

ACCESS TO JUSTICE

POLICY BRIEF

BACKGROUND

The world today is going through one of the worst and unparalleled crisis in the history of humankind, the COVID-19 pandemic. COVID-19 affected almost all countries in an enormous way. It has affected the economic and political spheres of most countries leaving devastating impacts at the local levels. While it is still escalating, there are growing concerns over its spread and impact on people, especially the most marginalized and socio-economically vulnerable communities including the Dalits.

Many countries have taken preventive measures towards the spread and control of the pandemic through quarantining the affected, restricting movements of people, limiting public gatherings and engagements, setting up temporary hospitals and health centres, encouraging social distancing and promoting hand washing, other health and hygiene processes at the local levels. However, the front runners and a certain category of people are at higher risk because of the occupations they are engaged in during the times of the pandemic. This includes the health workers, who comprises of 70% women, and the socially marginalized population including the Dalit communities, migrants, women, and girls. The majority of the Dalit population who are at the bottom rung of the socio-economic pillar are less capable of protecting themselves against COVID-19 given their poor living conditions, confined houses in urban slums, poor water and sanitation facilities, etc. among others.



DALITS IN ASIA

The Dalits in Asia are one amongst the most marginalized communities in Asia, especially in South Asia. Asia is home to an estimated 220 million Dalit communities from Bangladesh, India, Nepal, Pakistan, Sri Lanka and Malaysia. They are the most marginalized and excluded communities in the political, social and economic spheres. They are discriminated on the basis of their identity due to the work they are engaged in and the caste within the social structure they belong to. The Dalits faces social and structural exclusion from accessing developmental services and justice. Atrocities and violence have been prominently used by the dominant castes to curb their progress in the socio-economic and political ladder. Since caste affected people of South Asia were traditionally and systemically deprived of resources, the majority of them have been compelled to live in meagre daily wages without any savings. The majority of them belong to the category of daily wage earners mostly working as migrant workers, domestic workers, sanitation workers, farm workers and health workers. The pandemic has hit them hard and there are increasing cases of violence been reported against them with the least police protection and action.

ACCESS TO JUSTICE

For a meaningful realization of life with human dignity, the access to livelihood is one of the determining factors that ensures justice and dignity for everyone. Particularly, providing access to sustainable and dignified opportunities of livelihood to socially marginalized communities is critical in a society characterized by hierarchical social arrangement in South Asian countries marked by caste. It is evident from studies that the caste-based discrimination operates in hiring practices in many firms and also by the state, and the workers belong to socially backward communities like Dalits face biased treatment at their workplaces. The equality of opportunity and life with dignity remains unachieved aspiration for Dalits, and it also affects their livelihood. This discrimination arising out of caste notions immensely compromise the capability building among the Dalits that deny them crucial opportunities.

Despite of the safeguards, the discrimination, violence and prejudices against Dalit communities is on the rise and require to be addressed through holistic policy measures in pursuit of effective implementation of SDG16 and SDG 8.

DALITS

The Dalit communities in Bangladesh belong to lower income groups and are daily wage labourers. Cleaning, shoe making/repairing, fishing, washing, pottery, pig rearing, bamboo basket making, and casual labour are some of the major occupations Dalits are engaged in. Basic human rights were denied to these communities due to unprecedented lockdown leaving them starving or half fed, no education for children, staying in closed shelters and increased domestic violence cases. Reports of violence against the Dalit community came in wherein a policeman killed a farmer from a Dalit community in Gopalganj district in June, however, the policeman and two of his acquaintances were apprehended and sent to jail. Nagorik Uddyog, a partner organisation of ADRF, points out that many of the street-cleaners are vulnerable because they are often employed contractually. Due to the ongoing crisis, many contract workers have lost their jobs. Those who do retain their jobs (such as the more than 10,000 cleaners who work at both city corporations) find the pay inadequate. Another partner of ADRF, BDERM conducted a study on Dalit communities in Bangladesh on the effects of lockdown. The study revealed that on 30% of jobless Dalit families received any support from government or non-government organizations. The reports from Bangladesh convey how basic human rights related to life, liberty, education, health was denied to these communities, leaving them with no access to justice.

Lockdown in India have had severely hit the migrant workforce, who are daily wage workers, leaving them no time to prepare and forcing them to walk hundreds of miles back to their homes.

