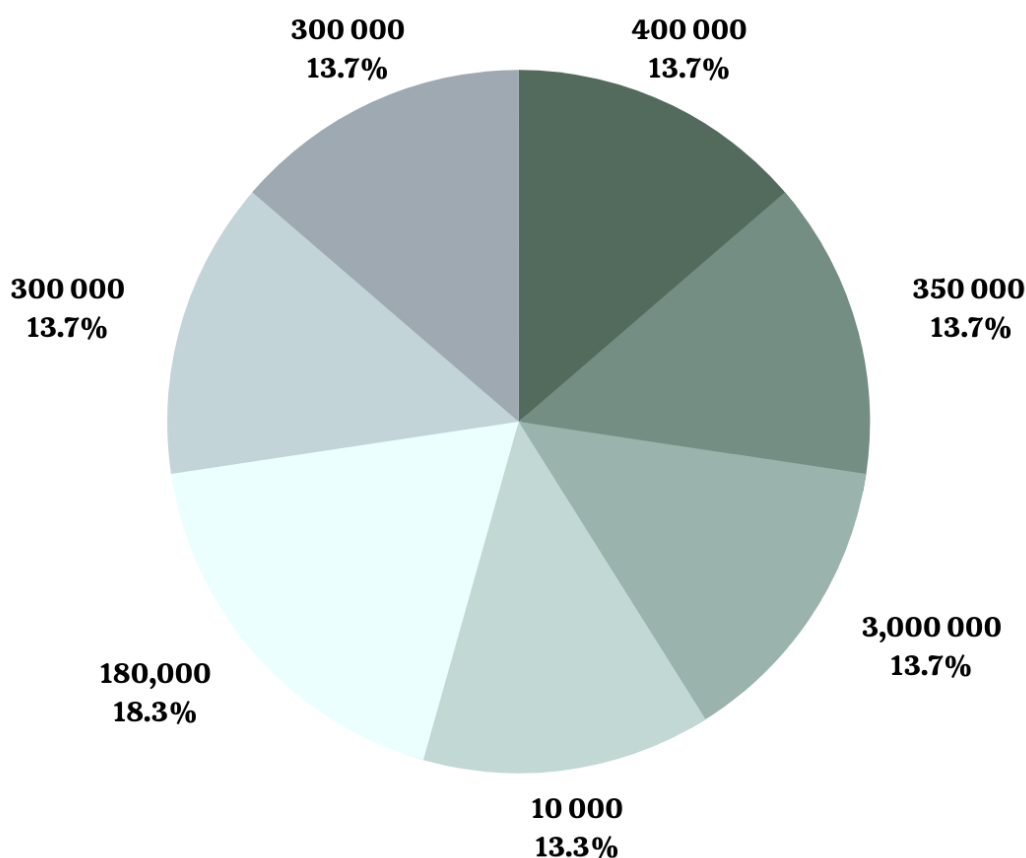
“We have been raising the issues of excessive interest rate. But the landlords threatened us not to raise this issue,”
Umesh Sah, Program Coordinator, Dalit Society Welfare Committee Nepal.¹⁰⁸

Wedding dowries and costs related to migration for employment in other countries were cited as the top two reasons for acquiring loans, with landowners imposing excessive interest rates.

With a meagre income, paying even the principal amount has become insurmountable for interviewees.

All interviewees were confirmed to have debts, the highest being 500,000 NPR (approximately USD 4,235) and lowest being 140,000 NPR*¹⁰⁹ (approximately USD 1,185), with interest rates varying from 36% to 48% per year.

The daily wage of eight kilos of paddy per day, roughly equivalent to 160 NPR (approximately USD 1.36), combined with a six to eight hour working day is simply not sufficient to help these women escape their situation.



All interviewees were confirmed to have debts, the highest being 500,000 NPR (approximately 4,235 US\$) and the lowest being 140,000 NPR (approximately 1,185 US\$), with interest rates varying from 36% to 48% per year.

The Harawa-Charawa are then compelled to look for additional sources of income while remaining 'employed' by a landowner. None of the interviewees are granted any days off, including for leave or public holidays, nor do they have access to social security benefits.

“With agricultural work there is no leave. Especially in June and July, we don’t even have time to take a long breath. When there is no work, there is always leave.”

Even when menstruating, women and their daughters-in-law are compelled to work. Women interviewees work for an average of seven months during their pregnancy. In the remaining months, either husbands or sons take turns to work.

When asked about how long before they were back to work after giving birth, answers varied between six days to three months. Two out of the six women interviewed bilaterally had to go back earlier to perform household work.

Furthermore, freedom to choose employment is non-existent; the situation is even more complex for some as they can’t refuse jobs given by their main employer, even if the pay is comparatively lower.

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“We have to work [during] menstruation as well. If it is farming season no excuses can be made to skip work. Who will not think of taking rest when she is feeling unwell? But, we are poor Harawa-Charawa, nobody thinks of our pain as pain and our trouble as a trouble. Sometimes, we are not even treated as humans.”

- Dhanauji Resident

*[Our employer Jahir] has given us 0.068 hectares of land as laguwai.*¹¹⁰ Earlier, my husband use[d] to do all the work for him, after he became ill and disabled, my whole family, especially my sons, work for him. If there is work assigned to us by the Jamindar^{111*} then we cannot go to any other employer, despite higher payment. We can do other work in other employer's place only after completing his work first.'*

Income generation programmes have the potential to become an additional burden for Harawa-Charawa families, and would therefore become counterproductive.*¹¹² This is the case for one interviewee who took out a loan of 40,000 NPR (approximately USD 339) for livestock rearing at a 12 percent interest rate per year.

As the female interviewee had no experience in buffalo rearing, which is traditionally a male farmer's activity, she was compelled to sell her buffalo at a low price. For the past five years, she has been paying the loan and has remained trapped in the interest taken from the poverty alleviation programme.

FOREIGN EMPLOYMENT AND DEBT

Foreign employment is usually used as a coping strategy from the Harawa-Charawa system. One interviewee went to Saudi Arabia taking 180,000 NPR (approximately 1,536 US\$) at 48 percent annual interest rate from a landlord. After eight years of hard work, he could only repay 180,000 NPR, but at 48 percent interest rate, his debt ballooned to 900,000 NPR (approximately 7,682 US\$).

"I worked hard day and night regardless of temperature since I had to repay loan and arrange food for my family. It has already been eight years, since I returned. I spent there three years and returned due to difficulty to work. I could repay only NPR 180,000 as principal amount. But the interest so far reached to NPR 900,000. How could I manage to pay such a big amount? It has been a big source of anxiety for me."

PHOTO: 8 kilogram of rice paddy, equivalent of 160 NPR (approximately USD 1.36), the typical daily wage of the Harawa-Charawas.



THE LUXURY OF LAND, FOOD AND EDUCATION

Land is the most important household asset for households that depend on agriculture for their livelihoods, therefore, control over land is synonymous with wealth, status, and power.¹¹³ Many rural households of mainly Dalit families, in the Eastern Terai are without land which means that these households are dependent on agriculture but cannot claim any legal ownership over land, including the land they farm on.¹¹⁴ Even those who own land cannot survive from their own production due to the inferior quality of land for agriculture.¹¹⁵

Landlessness can be identified as one of the root causes of debt-trap and is an overall infringement of the Harawa-Charawas' ESCRs, as most interviewees perceive that owning land alleviates food shortages.*¹¹⁶

Two of the interviewed households have access to around 680 square meters of laguwai.

All the other households do not have access to cultivated land and must use their wages to buy food from shops. Only one household said that they would be able to survive solely on their own food production, as the laguwai would provide food for a maximum of six months. According to all other interviewees, there was no other way to access food without wages.

With insufficient income, food insecurity has become a key concern among the Harawa-Charawa, especially in times of increased food prices resulting from climate induced disasters. Most interviewees can only manage to eat two meals a day, which usually consist of rice, salt, and roti (flat round bread). Some purposely limit food intake to save for the future, in case of a lack of earning.

Turns are usually taken based on age, whereby younger members of the family are given more food, with women eating last.

Limited access to income and food leaves education as an afterthought. Food allowance was identified as the main cost preventing parents from sending their children to school, followed by books, uniforms, exam fees, and stationery, which they consider to be 'unsustainable expenses.'

“When other people bring a new water bottle, uniform and we can't provide the same for my child, we feel bad and guilty.”

Even though free and compulsory education¹¹⁷ is guaranteed by the State, only 11 people from wards two, three and four received any sort of education.*¹¹⁸ None of the bilateral interviewees have been able to access secondary education, while most do not access education at all.

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“If income is good, we eat curry. If not, it's salt and rice. For the granddaughters, we try to make something tasty”.

“We just earn money for food, we can't save for anything else.”

- Dhanauji Resident

DISCRIMINATION BEGINS AT HOME

Multiple-level exclusions faced by the Harawa-Charawa are reflected in the conditions of their homes. In particular, the lack of toilet facilities was identified by women interviewees as a critical issue.

Majority of the households do not have toilet facilities simply because land is not available to them. Instead, they have to use open areas, riverbanks, or bushes far from the house.



PHOTO: Harawa-Charawa children and women in Dhanauji, Dhanusha

Half of the interviewees live in houses made with mud and thatched roofs, while the other half managed to build tiled roofs that were held together by mud and soil. When asked if they were able to make any improvements on their houses in the last year, only one household noted that they had managed to

build a temporary kitchen made from bamboo. Access to safe drinking water is perceived as a common daily task, as the majority fetch water from the village water pump. Women and girls are expected to fetch water daily.

“We do not have a toilet, as our land area is not fit for it. We use the open field for toilet. Sometimes, ponds and farms are used as well. Many times, owners and community members scolded us for using their farms, but we don’t have any land to construct the toilet.”

- Dhanauji Resident



Access to electricity is also challenging; buying the appropriate wires and meter boxes can cost up 4,000 NPR [USD 34], and half of the interviewees cannot afford to it.

