
If you have come across an Indian, not just in India but anywhere in the world, who have told you that the caste system and caste discrimination is a thing of the past, then that person was either fooling you or was downright ignorant. That person, I can guarantee you, must also belong to the privileged caste. Stalin K, filmmaker and human rights campaigner

“Given the growing nature and extent of discrimination and violence, we urge the Government of India to address the Dalit, Adivasi and other marginalised communities’ issues more strongly and take appropriate policy and legislative changes,” Prasad Srivella of NCDHR said during a WGHR press conference.

NCDHR also prepared a submission to the UN Special Rapporteur on water and sanitation, outlining the obstacles to access to water and sanitation encountered by Dalits in India, and to the Special Rapporteur on violence against women. The latter issue attracted much attention towards the end of the year due to the numerous rape cases in Haryana and the gang-rape in New Delhi.

An example of Dalit involvement in cross-cutting advocacy work was NCDHR general secretary Paul Divakar’s convenorship of Wada Na Todo Abhiyan, a campaign comprising a wide range of organisations that holds the Government of India accountable to its promise to work towards achieving the UN Millennium Development Goals, and also contributes to the global development agenda. Issues such as poverty and social exclusion are, as ever, relevant to the struggle for Dalit human rights.

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”.⁴⁸

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

Dalit population

Contrary to expectations, the 2011 census survey published in 2012 did not reveal any significant change in the Dalit population of the country, which is still officially estimated at 13-14 per cent. Some Dalit groups have estimated that the number may be as high as 20 per cent. A higher figure could have helped the Dalit movement push the government to enact policies aimed at assisting Dalits.

Nepal**Dalits rally for constitutional provisions**

PHOTO: NNDSWO

Kathmandu, May 2012. Dalit civil society organisations demonstrate for the inclusion of Dalit provisions in Nepal's new constitution. Later that same month, the Constituent Assembly was dissolved, leaving the country in a constitutional deadlock.

(Nepal National Dalit Social Welfare Organisation – NNDSWO) from IDS 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.

Nepal

Discrimination in public places

The World Bank supported FEDO report "Tracking of Public Services towards Dalits and Marginalized", details the lives of 467 Dalits from Dhanusa, Kavre, Bajura and Bajhang. Compared to non-Dalit respondents, discrimination is still markedly higher for them in public spaces, such as at water sources and local tea shops, and in the houses of 'upper caste' people.

It is found that 70 percent of Dalits in Dhanusa face problems at water sources, compared to 18.2 percent of the region's non-Dalit population. In one particular district, Kavre, 64.2 percent of Dalits face discrimination in the homes of upper caste Nepalese.

The study also finds that marginalised groups' access to and knowledge of government initiatives is limited. Only a quarter of those who responded are receiving help from public services, with just 60 percent even aware that such help exists. The author of the report Hira Vishwakarma has pointed out that investment support is having a "negligible" impact on those who need it most, with "money simply not reaching them".⁵⁰

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.

- The issues of proportional participation of Dalits in every state structure and the elimination of structural discrimination should be major agenda points of the future peace-keeping dialogue and democratisation process in Nepal. The work done by Constitutional Assembly members to ensure the rights of marginalised people, including Dalits, through various thematic papers needs to be enshrined in the new constitution.
- In the international arena, the government is urged to play a role in the UN Human Rights Council for action towards a resolution on the draft UN Principles and Guidelines for the Effective Elimination of Discrimination based on Work and Descent. The government has already acknowledged this framework and has recognised caste discrimination as a violation of international human rights law.

While campaigning on a national level, IDSN partner organisations went about their daily work with energy and enthusiasm. Throughout the year, they continued to speak up for Dalit rights and also conducted useful research on the issue of caste discrimination.

Research by NNDSWO – a Dalit organisation that cooperates closely with IDSN – showed an encouraging trend in media reporting on Dalit issues. In the year running from April 2010 till April 2011, three major national daily newspapers, Kantipur, Gorakhpatrika and Naya Patrika, published altogether 244 news articles and opinion pieces on Dalit issues and caste discrimination. The following year, the number had almost tripled. Such figures are a sign of increasing media sensitivity towards the Dalit issue, and indicate that advocacy efforts by the Dalit movement in Nepal have had positive results.

The failure to adopt a new constitution has meant that addressing the issues of the Dalit community has been put on the backburner once more.

Asian Human Rights Commission

It is also an encouraging development that a Dalit journalist and President of the Jagaran Media Service, Rem Bahadur Bishwakarma, was appointed to the 'High Level Inclusive Media Commission' formed under the Information and Communication Ministry in September.

In December, FEDO organised the participation of Dalit women in '16 Days of Activism to Stop Violence Against Women'. As in other caste-affected countries, Dalit women in Nepal continue to be the worst affected victims of gender-based violence. They are particularly vulnerable due to the intersection between gender, caste and conditions of poverty.

Bangladesh

Politically, economically, socially and culturally, Dalits are one of the most excluded minority groups in Bangladesh. In 2012, the country's Dalit movement continued to campaign for the rights of Dalits and other socially excluded people. The Bangladesh Dalit and Excluded Rights Movement (BDERM) and other organisations lobbied the Government for changes in legislation as well as increased budget allocations for the country's estimated 5.5 million Dalits.

A few political leaders from mainstream parties became sensitive towards the Dalit issue, but political leadership from Dalit communities in the national political arena is still lacking. This is a main challenge for the Dalit rights movement in Bangladesh. So is the lack of unity in the Dalit community which makes it more difficult for it to raise its voice to the government and demand basic rights for Dalits.

Although the political parties were informed about Dalit development issues, they took no special initiatives in this area. The work of the Dalit movement has, however, led to some positive results, such as the agreement between the Law Commission of Bangladesh and the National Human Rights Commission (NHRC) to work for the enactment of a law for protecting Dalit rights in Bangladesh.

BDERM organised meetings with these two bodies as well as lawmakers and government officials to discuss a specific law against 'untouchability' and discrimination and secure an increased focus on Dalit rights issues. In early December, BDERM representatives met with the Foreign Ministry and discussed the Universal Periodic Review submission related to the Dalit rights situation. During this discussion, the relevant desk of the ministry agreed to include the Dalit issue in its UPR report.

This UPR submission was prepared jointly by BDERM, Bangladesh Dalit and Excluded Women Federation (BDEWF), and Nagorik Uddyog (Citizen's Initiative) in association with IDSN. The report contains findings on the human rights situation of Dalits in Bangladesh and also follows up on the lack of implementation of existing UPR recommendations from the first review in 2009, with a particular focus on Dalits and other excluded groups. The human rights record of Bangladesh will be reviewed in April-May 2013.⁵¹

For the past two years, the Government of Bangladesh has allocated funds for Dalits in the national budget. In the fiscal year 2012-13, the amount was BDT 146.1 million (appr. 1,378,000 Euros) to be spent on social safety net programmes for Dalit and other socially excluded communities. In the previous year, the government allocated BDT 100 million for housing development for Dalits. BDERM had previously submitted a memorandum to the Finance Ministry demanding a specific allocation in the national