The migrant workforce consists mostly of people from the Dalit communities who leave their native places due to growing unemployment, lack of opportunities and social exclusion and are living on the margins. The migrants were left stranded with no traces of relief packages during the initial stages of the lockdown. The lockdown resulted in shutting down of schools and higher rates of dropouts of students from Dalit communities, especially the girl students. Women's access to economic resources and livelihood opportunities have led them to their empowerment creating a just and equal society. During lockdown, women faced different kinds of discrimination and gender-based violence., particularly Dalit women experienced multiple forms of discrimination due to intersectionality of gender, caste and class. A huge pay gap has been observed between men and women and this has created unexpected income shock and risk for women for their survival. An increase in economic distress during the covid lockdown has resulted in an increase in domestic violence in Dalit families. AIDMAM, the India ADRF partner, witnessed such cases where Dalit women were unable to access safe shelter spaces and during the lockdown as well as the unaware of the legal measures including domestic violence numbers. One such case is the infamous case of Hathras, Uttar Pradesh, where a 19-year-old Dalit girl who worked in the fields of dominant caste was abducted during broad daylight, gang-raped and brutally murder on 14 September 2020.

Dalit communities in Nepal consists of 13.8% of the country's population and form the most marginalized section of the Nepalese society. A survey conducted by DNF stated that a large number of Dalit community faced caste-based discrimination during the lockdown phase. The number of domestic violence cases increased during the period. Although measures were taken by the Nepalese government to curb the caste-based discrimination and domestic violence crimes by releasing hotline numbers, only a few were said to be informed.



The Dalit communities also faced discrimination in distribution of government's relief packages stating a nominal population reaping the benefits amongst the community due to lack of identity card/enrolment, lack of information and lack of accessibility. News of discrimination based on caste poured in from the country, in one such incident, a Dalit man was discriminated in allotting the quarantine facility and was isolated remotely. In another, an elderly Dalit couple died on Indo-Nepal border while waiting for their clearance. Protests were reported against discrimination faced by Dalits in isolation centres while receiving relief packages. Dalit women in Nepal faced violence too, in Badgi Gumbiki, Devdaha municipality 11, Rupandehi district, 15-year-old Angira Pasi was murdered due to her affair with an upper caste boy Bipendra. Both of them had eloped on 22 May and when some people found them, both were sent to Bipendra's home. Unfortunately, Angira was found dead during the day time the same day at home of Birendra. Her clothes were torn and had scratches on the body.

Pakistan comprises more than 38 million people from Dalit communities who are majorly from the Hindu and Christian religion. The Dalit communities in Pakistan are majorly farm labourers, daily wage workers and labourers, and fruits and vegetable vendors. Majority of the Dalit communities in Pakistan live in abject poverty and work in informal sectors, thus, are not included under the definition of 'labour' leaving them out of purview of government policies. The Pakistan government's policy of lockdown adversely affected the Dalit community members. The Dalit community members had to continue with their work during lockdown for their survival leaving them exposed to the deadly virus, many of whom are sanitation workers. Those who belong to the communities and live in urban areas, stay in rented shelters, most of them lost jobs and were not able to pay the rent of their houses resulting in eviction or heavy debts. Children of the Dalit communities suffered the most as schools were shut down and their parents could not pay their fees because of unemployment and loss of jobs.

The poor policies and socio-economic condition made sure that no justice was to be availed by the Dalit community members and their human rights were neglected. Cases of domestic violence were also reported and law and order machinery were merely accessible.

Sri Lanka's plantation workers are the Dalit communities which were brought by the Britishers from India to work in the plantations. These communities are one of the most marginalized communities in Sri Lanka. HDO, a civil society organization, conducted a field study to gather information and the results were devastating. The girl-children and women on the plantations are assigned plucking work of tea for their livelihood. A few would be employed in the bungalows of senior estate management executive or staff as domestic servants. Though women have access to employment opportunities and incomes but the nature of work is precarious as they are employed mainly in semi-skilled labour-intensive industries irrespective of their educational level, with no opportunities for upgrading skills. The nature of work is characterised by long working hours, exposure to occupational health hazards, vulnerability to job insecurity, inequitable gender division of labour, and subordination in the labour market. However, due to the pandemic, women working in the plantation sector were on the brink of losing livelihood and all such opportunities which enables them to be independent. Cases of domestic violence cases and crimes against the women of the community were also reported. Untimely pregnancy was also reported in the women of the community. The government's relief packages could not help the Dalit communities at large as most of them work in the informal sector thus furthering their marginalization.