This sense of discrimination and exclusion continues outside the home. Harawa-Charawa families are deprived of their right to take part in cultural life due to the deep-rooted practice of untouchability against Dalits. Interviewees complained that:

'We are not free to take part in festival celebrations in public places. Every time, when we go to the areas surrounding the nearby pond to celebrate Chhath^{119}, the non-Dalits don't allow us to even touch the pond. They insult us because we are Dalits. Last time, they didn't allow us to stay there and we were compelled to move to another river.'^{120*}*

According to most of the interviewees, it is mostly within private spaces that upper caste families have a confrontational attitude towards Dalits. This sense of discrimination and exclusion of the Harawa-Charawa by the State is compounded by longstanding and deeply entrenched discriminatory and exclusionary cultural and societal norms in Nepal.



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“We do not have electricity in our home. My husband used to hook (illegally grab electricity). He was jailed for 3 days. After paying 11,000 NPR [93 US\$] he was released. We do not have land ownership. So, it's hard for us to get an electricity line.”

- Dhanauji Resident

PHOTO: Inside the house of a Harawa-Charawa family



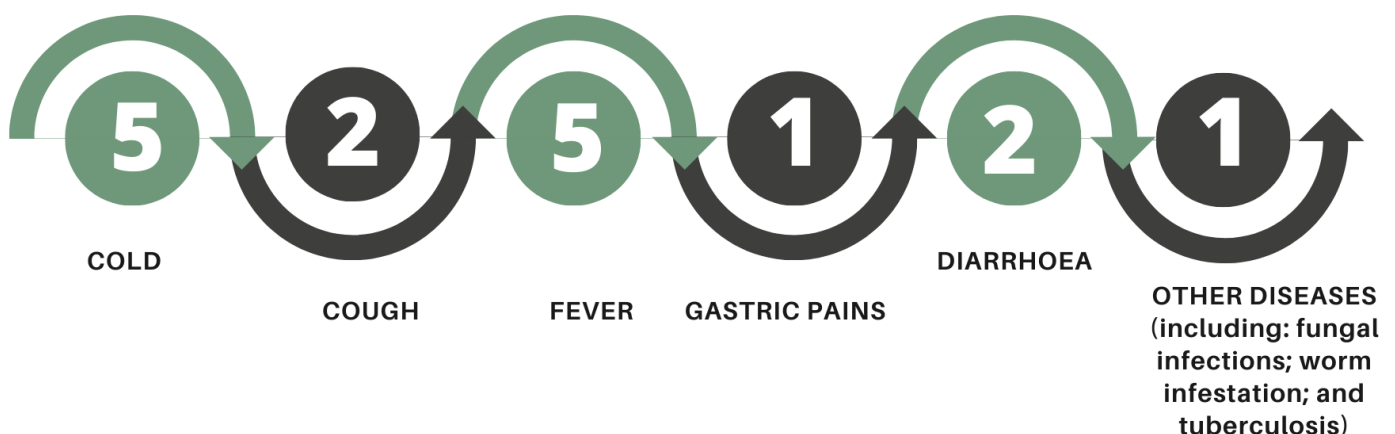
This sense of discrimination and exclusion continues outside the home. Harawa-Charawa families are deprived of their right to take part in cultural life due to the deep-rooted practice of untouchability against Dalits.

PHYSICAL AND MENTAL HEALTH STRUGGLES

Illnesses pose an additional rationale for taking out loans. Cold, cough, fever and diarrhoea were listed among the most common forms of illness among interviewees. Recurring reasons for poor health include poor water quality, lack of nutritious food, and a proper, comfortable place to sleep. The lack of available medicines at the village health post was pointed out, which indicates that they may not get well treated when ill. Additionally, health insurance was seen as an unnecessary expense.

Unpaid and accumulating loans coupled with exorbitant interest rates were consistent sources of stress. Women interviewees identified the lack of toilet facilities as an equally stressful concern in addition to: problems posed by their husbands' alcoholism; their sons' return from abroad; and gender-based violence.

FREQUENCY OF MENTIONS



TYPES OF ILLNESSES

“I am always stressed.

How do I pay back the loan which has now almost doubled within a year? I have no property to pay the loan with. I’ve been struggling every day to put together two meals a day. I’ve not seen any happy days coming in my life.”

- Dhanauji Resident

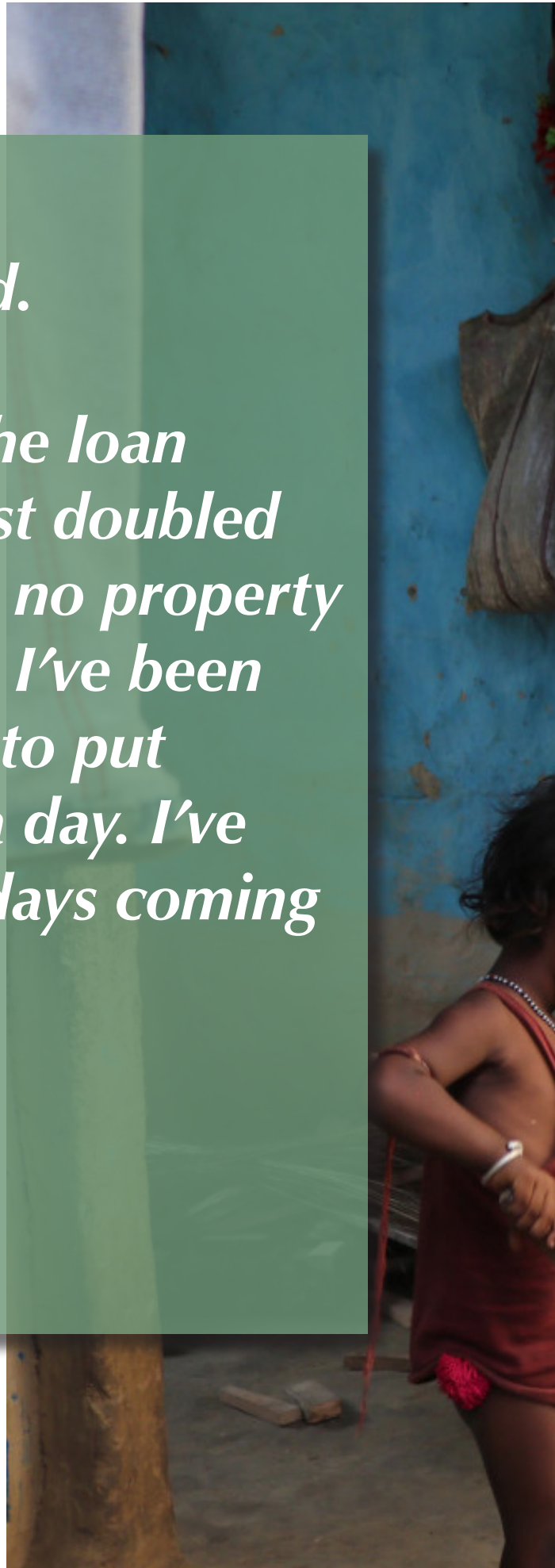




PHOTO: Harawa-Charawa women and children

It was also evident that the COVID-19 pandemic and the restrictive lockdown measures enforced by the Government has worsened the situation.

Stay-home notices meant the Harawa-Charawa could not work in the field and therefore had no wages. Food insecurity at the height of the pandemic meant new loans, while some completely relied on non-profit organisations to make ends meet.

“Past four months, we didn’t have any work. We took a loan from our employer for food. For more than 15 nights we slept with half empty stomachs, only giving food to our daughter-in-law.”

“Nobody tested positive yet. The government tested only those returning from abroad and nobody knows about their status. The construction jobs at the city were interrupted, and we struggled finding an extra job apart from farming. We remained unemployed as the farming season was gone.”

- Dhanauji Resident

All the interviewees received little to no support for the provision of items such as face masks and hand sanitizers from local authorities during the pandemic. On the contrary, interviewees appreciated the support received from Dalit Society Welfare Committee Nepal (DSWCN) and the Freedom Fund.

When asked whether anyone in their family or village tested positive for COVID-19, they all pointed out that it was impossible to know as no tests were ever carried out.

The Chairperson of Dhanauji Rural Municipality, Badri Narayan Singh, confirmed the denial of the essential elements of ESCRs. He asserted: ‘As the Harawa-Charawa are mostly landless, their situation is pathetic. There is no land for farming. Houses they live in are not safe. There are no toilet facilities. Some households don’t even have electricity. We have provided free meters for installing electricity facilities. We have also distributed rings and pans free of costs for toilets. But they were not able to invest anything from their side.’^{121*}

When asked about proposed solutions, Mr. Singh categorically stated that ‘[There is a need for] safe house[s] to be built. Toilet facilities should be provided. Land should be given. Reasonable wages should be provided. Their loans should be waived and they should be freed from debt-bondage. However, we can’t do these all due to the limited resources.’*

However, the Provincial Minister for Land Management, Agriculture and Cooperative, claimed that ‘things are changing nowadays, the situation is not the same as before.’ He pointed out that the Provincial Government has prepared a bill to address their problem. He did not elaborate on the bill, nor did he cite any provisions that could aid the Harawa-Charawa’s plight.¹²²

CIVIL AND POLITICAL RIGHTS

The Constitution of Nepal explicitly prohibits forced labour,¹²³ and safeguards the right of every individual to freely choose their employment¹²⁴. Further, the constitution mandates punishment by law for forced labour and guarantees the rights of victims of forced labour to remedy and compensation.¹²⁵ The situation of the Harawa-Charawa in the Dhanusha district of Nepal, however, stands in stark contrast to these constitutional guarantees. While all interviewees hold national 'citizenship cards' that entitle them to all fundamental rights and freedoms guaranteed in the constitution, they cannot be considered free citizens empowered to pursue their happiness and determine their own future and destiny.

They neither enjoy the right to be free from forced labour nor do they have the freedom to choose their employment. Once in debt, they have no choice but to work on the land owned by their lenders, and are under a constant threat of being demanded immediate and full repayment of debts and eviction from their house.

Despite the constitutional obligation to banish forced labour, landowners, including lenders, hold the Harawa-Charawa in debt bondage and operate with nearly complete impunity. Contrary to the entitlement to compensation, the Harawa-Charawa often have no recourse or avenues to seek compensation. Testimonies documented from the field revealed that the Harawa-Charawa have no ability to challenge or bargain with landowners, and are therefore unable to free themselves from debt-bondage. Instead, debt-bondage appears to be transferred from one generation to the other and traps entire family lineages in debt.

