

Nepal

Compared to the momentous achievements of 2011 – including the historic 'Untouchability Bill' – 2012 may appear to be a somewhat anticlimactic year in the struggle for Dalit rights in Nepal. The political stalemate, particularly the failure to adopt a new constitution, meant that the issue of caste discrimination and the concerns of the Dalit movement received less political attention than in the previous year. Nevertheless, Dalit organisations continued to work tirelessly for the rights of their community, and did achieve some notable results.

In general, caste discrimination and 'untouchability' practices continue in Nepalese society. Dalits are routinely subjected to violence, threats, harassment, exploitation, social exclusion and communal boycotts. In recent years, however, there have been considerable achievements in the struggle against caste discrimination. Just a few years ago, Dalits were completely excluded from political life and had no legal protection. Today, there are constitutional and legislative safeguards for the protection and promotion of Dalit rights, some policy provisions for educational and development schemes, as well as employment quotas for Dalits.

The adoption of the Untouchability Bill in May 2011 was a momentous victory for the Dalit movement. However, concern was expressed at the time that implementation of laws in Nepal remains very weak. Such concerns were, to some extent, justified during 2012. As the Asian Human Rights Commission phrased it when writing about the new law in its report on 'The State of Human Rights in Nepal in 2012', the government's "commitment to its effective implementation and to the provision of redress to the victims of caste-based discrimination remains under question".

The Dalit movement of Nepal shares these concerns, even though the country's Prime Minister, Dr Baburam Bhattarai, has reiterated his government's commitment to implementing the new law. Speaking at a seminar in Kathmandu in early June, the Prime Minister said that the law would help reduce 'untouchability', but added that "the efforts of government alone to end social malpractices – like treating people as less than animals – are not sufficient. Political parties, organisations and civil society should be active to this end." However, as Dalit rights activists point out adequate resources for effective implementation of the Untouchability Act, especially in rural and remote areas, are needed.

Dalit organisations were critical of the Constituent Assembly's work to draft a new constitution. When a proposed draft was circulated in early May, they found that it did not sufficiently address their concerns. Hence, they organised a peaceful demonstration for the inclusion of Dalit provisions in the constitution. Several civil society leaders were taken into police custody – including Durga Sob (Feminist Dalit Organization – FEDO), Gajadhar Sunar (Dalit NGO Federation – DNF), and Bhakta Bishwakarma (Nepal National Dalit Social Welfare Organisation – NNDSWO) from IDSN member and associate organisations. They were released on the same day.

The already faltering constitutional process came to a halt later that month when the Constituent Assembly yet again failed to agree on a draft constitution. The Assembly was dissolved on 28 May, and the government announced the holding of new elections later in the year. These were also postponed and may now be held in May 2013. This constitutional deadlock has had severe consequences for the development of an effective human rights framework in Nepal. This also affects the situation of Dalits whose rights are only partially protected by the existing framework.

As the government had refused to extend the mandate of the United Nations' Office of the High Commissioner for Human Rights, the OHCHR country office formally closed operations on 31 March 2012. Among other things, the office had played a very important role in placing the

Dalit issue on Nepal's human rights agenda. Human Rights Watch described this unexplained refusal as a "major step backwards" and called upon the government to reverse its decision.

Despite losing its country office, the OHCHR continued to take a strong interest in Nepal, including the issue of caste discrimination. During its time in Nepal, OHCHR focused much of its work on access to justice – or the lack thereof – for victims of caste discrimination.⁴⁹ During a December mission to Nepal, Katia Chirizzi from OHCHR's main office in Geneva consulted with Dalit civil society, the National Dalit Commission (NDC) and political sister organisations about the progress of UPR recommendations and other issues related to the Dalit agenda and the ongoing peace process in Nepal. The OHCHR has reiterated its commitment to work for the elimination of caste discrimination in Nepal and other countries in the region and its availability to provide technical assistance in the implementation of key UPR recommendations, such as the adoption of an NDC Bill in line with international standards.

A couple of high profile cases of caste-based violence during 2012 demonstrated how the absence of the rule of law – including a corrupt and dysfunctional police force – particularly affects Dalits.

On 12 June, after a 10-month long struggle, the family of Sete Damai achieved some form of justice when a district court in Dailekh, mid-Western Nepal, gave his murderers long prison sentences. Sete Damai was a 50-year old Dalit who was stabbed to death on 30 August, 2011, by a group of 'upper caste' men. They were strongly opposed to his son's inter-caste marriage to a non-Dalit woman.

Following an intense civil society campaign involving, among others, IDSN partners DNF, FEDO and NNDSWO as well as OHCHR-Nepal, nine suspects were arrested. Three of them were eventually sentenced to 20 years imprisonment, two of them faced 10 years in prison, while the sentences for the remaining four ranged from two and a half to five years. In August, Sete Damai's family received 1,000,000 Rupees (appr. 8,500 Euros) in compensation from the government.

According to the Asian Human Rights Commission, this incident shows the extent to which non-Dalits will go in order to protect their so-called social prestige. It also demonstrates that "the coordinated effort of Dalit civil society is necessary to balance the relationship between the victims and the perpetrators and ensure that victims have access to legal redress." Often Dalit victims of caste-related crimes are unable to achieve justice due to indifference from the authorities and threats and pressure from 'upper caste' perpetrators.

In another murder case resulting from an inter-caste marriage, the victim's family has so far been unable to achieve any justice. A young Dalit man, Shiva Shankar Das, was reportedly poisoned to death by his 'upper caste' wife's family in late January. The conduct of the police in this case has been highly questionable. Despite a protest campaign by Dalit organisations and the conclusion by a parliamentary subcommittee that the young man was indeed murdered, the police investigation continues to be slow, and the victim's family is still struggling for justice.

These two cases have only received attention because of the efforts of civil society, particularly Dalit organisations. Without such support, Dalit victims of human rights violations would face even bigger difficulties in accessing any kind of justice and would very possibly face retaliation from 'upper caste' perpetrators of these violations.

Thus, Dalit civil society organisations play an important role in the struggle for the rights of individual victims of caste discrimination and caste-related atrocities. In a broader context, the Dalit movement continued to put pressure on the government and the political system in 2012 to address the concerns of the Dalit community as a whole. Dalit organisations have issued a number of key recommendations to the government:

- The government should invest in comprehensive Dalit development schemes and make necessary arrangements for the effective implementation of anti-discrimination measures in national legislation and international law. There is a need for effective mechanisms that ensure rapid justice to the victims of caste discrimination and 'untouchability' practices as well as violence against women so that such cases be reported, investigated and prosecuted, victims get timely justice and compensation, and perpetrators are penalised.