RESPONSE OF CIVIL SOCIETY ORGANIZATIONS

- 1. Creating awareness:** Civil Society Organisations have been very active from the first day of COVID-19 infection in Bangladesh, India and Nepal. The CSOs with the support of international organisations extend support to the jobless CDWD. The CSO also provided hygiene materials and awareness support to CDWD. Furthermore, CSO representatives provided continuous support physically and virtually to the government to tackle the situation. The CSO leaders took part in the virtual meetings, talk showed and gave critical opinions of government decisions and mismanagement.
- 2. Relief and rehabilitation measures:** The Civil Society Organization, with the support of international organisations, provided relief materials to the CDWD in Asia. All the Dalit organizations has been involved in the relief and rehabilitation including NCDHR in India reaching out almost 22,000 families, Nagorik Uddyog reaching more than 10,000 in Bangladesh, and Dalit NGO Federation with help of other Dalit organization reaching 15000 Dalit families in Nepal.
- 3. Networking systems and remedial mechanism for liaison with state mechanisms:** In line with the state mechanism for addressing Covid-19 situation, Civil Society Organizations have been working simultaneously to reduce the spread of this virus. The CSOs in their respective areas work to raise awareness on the preventive measures, limiting mass gathering and mass mobility in public places and supporting the government in relief work. The CSOs also provide support to the government through consultations and giving necessary suggestions wherever required.
- 4. Research, documentation and advocacy plans:** The research institutions, along with relevant government and non-government organisations, have been working together to find out effective ways to reduce the impact of Covid-19 infection. It is to be mentioned that Bangladeshi doctors have found plasma therapy as an effective way to treat Covid-19 patients, and so far, many infected have recovered due to this plasma therapy.

The researchers in Bangladesh are collecting information on the success cases of Covid-19 treatment from different countries so that they can save more lives. In addition to that, a ten-member expert team from China was invited to Bangladesh to observe the situation and provide practical suggestions to tackle the problem. The government has maintained steady communication with the countries having business links with Bangladesh so that the business relationship can be on track. Few CSOs have started collecting data on the situation of minority communities during Covid-19 situation and advocating with the local government institutions, government and non-government agencies to ensure social, financial and psychological security of minority groups. But it is felt that comprehensive research on the situation of the CDWD is urgently required so that their needs can be identified and future advocacy plans can be developed accordingly. In Nepal DNF, Samata Foundation and FEDO came up with exploratory research on impact of COVID19 on Dalit communities from various indicators. In India, NCDHR has conducted a large-scale app-based survey, in which they looked at various schemes and programmes which are supported by the state. This report gave a comprehensive look at the importance of the access to services of Dalit communities. The findings have been disseminated to government officials, parliamentarians and other key stakeholders.

Engaging in governmental, Judiciary & media advocacy efforts: Civil society has been playing an essential role by supplementing government initiatives in addressing the Covid-19 situation. The CSOs have been monitoring the status regularly and supporting the government with the necessary information and data. The CSOs have been engaged in online discussions, virtual conferences, writing articles in the newspaper on their observations and suggestions so that it may help the government makes the right decision on time. CSO's advocacy has reflected in the budget where we have observed the maximum allocation in the health and livelihood sectors.

RECOMMENDATIONS AND THE WAY FORWARD

1. Mainstream and strengthen social protection programming in Disaster situations.
2. Enhance budgetary allocations under social security schemes, especially the flagship schemes.
3. Universal coverage of Dalit households in all social protection schemes on a mission mode.
4. Put in place accessible and people friendly complaints and grievance registration and redress mechanisms.
5. Humanitarian organisation, UN (UNSDR included) and EU should be mindful of the intersectionality of different vulnerabilities with social reality in South Asia and collect disaggregated data.
6. Discrimination based on work and descent: There are several incidents of Dalit which has been reported in the media. The surveys in India and Nepal also revealed that 67% of the Dalit respondents said they face some kind of discrimination. There is a need to spread the message of anti-caste based programmatic interventions and this has to be done by Dalits and non-Dalit actors (both government and non-government bodies).
7. Set up of grievance cells at lowest level to specifically address caste-based discrimination and violence and ensure their easy access and with immediate redressal and resolution.

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Asia Dalit Rights Forum