VOTING WOES

The Constitution of Nepal guarantees the right of every person above the age of eighteen to vote in their respective election constituency.¹²⁶ The constitution places a significant emphasis on the right of each citizen to participate in public and cultural life. Furthermore, the international human rights treaties, in particular ICCPR, to which Nepal is party, obligates the State to guarantee the right and opportunity of every citizen, without discrimination, to take part in the conduct of public affairs, and to vote and be elected, at periodic elections.

Testimonies indicate that some of the Harawa-Charawa were able to exercise their right to vote without hindrance in the last election, while some interviewees reported that they did not vote since their names were not included in the municipal electoral registry.^{127*}

While the Harawa-Charawa have not been prevented from voting, testimonies also suggest that there are no measures to ensure their genuine participation in elections. One of the main factors for genuine participation of voters in elections is the availability of accurate information about the electoral process, political candidates, and their priorities.

While basic information about candidates is available in the local language of Maithili, the majority of interviewees agree that this information is inadequate. They are not provided with sufficient information about candidates' election pledges or their priorities, which limits them from making an informed decision about their vote.



PHOTO: Focus group discussion with Harawa-Charawa community members.

When asked whether election pledges of candidates reflect concerns of Harawa-Charawa communities such as freedom from bonded labour, interviewees responded that they often hear promises and assurances about their concerns prior to elections, but once elected, as one interviewee put it, “I do not think they even talk about Harawa-Charawa in their council discussions.”

The responses also raise questions about the integrity of the electoral process. Interviewees implied incidences of bribery both in local and provincial elections. One interviewee reported that their family was offered a kilogram of mutton and 500 NPR [approximately USD 4.25] to vote for a specific party. Another interviewee shared that their family was given 500 NPR in exchange for voting for a particular party. Meagre sums of money given in exchange for votes suggest that the conditions of the Harawa-Charawa make

them extremely susceptible to exploitation by political candidates during elections. Additionally, women interviewees reported that their husbands or male members of their families decide whether the women in the household vote or not.

Lack of adequate information concerning candidates and their priorities, as well as limited agency of voters may explain the high degree of dissatisfaction among the interviewed Harawa-Charawa concerning the performance of their elected representatives. Testimonies reveal that they do not feel their interests and concerns are genuinely and adequately represented by their elected representatives. One of the main complaints of the interviewees regarding their elected representatives is that they fail to fulfil their election promises.

Furthermore, no member from the Harawa-Charawa community was elected as a candidate for the ward or rural municipality during the local election of 2017. Absence of representatives belonging to the Harawa-Charawa community contributes to the marginalisation of their situation in local political and decision-making processes.

When asked whether election pledges of candidates reflect the concerns of the Harawa-Charawa community such as: freedom from bonded Labour; interviewees responded that they often hear promises and assurances about their concerns prior to elections, but once elected, they are often disappointed.

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‘I do not think they even talk about Harawa-Charawa in their council discussions.’

- Dhanaui Resident



PHOTO: Harawa-Charawa women gathering in Dhanaui, Dhanusha

NEGLECTED BY ALL – FUTILE COLLECTIVE ACTION

The Constitution of Nepal guarantees fundamental freedoms and the rights of every citizen of Nepal regardless of their: caste; tribe; gender; religion or social and economic condition. These include the rights to freedom of expression, freedom of peaceful assembly, and freedom of association.¹²⁸ Thus, Nepal is obligated to protect and ensure the rights of all its citizens under the international human rights treaties that it has ratified.

Data suggests that Harawa-Charawa have often organised themselves to collectively raise their concerns and demands to authorities at the rural municipality and federal level. Majority of interviewees said that they belong to either one of the two main associations that advocate for the rights of the Harawa-Charawa in their district, i.e. the Harawa-Charawa Women's Collective or the Harawa-Charawa Rights Forum.^{129*}

These interviewees revealed that they have participated in protests at the rural municipality level demanding their rights. The overarching aim of both organisations is the emancipation of the Harawa-Charawa from bonded labour. According to interviewees, authorities have not obstructed their collective action or protests, nor have they faced reprisals from authorities for taking part in such action.

However, their testimonies point to a pattern of neglect of their demands by authorities, as requests for the most basic necessities such as: housing; access to adequate food and nutrition; sanitation; land tenancy for cultivation; debt repayment; and natural disaster relief after floods were unmet.

PHOTO (RIGHT)

Children playing outside in Dhanauji, Dhanusha







PHOTO: Women in Dhanauji lining up to cast their vote for local elections

“We protested in front of our Rural Municipality Office. We demanded for food, better housing, and land. We also asked for free healthcare and education. Nobody prevented us from organizing the protest program. However, we got no more than assurance.”¹³⁰

- Dhanauji Resident

A Dalit rights activist explained the reasons behind the systematic neglect of demands for the emancipation of the Harawa-Charawa: ‘the first and foremost challenge is that the provincial and local government do not genuinely acknowledge the fact that Harawa-Charawa are bonded. As representatives at local, provincial and central levels have employed Harawa-Charawa labourers and benefited from this system, they do not want to eliminate this system. Conversely, they want to continue benefiting from this system.’¹³¹

Although interviewees reported that they have not faced backlash from authorities due to their collective action or protests, they fear reprisals from their grihat (landowners) for taking part in protests or lodging complaints at the rural municipality level. Participants of the focus groups, in particular, revealed that they were threatened not to join the protests by grihat, but they ignored and participated.^{132*}

Other interviewees expressed the fear that if they protest or complain against their landowners, they may lose their land or be asked for immediate loan repayment.

“If we take their [landowners’] names or point out our employers then they may not give us any work in the upcoming season and demand to pay the loan immediately.”

- Dhanauji Resident

Such fears appear to be rooted in the reality that their entire livelihood is dependent on their relationship with the landowners and in the fact that they do not receive any support from landowners for basic necessities such as food and shelter. One interviewee explained why they fear repercussion from their landowners, stating that: ‘we eat from the land provided by grihat. So, any complaint against them might result in loss of land.’

Interviews with activists and civil society leaders indicate another key factor in the lack of attention for the plight of the Harawa-Charawa: their voices are marginalised among civil society organisations created to advocate for Dalit rights in Nepal’s Terai region.

For example, two senior leaders^{133*},¹³⁴ from the Madhesi Dalits NGO Federation acknowledged that the Federation had not been able to efficiently work on Harawa-Charawa issues. This also appears to be the case with human rights organisations active in the Terai region. The Executive Director of Terai Human Rights Defenders’ Alliance stated that the Alliance has occasionally raised issues of Harawa-Charawa, but there is no targeted initiative towards advocating for the rights of the Harawa-Charawa.^{135*}

Even though lack of citizenship documents did not emerge as a concern in the interviews,¹³⁶ members of the Harawa-Charawa community, civil society organisations that were interviewed indicated that they viewed the lack of citizenship as a key obstacle that inhibits the Harawa-Charawa from exercising their rights. A recent study by CSRC in 3

local governments of the Dhanusha district including the Dhanauiji Rural Municipality showed that 21.5 percent of adults do not have citizenship certificates. Activists working for the rights of Terai Dalits see persistent lack of citizenship documents as a major problem in Harawa-Charawa households.

Lack of accountability and redress mechanisms remain one of the main factors that contribute to the perpetuation of bonded labour systems such as Harawa-Charawa. The National Human Rights Commission (NHRC), the constitutionally-mandated institution for promoting and protecting all human rights, including civil and political rights, is one of the main avenues for accountability and redress for human rights violations.

However, the Commission remains out of reach for the Harawa-Charawa. All interviewees stated that they did not know about the NHRC and its functions. When asked about the role of NHRC in the protection and promotion of the human rights of Harawa-Charawa, Bed Bhattarai, Secretary of NHRC, reported that the NHRC had made a ‘policy recommendation’ to the Government of Nepal to address the situation of Harawa-Charawa. The Secretary added: ‘NHRC has not been able to take any concrete steps on it (the recommendation). We even failed to do a follow up on the recommendation. We also failed to integrate this into our annual plan and program’. He also expressed his commitment to prioritise this issue in 2021.

“As they [Harawa-Charawa] weren’t traditionally inclined to own or buy land or join government service, their forefathers lived without citizenship. Recently, the social security schemes put forward by the Government have pushed them towards obtaining citizenship. But they often face difficulty to gather documentary proof to show that they are citizens by descent.”¹³⁷

- Dhanauiji Resident

OFFICIAL POLICY OF DISCRIMINATION AND EXCLUSION

Testimonies of the Harawa-Charawa reveal that the Government of Nepal's attitude and approach towards them continue to be discriminatory and exclusionary. This approach and attitude is responsible for the persistent and dire situation of the Harawa-Charawa, despite the long-standing constitutional prohibition of all forms of bonded labour.^{138*}

On 17 July 2002, the Council of Ministers decided to 'liberate' all bonded labourers in the country. The Government of Nepal enacted the Kamaiya Labour (Prohibition) Act ('Bonded Labour Act')^{139*} in 2002 in order to translate the 'politically declared liberation' into reality. The definition of 'bonded labourer' in the Act includes the Harawa-Charawa.^{140*}

The Act also provided that bonded labourers are not required to repay loans. Any bonds or agreements, written or unwritten, between landowners, including lenders, and bonded labourers are also nullified.¹⁴¹ Further, creditors who obtained property from Kamaiya labourers as mortgage or security deposits are required to return such property.¹⁴²

Any person found violating the law is subject to penalties of fines, ranging from 1,000 NPR [approximately USD 8.53] to 25,000 NPR [approximately USD 213].^{143*} The Act also provides legal guidance for the rehabilitation of liberated bonded labourers through the establishment of a rehabilitation and monitoring committee in their respective districts.¹⁴⁴ Additionally under the Bonded Labour Act, the Government is required to revise and fix the minimum wage rates of agricultural workers by publishing a notification in the Nepal Gazette.¹⁴⁵ No person is permitted to employ agricultural workers at wages below the fixed minimum wage according to the Bonded Labour Act.¹⁴⁶

Despite the explicitly constitutional prohibition of discriminatory application of law,¹⁴⁷ the implementation of the Bonded Labour (Prohibition) Act 2002 remains lopsided.

As indicated by the collected testimonies, no such initiative has been implemented with regards to the Harawa-Charawa, even though the Bonded Labour (Prohibition) Act also applies to them. Similarly, their identification and rehabilitation has not been made a priority.

Expressing dissatisfaction with the Government's approach towards dealing with the Harawa-Charawa, one activist observed: 'At least a piece of land, housing grant and skills development training has already been provided to most of the Kamaiya and Haliya,'¹⁴⁸ unfortunately, similar support has not been provided for the Harawa-Charawa.^{149*}

"If society and state were fair to us, we the Harawa-Charawa families would have our own land. But the Government treated us unequally."

- Dhanaui Resident

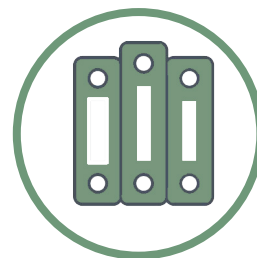
The above testimony is emblematic of how the feeling of unfair treatment, discrimination and exclusion by the state is increasingly entrenched in the psyche of Harawa-Charawa.

Kamaiya Labour (Prohibition) Act (“Bonded Labour Act”)



The Act prohibits labour or services provided by a person to his creditor without any wages, or at low rates to repay loans.

All persons working as Kamaiya labourers at the time of the commencement of the Act are ipso facto freed from that labour (Article 3).



Loans do not have to be repaid. Any bonds or agreements – written or unwritten – between landowners (including lenders) and bonded labourers are also declared cancelled (Article 5).

The Act also provides legal guidance for the rehabilitation of the liberated bonded labourers including through the establishment of rehabilitation and monitoring committees in the respective districts.



No person is permitted to employ agricultural workers at a wage below the minimum fixed wage (Article 13).

Any persons found violating the law are subject to penalties of fines, ranging from 1,000 NPR to 25,000 NPR (Article 16).




CLIMATE CHANGE

Evidence collected from the field suggests that the Harawa-Charawa are severely affected by climate change. All interviewees noticed variations in weather patterns, such as higher temperatures during summer and winter, and extreme and unpredictable rainfall. Women in particular observed diseases being more common and floods taking longer to subside, while men stressed that the heat has become unbearable in the field.^{150*}

These weather variations have a significant impact on the Harawa-Charawa, especially when it comes to accessing: food; water; jobs, and in ensuring overall well-being.

No early warning systems or natural disaster risk reduction measures were disseminated to all interviewees at the time of writing. Moreover, authorities interviewed at the rural municipality level seemed unprepared to address the impacts of climate change.



“Now is hotter than previous years. The rain is not predictable, and our farming work has been hampered. The chirping of birds has also decreased, might be due to the fact that the natural ponds in our area are drying up.”

“Flooding is increasing and also summers are getting hotter than our childhood. Public water resources are also decreasing.”

"If it rains heavily, we can't go out to earn money, transportation is disrupted. If there is drought, there is no food production and food's price increases."

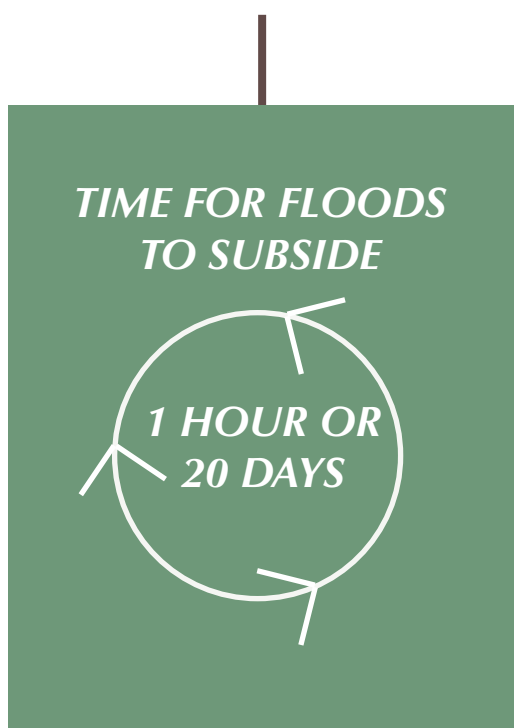
- Dhanauji Residents

TOO MUCH, TOO LITTLE WATER

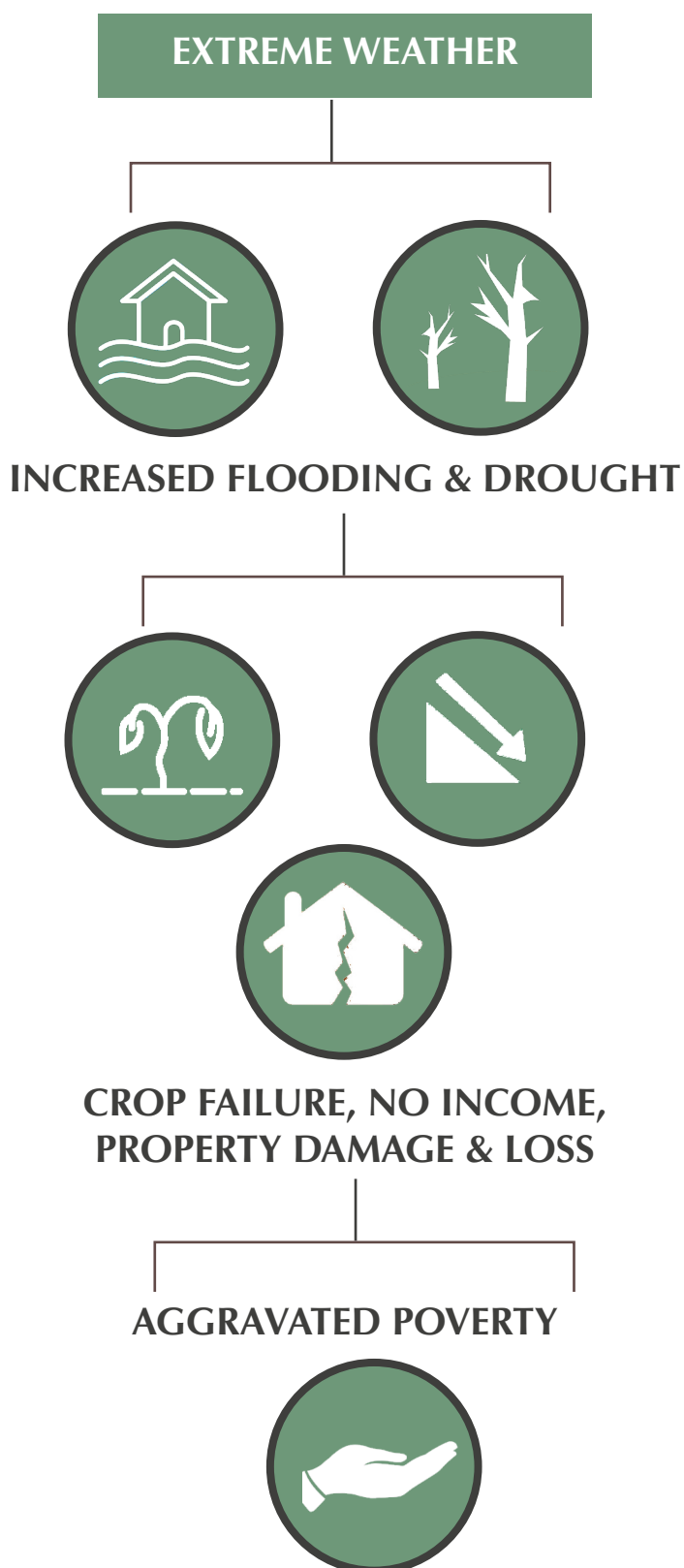
For several years, recurring floods have been a major issue in the Dhanusha district. In the last ten years, the Government recorded 275,723 flood-affected families in the district, with nearly 7,000 homes damaged and 3,800 being washed away by the local rivers (Jalad, Kamala, and Jamuni).^{151*}

There is data that indicates that climate change-induced flooding effectively stalls debt payments. The situation seems to be more challenging for households living in Rural Municipalities numbers two and four as these municipalities are close to the River Kamala. Interviewees from these areas shared that they have no choice but to wait for floods to subside, a process that could take anywhere between one hour and 20 days, during which they would have no income.

Throughout the wait, interviewees shared that they usually retain their contracts with landowners, but receive no wages. Whole households can spend up to a month living in schools, which act as the most accessible refuge for all families.^{152*}



EFFECTS OF CLIMATE CHANGE TO HARAWA-CHARAWA



“During the flood, our daily life becomes very difficult. We had to struggle to solve hand to mouth problem. It became very difficult to go out and find any work during the floods. That was a very hard time.”

- Dhanauji Resident

While there is a resounding agreement among all interviewees that more money is needed for them to cope when floods occur, fear of debt accumulation is cited as the top reason for hesitating to take new loans after a flood.

There are still instances, however, where recurring floods lead to new loans, further increasing indebtedness, and aggravating poverty. This is the case of one interviewee who had to take a new loan of 90,000 NRS (approximately USD 770) to rebuild their house after it was submerged in 2019.

Relocation of whole families to a different area or city is not frequently considered as it is deemed too costly.

“After every incident we think about moving our house, anywhere that is safe, has land for farming and toilet constructions. But who will give us land to relocate in this money-minded Terai region?”

When asked about the impact of climate change on Province No.2, Shailendra Prasad Sah, Provincial Minister of Land Management, Agriculture and Cooperative, admitted that the whole province is affected. He is particularly worried about the rising riverbed level, increasing floods, inundations and erosions. Badri Narayan Singh, the Dhanauji rural municipality Chairperson, said four out of five wards of the Dhanauji rural municipality are flood prone, with floods continuing even when there is little rain.

Mr Singh added that frequent droughts are not observed in the area, but for at least two women interviewees, this creates new implications as drought means more effort in collecting and looking for sources of water.

”

“In March-April (Chaitra-Baisakh) the well and taps dry up. During these times, we have to walk for up to half an hour to fetch water. Due to drought, female drudgery is increased, our farm work is harder because the fields get less rain.”

- Dhanauji Resident

PHOTO: Harawa-Charawa women inside their house



CAUSAL FACTORS

Despite flooding becoming a ‘new normal’ in Nepal, climate change awareness at rural municipality levels seems stagnant. Only one interviewee pointed out how they pollute the Kamala River by dumping their household wastes. Through follow-up questions, it became evident that polluting the Kamala river is not an isolated practice. A majority of the interviewees shared how they would throw their household wastes in water sources and occasionally burn waste in the field, explicitly stating that they have no other options. The amount of rubbish seems particularly high during religious festival seasons. Testimonies suggest that pesticides are also being used to destroy organisms that are harmful to cultivated plants and animals.

“We burn our waste on a daily basis. Landlords scolded us many times for burning in their lands, but there are no dumping sites for us, so this is our only option.” - Dhanauji Resident

“Plastic is to be collected and thrown away. Everyone adds poison to vegetable.”¹⁵³ - Dhanauji Resident

The Dhanauji rural municipality chairperson, Badri Narayan Singh, is one of the few people interviewed who was aware of the concept of climate change as he attended a few meetings and discussions on the topic. To him, the excessive use of natural resources and selfish approaches are the main causes of climate change in the area. Despite this, Mr Singh has not noticed any changes to the banks of the Kamala river.

Unlike the Dhanauji rural municipality chairperson, a large majority of the interviewees observed changes in the Kamala riverbanks and other linked water streams. They pointed out how erosion is increasing: in a short period of time, bodies of water overflow and have started to cut through farmlands and have begun to flow towards settlements.

Official data from the Nepalese Meteorological Forecasting Division confirm the interviewees’ observations. In just three days between 12 to 14 July 2019, the area faced incessant and concentrated rain that inundated 80 percent of Province No.2, as rainfall was observed at 80 per cent higher (464 millimetres)¹⁵⁴ than the monthly average of 580.2 millimetre.^{*155} In a less dramatic fashion, the phenomenon repeated itself in 2020, with 258 millimetres of rainfall between 10 and 12 July.

PHOTO: Locals gathering in Dhanauji

While torrential rain is expected in July, and not usually concentrated within a few days, the data for August 2018, 2019 and 2020 indicate worrisome signs of extreme weather unpredictability and variation.

Despite the recorded monthly average rainfall of 439.2 millimetres, in August 2019 there was only 191 millimetres of rain. Rainfall further dwindled in August 2020 to 143.1 millimetres in 2020.

These numbers clash with August 2018 data, whereby rainfall amounted to 615.4 millimetres in just three days (24, 25, and 26 August). In the month of August 2018, 2019 and 2020, locals experienced one year of flooding followed by two years of drought.¹⁵⁶



PHOTO: A Harawa-Charawa child walking along the Dhanauji, Dhanusha road



IN THE LAST THREE YEARS, VILLAGERS HAVE EXPERIENCED:

1 YEAR
OF FLOODING

2 YEARS OF
DROUGHT

Average
rainfall for the
Dhanusha area
in August

439.2mm



2018

615.4 MM



2019

191 MM



2020

143 MM



When asked about climate change, Mr Shailendra Prasad Sah stressed the need to conserve the Chure range to mitigate the impact of climate change in the Terai region. 'Without Chure conservation, Madhesh (i.e. Nepal Terai area) would soon be converted to a desert even in the next ten years. A huge budget is required for this, and this is not something that the state government can do alone.' He further committed to continue the discussion and climate change mitigation efforts 'to the best of our ability and resources.'

The Chure hills constitute 12.5 percent of Nepal's area, spanning 36 districts, with 164 rivers exposed to the dry and monsoon seasons.¹⁵⁷ Business-linked activities in the Chure seem to accelerate the dramatic impacts of anthropogenic climate change. These impacts have been increasingly highlighted by media and civil society over the past decade, as indiscriminate mining is leading to deforestation and the formation of quarries, in the extraction of sand, stones and timber. When the monsoon rain comes, it washes down the mountain range, including villages at the foot of the mountain¹⁵⁸. As the rivers of the Chure region are obstructed with sediment, the water flows create new paths and wreak havoc along villages and farms.¹⁵⁹

Despite the knowledge of mining activities in the Chure hills, none of the interviewees are aware of the businesses operating in the area, and point out that there are no big companies in Dhanauji.

Testimonies further suggest that local authorities have not provided interviewees with assistance or support to help them cope with the effects of floods and droughts, with some explaining that they were either not told or that they were informed too late about available relief efforts by local authorities. Due to mistrust towards local authorities, none of

the interviewees were interested in engaging with provincial officials about how climate change-induced disasters affect them.

"Political leaders first inform their relatives, then after that we come to know about available help or relief."

"They don't care about the issues of Harawa-Charawa or climate. It's all about money and bribe for them."

- Dhanauji Residents

When asked about what they have been doing in relation to climate change, the consulted officials from the respective local and provincial governments also failed to give concrete examples of their work.^{*160}

"Whenever there is flooding in summer or cold waves in winter, the most marginalised households including Harawa-Charawa are the one to be mostly affected. Because they don't have safe housing, adequate access to food and clothing," said Ganesh Ram, a Dalit rights activist.¹⁶¹ "Neither local nor provincial government has taken concrete steps for better preparedness to cope with any disaster. They also have no response system. There is also no early warning system. If embankment and flood control is not done, we will be severely suffering from the effects of climate change," he added.

“There is no warning system in place. We check the river and the rain. If rain is continuous and water level increases, we know that there will be floods. But there is no system in place by the government to inform us about the floods. We don’t take any specific actions to protect us from the floods. When it comes, we stay in the school or community building for 4-5 days, sometimes a week.”

- Dhanauji Resident

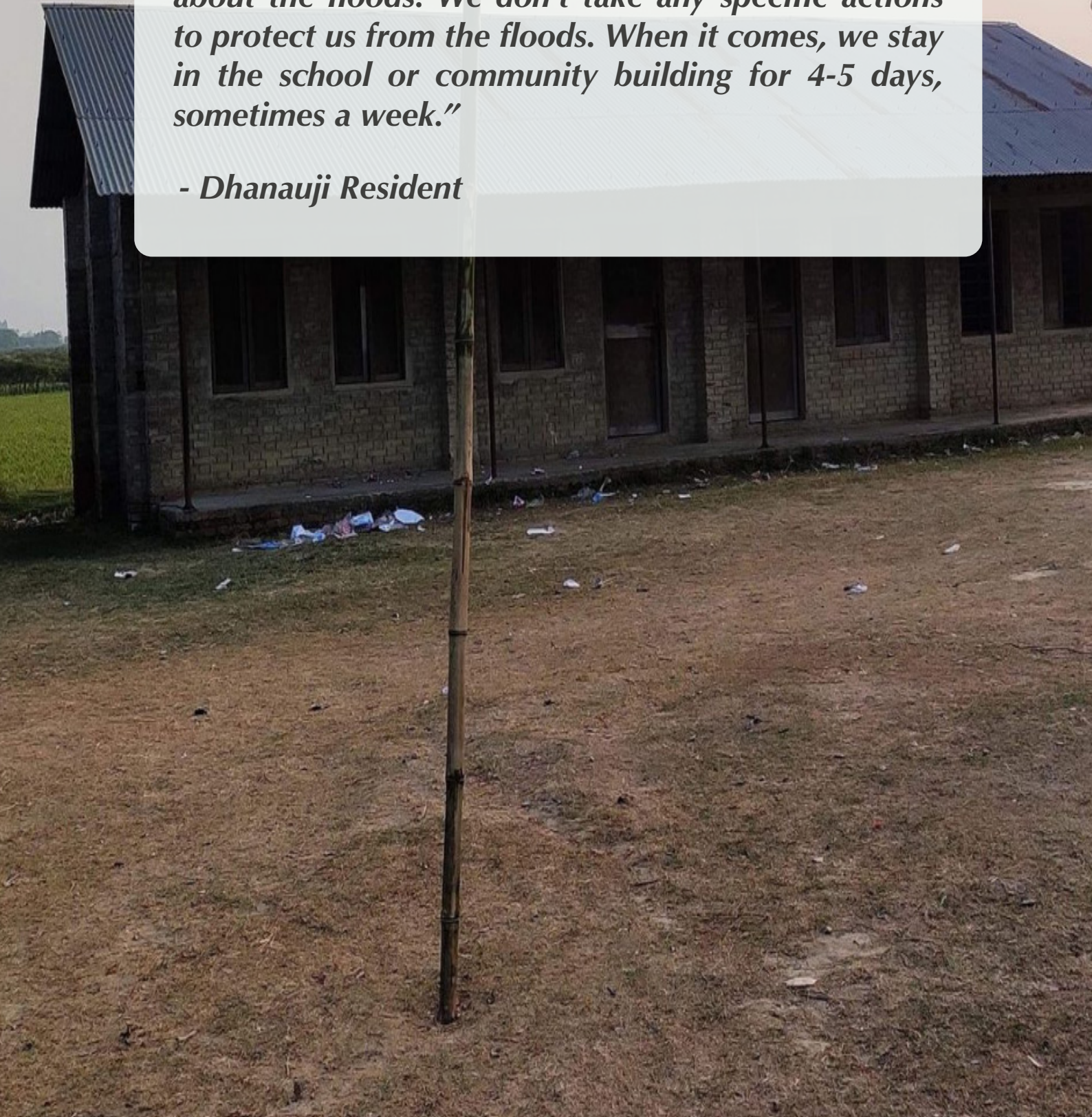


PHOTO: School utilised as shelter during floods in Dhanauji, Dhanusha



PHOTO: Road between water ponds in Dhanauj, Dhanusha

CONCLUSION

Nepal is legally bound by its Constitution and international human rights treaties to take measures to: liberate the Harawa-Charawa; rehabilitate; and enable them to live a life with dignity, equality and freedom. This includes protecting the vulnerable Harawa-Charawa from human rights violations stemming from climate change.

Testimonies and data collected from the field clearly indicate the political, social and economic exclusion of the Harawa-Charawa in Dhanauji. This shows that the Harawa-Charawa are not only deprived of their dignity and ability to live free from hunger and social exclusion, but, indicates that they are further threatened by the extreme and unpredictable conditions induced by climate change.

AN UNDIGNIFIED LIFE

National authorities have not exerted maximum efforts to protect the Harawa-Charawa's ESCRs guaranteed by both national and international law. Testimonies and data clearly indicate how the Harawa-Charawa are denied the right to an adequate standard of living; including adequate food; clothing and housing as well as a continued improvement of living conditions, among others. Despite

the safeguards specifically provided to the Harawa-Charawa by the constitution under article 51 (J,6), which outlines provisions for housing; housing plots for residences; cultivatable land or employment for their livelihoods, interviewees point out a complete lack of protection from the State.

Collected testimonies clearly showcase how the Harawa-Charawa in Dhanauji are exposed to a very high degree of food insecurity as data on food intake seem to indicate a concrete risk of undernourishment of all household members, including children.

The COVID-19 pandemic exacerbated their food insecurity, as none of the interviewees reported receiving any sort of food aid, despite months of unemployment triggered by lockdowns. The Government's inaction violates Nepal's constitutional obligations under Article 36, Article 11 of the ICESCR, as well as its commitment to the Agenda 2030 for Sustainable Development and its Sustainable Development Goals (SDGs), in particular SDG1 (no poverty) and target 1.4, and SDG2 (zero hunger).^{162*} The Harawa-Charawa's food insecurity can be directly associated with their landlessness status, which violates Article 40 (5) and Article 42 (4) of the Constitution.



PHOTO:
Harawa-Charawa
children playing in
Dhanauji, Dhanusha

Although much has been announced in the name of poverty alleviation at the national level, collected testimonies starkly illustrate that the gap is still wide. Highly praised poverty alleviation schemes; such as the Income Generating and Community Infrastructure (IDA); the Riverbank Farming for Livelihood's Promotion in Terai and the Micro Enterprise Development for Poverty Alleviation (MEDEP) have proven to be ineffective for key interviewees, and in the case of one interviewee, unwittingly contributed to new loans.

Socially ascribed gender roles also play a role in acquiring debt, with weddings for female children cited as the top reason for acquiring new loans with additional unbearable interest rates.^{163*} Such blatant usury practices seem to enjoy large-scale impunity, despite being in violation of Article 478 (2) of Nepal Civil Code.¹⁶⁴

While all interviewees indicated that they are not forced to accept their jobs, they are de facto left without many alternatives; in some cases, the employers seem to be able to impose underpaid jobs to other family members. Overall, testimonies clearly indicate that the Harawa-Charawa are denied fair wages and remuneration, as their daily wage of eight kilos of paddy per day – roughly equivalent to 160 NPR (approximately USD 1.36), is well below the latest approved minimum daily wage rate of 517 NPR, (approximately USD 4.48). The Harawa-Charawa are hence denied fair wages for a decent living as per Article 51 (i) (3) of the Constitution as well as Article 7 of the ICESCR. This is combined with a complete lack of social security, is a violation of Article 51 (I) (2) of the Constitution.

None of the Harawa-Charawa interviewed are enjoying the highest attainable standards of physical and mental health. The latter is particularly concerning, with testimonies

indicating episodes of chronic depression and anxiety. Further, there are reportedly no tailored actions taken by authorities to prevent and control the spread of COVID-19 among the Harawa-Charawa. Most of the interviewees also expressed concern for the lack of health facilities, and available, affordable medicines, which violates Article 35 of the Constitution and Article 12(c) and (d) of the ICESCR. Additionally, the children of the Harawa-Charawa community do not enjoy the highest attainable standard of health, which violates Article 24 of the Convention on the Rights of the Child.

While education is free and available, it is clearly not affordable for the interviewees, who have to bear the costs of uniforms, meals and schoolbooks. Authorities do not enforce compulsory primary education and as a result, children are deprived of their right as enshrined under Article 40 (2) of the Constitution, Article 13 of ICESCR, as well as Article 28 of the Convention on the Rights of the Child.

Women are clearly disproportionately burdened. Testimonies strongly indicate gender-specific burdens directly relate to economic, social, and cultural exclusions both at the domestic level and at work. This starkly violates the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) under Article 14, paragraph 1 and 2 (a) (d) (h)¹⁶⁵, and runs contrary to Article 9 and 16 of the Beijing Declaration and Platform for Action¹⁶⁶, which Nepal has signed.

The Harawa-Charawa are visibly marginalised by virtue of caste. While not barred from taking part in cultural events and practices, they are continuously discriminated against. This violates Article 51 (J) (7) of the Constitution as well as Article 15 of the ICESCR.



PHOTO:
A Harawa-Charawa woman

SYSTEMIC DISCRIMINATION

The Government's systemic neglect of the Harawa-Charawa's fundamental freedoms reflect the human rights situation of Dalits throughout the Indian subcontinent. Systemic discrimination against the Harawa-Charawa on the basis of their caste fails to meet Nepal's most fundamental obligations under the ICCPR, ICERD and its own Constitution under Article 18 (3)¹⁶⁷. On the contrary, the evidence points to an official policy of discrimination and exclusion. Even though huge steps have been taken, i.e., formally outlawing bonded labour, the Government's exclusionary and discriminatory attitude dominates policy narratives and actions. While the legislation that prohibits all forms of bonded labour (Bonded Labour Act 2002) has been used to alleviate the situation of many other forms of bonded labour, the government has failed to enforce the law in the case of interviewed Harawa-Charawa.

Unequal treatment of the Harawa-Charawa by the government remains one of the main obstacles to the realisation of their basic rights including freedom from conditions of bonded labour. Deliberate avoidance of the emancipation of the Harawa-Charawa is rampant in all levels of the government. Testimonies from the field indicate that successive elected representative at all levels of the governance structure have deliberately overlooked the rights of the Harawa-Charawa despite election promises. Instead, politicians allegedly take advantage of their poverty to win votes through bribery. Indifferent responses from authorities to demands and collective action by the Harawa-Charawa for their rights further demonstrate a systematic and deeply entrenched apathy towards their plight.

Pervasive impunity for those who benefit from the Harawa-Charawa system despite complete prohibition and absence of redress

mechanisms are key factors that contribute to its perpetuation. The political capital of landowners appear to shield them from accountability for various violations of the laws that prohibit bonded labour. Some testimonies disturbingly attribute direct and indirect benefits reaped by elected officials at local and provincial levels from the Harawa-Charawa system as an additional factor that contributes to its the perpetuation.

The National Human Rights Commission of Nepal, despite a Constitutional mandate with an 'A' status,¹⁶⁸ remains grossly inadequate for protecting the rights of the Harawa-Charawa and in ensuring accountability. This stands in direct contrast to Nepal's commitment to achieve SDG16 (peace, justice and strong institutions), and specifically target 16.a.¹⁶⁹

On a positive note, testimonies indicate that the Harawa-Charawa have been granted their rights to peaceful assembly and association without significant hindrance, in accordance with Article 17 (2) (b) and 21 of the ICCPR.

CLIMATE CHANGE, AN ADDITIONAL THREAT

Incessant rains, untillable soil, and subsequent crop failure confine bonded labourers into deeper poverty as they struggle to repay accumulated debt through agricultural means. As extreme climatic events are likely to be more frequent and more severe in Nepal,¹⁷⁰ higher temperatures and wetter days are sure to worsen the Harawa-Charawas' dismal living and working conditions in Dhanaui. The existing literature already indicates that the government-provided settlements for bonded labourers are at risk of flooding as well as drought and river erosion, thereby forcing them to abandon their homes.¹⁷¹ Intergenerational debt will play an even more constraining role in the Harawa-Charawa's enjoyment of rights.

Women in particular will be put in more vulnerable situations as burdens caused by climate change multiply, both at the household and work levels. As collected testimonies and data indicate, drought pushes women and girls to look for new water sources, implying they must walk greater distances than they currently do. This condition of vulnerability also compromises the achievement of target 1.4 of SDG 1 (no poverty), target 2.4 of SDG 2 (zero hunger), target 11.b of SDG11 (Sustainable cities and communities), target 13b of SDG13 (climate action).¹⁷²

The lack of the Harawa-Charawa's and the local authorities' awareness on climate change and its effects is a glaring violation of: Article 6a (i) of the UNFCCC¹⁷³; Principle 6 and 7 of the United Nations Framework Principles on Human Rights and the Environment;¹⁷⁴ a worrying indication of how Nepal's Second Nationally Determined Contribution (NDC) (2020)¹⁷⁵ is not well disseminated to rural municipality figures, even though the Ministry of Forests and Environment (MoFE) claims that 'engaging provincial and local governments in the National Adaptation Plan (NAP) process' is a key priority for the formulation of NAP.¹⁷⁶ Such Government inaction clashes with its commitment to SDG13 (climate action), and in particular target 13.3.¹⁷⁷

Moreover, the lack of adequate response from authorities violates Article 6 (iii) and Principle 14 of the UN Framework Principles on Human Rights and the Environment and risks delaying the ambitious targets set in Nepal's second NDC 2020, particularly as it pertains to the Forestry and Agriculture sector.

Mining companies operating in the Chure hills contribute to flooding and erosion,¹⁷⁸ and therefore falls short of complying with the UNGPs on BHR, specifically Principle 13 (b) and Principle 17.^{179*} Due diligence for human rights appears to have been disregarded, and at the same time, delays the restoration and the sustainable management of the Chure region as specified in Nepal's NDC 2020.^{180*}

Furthermore, climate change awareness and adaptation are not reaching those who should be reached, e.g., smallholder farmers and herders. The exploitative system trapping the Harawa-Charawa in poverty and the subsequent denial of fundamental rights is also leading Harawa-Charawa farmers to inadvertently contribute to river pollution and GHG emissions through burning of wastes and pesticides, as they have no climate-smart alternatives.

Data and testimonies from the field do not unequivocally confirm a two-way nexus between the condition of bonded labour in Dhanusha and climate change.

This report showcases that floods and drought triggered by anthropogenic climate change have a direct and dramatic impact on the livelihood of the Harawa-Charawa community and their enjoyment of rights. The question of how the conditions of the Harawa-Charawa system concretely contribute to climate change, may be the subject of further research.

RECOMMENDATIONS

To the Federal and Provincial level Government of Nepal:

1. To promptly carry out, in coordination with the respective provincial and local governments, the identification of Harawa-Charawa households and their classification based on the socio-economic status in order to translate the 'statutory liberation of Harawa-Charawa' into a reality.
2. To launch a 'Harawa-Charawa Rehabilitation Program' as a matter of priority as obligated under the Bonded Labour (Prohibition) Act 2002.
3. To grant ownership of land on a priority basis to landless Harawa-Charawa households as mandated under the Eighth Amendments to the Lands Act 1964 and the Land Rule 18th amendment.
4. To proactively enforce the provisions under the Bonded Labour (Prohibition) Act that frees bonded labourers including Harawa-Charawa from repayment of loans and declares any bonds and written or unwritten agreements between landlords and bonded labourers void, in order to get the Harawa-Charawa families freed from debt-bondage..
5. To issue an instruction to the respective Chief District Officers to take proactive action against those who have kept the Harawa-Charawa, therefore violating the Bonded Labour Prohibition Act.
6. To take immediate measures to regulate the exploitative informal money lending system and the prohibition on extracting excessive rate of interest as per Civil Code, Article 478.
7. To ensure that no one is employed at wages lower than the national daily minimum wage (NPR 577), including through effective monitoring and inspection.
8. To launch a targeted, fully budgeted aid programme to provide necessary services for the realization of a core minimum of Harawa-Charawa's economic, social and cultural rights protected by both the Constitution and ICESCR, through in particular: free and regular access to drinking water; electricity; toilets and healthcare; subsidy for school related costs (books; uniforms and stationery); and food assistance schemes ensuring the food security of Harawa-Charawa families, especially in the context of the COVID-19 pandemic and the natural disasters associated with climate change.
9. To pay adequate attention to promote participation, effective representation and inclusion of Harawa-Charawa labourers in terms of taking decisions or adopting institutional or policy measures with positive implications for them, as per constitutional obligation under Article 40.

10. To initiate a targeted campaign to grant citizenship cards to those eligible for Nepali citizenship at their doorsteps.
11. To promptly investigate bribery and illicit activities surrounding the election of local government representatives.
12. To strengthen the work of the NHRC in relation to the protection of Harawa-Charawa's rights by allocating appropriate financial and human resources, in compliance with the Paris Principles (2).
13. To efficiently undertake advance warning, preparedness, rescue, relief and rehabilitation in order to mitigate risks from natural disasters as per Article 51 paragraph g (9) of the Constitution of Nepal.
14. To robustly raise awareness and build the capacity of both local government officials and residents on climate change adaptation and mitigation measures as instructed by the National Climate Change Policy of 2019 article 8.10.¹⁸¹
15. To ensure social security of persons and families, especially Harawa-Charawa, will be guaranteed for recovery of damage caused by climate-induced disasters as per Article 8.8 (f) of the National Climate Change Policy of 2019.¹⁸²
16. To ensure that no one is employed at the wages lower than the national minimum wage (NPR 15000) or the specific wages fixed for agricultural labourers including through effective monitoring and inspection.
17. To take concrete steps in considering concerns of Harawa-Charawa, especially women and children, in matters related to climate change as instructed by the National Climate Change Policy of 2019 article 8.9 (a),¹⁸³ and proactively coordinate with local communities on planning and implementing adaptation measures in line with local knowledge, skills and technologies as per article 8.9 (c)¹⁸⁴ of the same law.
18. To seriously observe their obligations under the Paris Agreement on Climate Change particularly under Article 8 paragraph 5¹⁸⁵ and Article 12¹⁸⁶.
19. To ensure referenced laws in its Nationally Determined Contribution (2020) is on track and implemented at the local community level, namely: National Climate Change Policy (2019); Environment Protection Act (2019); Environment Protection Regulation (2020); National Adaptation Program of Action (NAPA) (2010); Framework on Local Adaptation Plans of Action (LAPA) (2019); and Disaster Risk Reduction National Strategic Plan of Action 2018 – 2030.
20. To thoroughly disseminate, regularly review, and properly implement disaster risk management protocols, especially early warning systems, in line with the Sendai Framework Global target G-3.¹⁸⁷

21. To undertake appropriate measures in conserving and protecting the Chure Hills from adverse climate change effects as per the Environment Protection Act of 2019.

To Local Government Officials:

1. To efficiently disseminate and implement early warning systems; disaster relief measures; and post-disaster social security government schemes to Harawa-Charawa families residing in high-risk zones in accordance with the Local Government Operation Act of 2017 and the National Policy for Disaster Risk Reduction of 2018.
2. To proactively raise awareness on the climate change adaptation and mitigation measures among local community members in accordance with the National Climate Change Policy of 2019.
3. To implement the livelihood support programs for Harawa-Charawa families.
4. To ensure that all agricultural labourers receive the district wage rate for their work.

To the National Human Rights Commission (NHRC):

1. To proactively inquire into the human rights situation of Harawa-Charawa families in the respective districts, and make concrete recommendations to the respective governments for fulfilment of their human rights obligations to eliminate the bonded Harawa-Charawa system.

To national civil society organisations:

1. To prioritize rights-based awareness raising of Harawa-Charawa families and provide supports to creating enabling environment for organisations and groups formed by Harawa-Charawa.
2. To initiate or support strategic litigation initiatives towards holding the respective authorities accountable for not fulfilling their obligations to eliminate Harawa-Charawa system in a real sense.

To the United Nations Human Rights Council and UN human rights mechanisms including special procedures and treaty bodies:

1. To call on Nepal to eradicate practices of bonded labour.
2. To call on Nepal to ensure emancipation and rehabilitation of bonded labour in accordance with international human rights standards and national legislation.

- 3 To pay particular attention to the situation of people living in conditions of extreme poverty in their thematic and country-specific analyses and assessments of human rights.
4. To hold Nepal accountable for discrimination based on caste, as well as its obligations under international human rights standards.
5. To formally recognise human right to a safe, clean, healthy and sustainable environment in order to respect, protect and fulfil human rights.



PHOTO: Harawa-Charawa women joining a focus group discussion.

ENDNOTES

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- 109 *These are the amounts disclosed to the FFM team by six out of the eight interviewees.
- 110 *A small piece of land provided by a landlord to a Harawa-Charawa in return for ploughing land or doing other agricultural work in the field. This land is confiscated by the landlord once the landlord dismisses the Harawa-Charawa.
- 111 *Jamindar means landowner in Nepali.
- 112 Bonded labourers need support at varying levels to escape bondage. In assessing an ILO-led poverty reduction programme among bonded labourers in South Asia, Premchander et al (2014) acknowledge that cash asset transfers, food subsidies and/or stipends, including non-financial support services like: adult literacy training; subsidized health care and childcare; support for sending their children to schools; and awareness-raising on social issues and rights are needed even before bonded labourers can start venturing into commercial microfinancing programmes.
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- 119 *Chhat is an ancient Hindu festival dedicated to the sun god and his wife. It lasts four days.
- 120 Focus Group Discussion, Dhanauji Village Municipality-4, Bhadaria, Musahari Tole, 29 September 2020.
- 121 *Interview with Badri Narayan Singh, Chairperson, Dhanauji Rural Municipality, Dhanusha, 30 September 2020.
- 122 *Interview with Shailendra Prasad Sah, Minister for Land Management, Agriculture and Cooperative, Province No. 2, 30 September 2020.

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- 123 *Constitution of Nepal (2015)*, Article 29(4)
- 124 Ibid. Article 33(2)
- 125 Ibid. Article 29(5)
- 126 Ibid. Article 84(5)
- 127 *It is important to note such omissions are more of an oversight on the part of the voter to enrol themselves to vote rather than a deliberate attempt to disenfranchise them.
- 128 *Constitution of Nepal (2015)*, Article 17(2)
- 129 *The Harawa-Charawa Women's Collective is a local level women's group established for social and economic empowerment of Harawa-Charawa women with only women members; Harawa-Charawa Rights Forum are ward level, having its chain up-to district, province and national level advocating and lobbying for the rights of the Harawa-Charawa community.
- 130 *Focus Group Discussion, Dhanauji RM-2, Khatway Tole, 28 September 2020.
- 131 *Conversation with Sanjaya Mahara Ram, Executive Director, Dalit Bikash Manch, Siraha, 1 December 2020.
- 132 *Focus Group Discussion, Dhanauji Village Municipality-4, Bhadaria, Musahari Toll, 29 September 2020.
- 133 *Conversation with Narendra Paswan, Chairperson, Madhesi Dalits NGOs Federation, 1 December 2020.
- 134 *Conversation with Bhim Pariyar, Executive Director, Madhesi Dalits NGOs Federation, 1 December 2020
- 135 *Conversation with Mohan Karna, 1st December 2020.
- 136 *All interviewees for this research are citizens and have citizenship certificates. But this is not the case in general
- 137 *Conversation with Sanjaya Mahara Ram, Executive Director, Dalit Bikash Manch, Siraha, 1 December 2020.
- 138 *The Constitution of the Kingdom of Nepal 1990 had prohibited any form of slavery and slavery-like practices as an integral part of the right against exploitation.
- 139 *The Law outlaws any act of employing anyone as a bonded labourer and obligates the Government to identify and rehabilitate bonded labourers.
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- 142 Ibid. Section 7.
- 143 Ibid, Section 16. *The Chief District Officer (CDO) is designated as the adjudicating authority for such cases (Bonded Labour Act, Section 17.) Any aggrieved person or relative, or any office bearer of an organisation, association or local body may lodge a verbal or written complaint with the CDO (Bonded Labour Act, Section 15.)

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- 144 Ibid. Section 8
- 145 Ibid. Section 13(1)
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- 147 *Constitution of Nepal* (2015). Article 18(2)
- 148 *Nuances between the definitions are elaborated in page 23.
- 149 *Interview with Umesh Sah, Program Coordinator, Dalit Society Welfare Committee Nepal, 1st Oct 2020.
- 150 *Focus Group Discussion, Mushari Tole, Dhanauji-3, Dhanusha, 29 September 2020. This finding complements Nellesmann and Hislop's (2011) observation on how gendered priorities come into play when confronted with water shortages: men tend to qualify water shortages as severe, whereas women tend to qualify the same problem as moderate. Since men are socially assigned for agricultural fieldwork, irrigation in the event of water shortages poses a serious problem, while many women consider sanitation and household water access and supply an equally serious problem. More information at Nellesmann, C., and L. Hislop, eds. *Women at the Frontline of Climate Change: Gender Risks and Hopes: A Rapid Response Assessment*. United Nations Environment Programme, GRID-Arendal. Arendal: UNEP, 2011.
- 151 *Shreejana Shrestha. "A flood of migration". Nepali Times. 5-11 July 2018. <<https://archive.nepalitimes.com/article/nation/poverty%20and%20migration0due-to-recurring-flood-in-Dhanusa,4124>; <https://kathmandupost.com/sudurpaschim-province/2020/03/14/floods-and-erosions-threaten-settlement-built-for-former-bonded-labourers-in-kanchanpur>>
- 152 *The schools utilised as shelter during floods are the following: Shree Ganga primary School, Dhanauji-4, Tarahi; Shree Shankar Middle School, Dhanauji-2; Shree Adharbhut primary school, Dhanauji-2, Gaurdaha; Shree Ra primary school, Dhanauji-4, Bhardiya; Shree Rastriya Basic School, Dhanauji-3, Jhonjhi Kataiya.
- 153 *The FFM team believes 'poison' refers to chemical fertilisers and pesticides used in farm work. The chemical fertilisers and pesticides are believed to contain chemicals such as Urea and Diammonium Phosphate.
- 154 Mandal, Chandan Kumar. "Extreme Rain Pattern Is Unleashing More Floods and Landslides." The Kathmandu Post, July 14, 2019. <https://kathmandupost.com/climate-environment/2019/07/14/extreme-rain-pattern-is-unleashing-more-floods-and-landslides>.
- 155 *Calculated since 1981.
- 156 "Simara Weather - Meteorological Forecasting Division." Accessed 29 March 2021. <<http://www.mfd.gov.np/city?id=30>>
- 157 Himel Khabarpatrika. "Chure Denudation and Floods." Nepali Times, July 2017. <<https://archive.nepalitimes.com/article/from-nepali-press/Chure,3829>>.
- 158 Tritha B. Shrestha. "Help Save the Chure Hills." Nepali Times, November 2012. <<http://archive.nepalitimes.com/news.php?id=19811#.X-qeVRaRVPa>>.

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- 159 In an interview with The Kathmandu Post, Binod Batta shared how excessive exploitation of the Chure hills accelerate climate change, resulting in sporadic rainfalls with changes in the number of rainy days; the intensity of rainfall; and timing. This combination ultimately results to devastating floods. More information at Mandal, Chandan Kumar. "Chure Degradation over the Years Has Worsened Floods in Tarai Districts." The Kathmandu Post. July 15, 2019. <https://kathmandupost.com/climate-environment/2019/07/15/chure-degradation-over-the-years-has-worsened-floods-in-tarai-districts>
- 160 *Interview with Badri Narayan Singh, Chairperson, Dhanauji Rural Municipality, 30 September 2020.
- 161 *Conversation with Ganesh Ram, Dalit Rights Activist, Janachetna Dalit Sangam, Siraha, 1 December 2020.
- 162 *By 2030, ensure that all men and women, in particular the poor and the vulnerable, have equal rights to economic resources, as well as access to basic services; ownership and control over land and other forms of property; inheritance; natural resources; appropriate new technology and financial services; including microfinance.
- 163 *Focus Group Discussion, Mushari Tole, Dhanauji-3, Dhanusha, 29 September 2020.
- 164 Nepal Civil Code, (2017) Article 478(2): 'the amount of interest which the creditor is entitled to collect from the debtor pursuant to sub-section (1) shall not exceed ten percent of the principal per annum.'
- 165 Convention on the Elimination of Discrimination Against Women (CEDAW) ,(1979), Article 14, paragraph 1 and 2(a)(d)(h)166
- 166 Beijing Declaration and Platform for Action (1995), Article 9 and 16
- 167 Article 18 (3): The State shall not discriminate citizens on grounds of origin, religion, race, caste, tribe, sex, economic condition, language, region, ideology or on similar other grounds.
- 168 GANHRI, *Chart of the Status of National Institutions, Accreditation Status*, 26 May 2017, accessed 27 March 2021 <http://www.ohchr.org/Documents/Countries/NHRI/Chart_Status_NIs.pdf>
- 169 Target 16.a: Strengthen relevant national institutions, including through international cooperation, for building capacity at all levels, in particular in developing countries, to prevent violence and combat terrorism and crime.
- 170 Government of Nepal Ministry of Forests and Environment. *Climate Change Scenarios for Nepal: National Adaption Plan February 2019*. Nepal: Government of Nepal Ministry of Forests and Environment, 2019 , pg.ii, accessed 27 March 2019 <http://mofe.gov.np/downloadfile/MOFE_2019_Climate%20change%20scenarios%20for%20Nepal_NAP_1562647620.pdf>
- 171 Bhawani Bhatta. "Floods and erosion threaten settlement built for former bonded labourers in Kanchanpur". Reliefweb. 16 March 2020 < <https://reliefweb.int/report/nepal/floods-and-erosions-threaten-settlement-built-former-bonded-labourers-kanchanpur>>
- 172 * Our World in Data. "Measuring Progress towards the Sustainable Development Goals - SDG Tracker." Accessed 29 March 2021 <<https://sdg-tracker.org/>>

SDG 1, target 1.4: By 2030, build the resilience of the poor and those in vulnerable situations and reduce their exposure and vulnerability to climate-related extreme events and other economic, social and environmental shocks and disasters.

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SDG 2, target 2.4: By 2030, ensure sustainable food production systems and implement resilient agricultural practices that increase productivity and production; that help maintain ecosystems; that strengthen capacity for adaptation to climate change; extreme weather; drought; flooding and other disasters and that progressively improve land and soil quality.

SDG 11, target 11.b: By 2020, substantially increase the number of cities and human settlements adopting and implementing integrated policies and plans towards inclusion, resource efficiency, mitigation and adaptation to climate change, resilience to disasters, and develop and implement, in line with the Sendai Framework for Disaster Risk Reduction 2015–2030, holistic disaster risk management at all levels.

SDG 13, target 13.b: Promote mechanisms for raising capacity for effective climate change related planning and management in least developed countries and small island developing States, including focusing on women, youth and local and marginalized communities.

- 173 United Nations. *“United Nations Framework Convention on Climate Change,”* 1992. <<https://unfccc.int/resource/docs/convkp/conveng.pdf>>

Article 6a (i) states: In carrying out their commitments under Article 4, paragraph 1 (i), the Parties shall (a) promote and facilitate at the national and, as appropriate, subregional and regional levels, and in accordance with national laws and regulations, and within their respective capacities: i) the development and implementation of educational and public awareness programmes on climate change and its effects.

- 174 United Nations. *“Framework Principles on Human Rights and the Environment,”* 2018. <<https://www.ohchr.org/Documents/Issues/Environment/SREnvironment/FrameworkPrinciplesUserFriendlyVersion.pdf>>

Framework principle 6: States should provide for education and public awareness on environmental matters.

Framework principle 7: States should provide public access to environmental information by collecting and disseminating information and by providing affordable, effective and timely access to information to any person upon request.

- 175 Government of Nepal. *Second Nationally Determined Contribution*, 2020 accessed 27 March 2021 <[https://www4.unfccc.int/sites/ndcstaging/PublishedDocuments/Nepal%20Second/Second%20Nationally%20Determined%20Contribution%20\(NDC\)%20-%202020.pdf](https://www4.unfccc.int/sites/ndcstaging/PublishedDocuments/Nepal%20Second/Second%20Nationally%20Determined%20Contribution%20(NDC)%20-%202020.pdf)>

- 176 Government of Nepal Ministry of Forests and Environment. *Nepal’s National Adaptation Plan (NAP) Process: Reflecting on lessons learned and the way forward*. Nepal: Government of Nepal Ministry of Forests and Environment, 2018, accessed 27 March 2019

- 177 * SDG 13, target 13.3: Improve education, awareness raising and human and institutional capacity on climate change mitigation, adaptation, impact reduction and early warning.

- 178 Chandan Kumar Mandal. “Chure degradation over the years has worsened floods in Tarai districts”, 15 July 2019. Kathmandu Post <<https://www.nepalitimes.com/editorial/flood-of-recrimination/>; <https://kathmandupost.com/climate-environment/2019/07/15/chure-degradation-over-the-years-has-worsened-floods-in-tarai-districts>>

- 179 OHCHR. *Guiding Principles on Business and Human Rights*. United Nations, 2011, pg. 14 and 17 accessed 27 March 2021 <https://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf>
*Although the UNGPs do not explicitly address climate change, the push for non-state obligations vis-à-vis climate change is gaining ground with the articulation of the Climate Principles for Enterprises, which emphasises the reduction of greenhouse gas (GHG) from enterprises’ respective activities in line with the UNGPs. More information on Climate Principles for Enterprises may be found in the

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Expert Group on Climate Obligations of Enterprises, *Principles on Climate Obligations of Enterprises*, 2018, <<https://climateprinciplesforenterprises.files.wordpress.com/2017/12/enterprisesprincipleswebpdf.pdf>>

- 180 * See figure on page 20
- 181 Article 8.10 Policy states that the capacity of all stakeholders including local community to espouse adaptation and mitigation measures will be enhanced by creating awareness about impacts and risk of climate change.
- 182 Article 8.8 (f) states social security of persons and families, who are highly vulnerable to and at risk, will be guaranteed for recovery of damage to be caused by climate-induced disasters.
- 183 Article 8.9 (a) states concerns of women, Dalit, indigenous people, Madheshi, Tharu, Muslim, oppressed groups, backward class, minorities, marginalized, farmers, laborer, youths, children, senior citizens, persons with all forms of disability, pregnant women, incapacitated and disadvantaged persons or groups will be addressed in matters related to climate change.
- 184 Article 8.9 (c) states adaptation measures will be adopted in line with local and indigenous knowledge, skills and technologies by identifying climate change affected households, communities and risk zones.
- 185 Article 8 paragraph 5 states parties [to the agreement] acknowledge that adaptation action should follow a country-driven; gender-responsive; participatory and fully transparent approach; taking into consideration vulnerable groups; communities and ecosystems, and should be based on and guided by the best available science and; as appropriate, traditional knowledge; knowledge of indigenous peoples and local knowledge systems; with a view to integrating adaptation into relevant socioeconomic and environmental policies and actions; where appropriate.
- 186 Article 12 states parties (to the agreement) shall cooperate in taking measures, as appropriate, to enhance climate change education, training, public awareness, public participation and public access to information, recognizing the importance of these steps with respect to enhancing actions under this Agreement.
- 187 Global target G-3 states the number of people per 100,000 that are covered by early warning information through local governments or through national dissemination mechanisms.

Back-cover photo: A Harawa-Charawa man holding his farm tool.

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