

# NEPAL 2014 HUMAN RIGHTS REPORT

## EXECUTIVE SUMMARY

*Note: This report was updated 7/31/15; see Appendix H: Errata for more information.*

Nepal is a federal democratic republic. The political system is based on the Interim Constitution of Nepal 2063 (2007), with a prime minister as the chief executive, and a Constituent Assembly, which serves as the country's parliament and is responsible for drafting a new constitution. National elections were held in November 2013, which domestic and international observers characterized as credible, free, and fair. A new Constituent Assembly was sworn in on January 21. On February 11, a coalition government formed under the leadership of the Nepali Congress and the United Marxist-Leninist party. Authorities maintained effective control of security forces.

The continued absence of a permanent constitution and transitional justice mechanisms exacerbated the most significant human rights problems, which included a lack of accountability for human rights and humanitarian law violations during the country's 10-year insurgency. A law signed by the president May 11 establishing a separate Truth and Reconciliation Commission (TRC) and disappearances commission was under review by the Supreme Court at year's end. On October 20, the president swore in five commissioners to fill vacancies in the country's independent human rights monitoring body, the National Human Rights Commission (NHRC). The absence of commissioners had undermined the NHRC's ability to function effectively and delayed the establishment of the TRC and disappearances commission.

Other human rights problems included poor prison and detention center conditions, and police treatment of detainees. The courts remained vulnerable to political pressure, bribery, and intimidation. There were problems of harassment of the media and press self-censorship. The government sometimes restricted freedom of assembly. The government limited freedoms for refugees, particularly for resident Tibetans. Corruption remained a problem at all levels of government. Discrimination against women was a problem, and citizenship laws and regulations that discriminate by gender contributed to statelessness. Rape and domestic violence against women, including dowry-related deaths, remained serious problems. Violence against children, including reported abuse at orphanages, continued and was rarely prosecuted. Sex trafficking of adults and minors

remained a significant problem. Discrimination against persons with disabilities, lower-caste individuals, and some ethnic groups continued, as did discrimination against persons with HIV/AIDS and harassment against gender and sexual minorities. There were some restrictions on worker rights. The government made little progress in combatting forced and bonded labor, which persisted despite laws banning the practice, and moderate progress to eliminate child labor.

The government routinely investigated and held officials and security forces accused of committing violations of the law accountable, although in the absence of transitional justice mechanisms, there continued to be little accountability for many conflict-era human rights violations.

## **Section 1. Respect for the Integrity of the Person, Including Freedom from:**

### **a. Arbitrary or Unlawful Deprivation of Life**

There were accusations that the government or its agents committed arbitrary or unlawful killings. The Tarai Human Rights Defenders Alliance (THRDA), a local human rights organization, reported that the Nepal Police killed at least three individuals, and the NHRC reported two killings. The Nepal Police Human Rights Cell (HRC) and the Nepal Army HRC claimed to have received no reports of arbitrary or unlawful deprivation of life.

On February 2, police in the southern district of Mahottari shot and killed Jaka Ulla, a local Muslim community leader, wanted at the time for his alleged involvement in the abduction and extortion of five persons and the killing of one person. The police report stated that Ulla was caught in cross-fire. THRDA disputed the claim and filed a case with the appellate court on behalf of the victim's family, citing forensic evidence and eyewitness reports the nongovernmental organization (NGO) says contradict the police report. In response to THRDA's petition, an appellate court ordered the district police to register a criminal complaint of involuntary manslaughter for the killing of Ulla. As of October 22, the investigation continued.

On August 6, police shot and killed fugitive gangster Dinesh Adhikari ("Chari") on the outskirts of Kathmandu. Police reported that a group of officers had been chasing Adhikari, wanted for attempted murder, when he opened fire on the officers. The police stated that officers killed Adhikari in the ensuing exchange of gunfire. Some human rights activists, family, and supporters of Adhikari called for an independent investigation into the killing, claiming police staged the encounter

and committed premeditated murder. Adhikari's brother filed a petition with the Supreme Court, pending at year's end, asking the court to order the police to investigate, prosecute, and punish those involved in Adhikari's death. Adhikari's relatives also sought legal recourse through the NHRC and local human rights monitoring groups.

On August 6, the Supreme Court ordered the release of two suspects held in connection with the 2004 killing of Radio Nepal journalist Dekendra Thapa, citing lack of evidence. Three other suspects remained in custody as of October 22. According to media reports, key witnesses for the prosecution retracted their testimony in response to threats from Maoist political leaders. At a hearing on November 4 for all five accused, the Dailekh District Court ordered the defense and prosecution to provide written submissions containing their views on whether the case should fall under the jurisdiction of the TRC, as per the law that went into effect in May, or remain with the regular criminal justice system. The next hearing was set for December 1. In previous years a Maoist-led government reportedly attempted to block the investigation into this case, claiming that only a truth and reconciliation commission could investigate conflict-era cases due to their sensitive political nature. In January 2013 the Supreme Court ordered senior government officials to stop interfering in the case.

Other conflict-era killings were not yet resolved. In separate actions between September 2013 and August, police arrested and subsequently released on bail 10 individuals in connection with the 2004 killing of student Krishna Prasad Adhikari, allegedly by Maoists. Three other suspects remained at large. Adhikari's parents continued a widely publicized "fast unto death," demanding that the government bring the alleged perpetrators to justice. The fast led to the death of Adhikari's father on September 22. Adhikari's mother ended her fast on October 18 after the government renewed its commitment to apprehending the remaining suspects.

Bal Krishna Dhungel, a Maoist politician convicted of killing Ujjan Kumar Shrestha in 1998, remained at large, despite a 2011 Supreme Court order for his apprehension. There were media reports that Dhungel was seen at Maoist party functions throughout the year.

## **b. Disappearance**

There were no reports that government forces were responsible for disappearances during the year.

The fate of most of those who disappeared during the 10-year Maoist insurgency (1996-2006) remained unknown. According to the NHRC, there were approximately 846 unresolved cases of disappearances dating back to the conflict, 606 of which may have involved state actors. As of October the government did not prosecute any government officials, current or former, for involvement in conflict-era disappearances, nor had it released any information on the whereabouts of the 606 persons the NHRC identified as having disappeared by state actors. The NHRC reported that Maoists were believed to be involved in 146 unresolved disappearances during the conflict. As of October the government had not prosecuted any Maoists for involvement in disappearances. The Constituent Assembly passed legislation, signed into law May 11, establishing a commission to investigate conflict-era disappearances. The Supreme Court was reviewing this law, which also establishes a TRC. Neither body was established as of November.

The overall number of conflict-era missing persons generally remained stable. As of October the International Committee of the Red Cross (ICRC) listed on its website 1,347 names of missing persons, compared with 1,360 the previous year. The ICRC reported that, from January to August, five new cases were filed, 17 were closed, and one was removed from the public record at the request of the victim's family.

In July the NHRC released its final report on five youths--Sanjeev Kumar Karn, Jitendra Jha, Pramod Narayan Mandal, Shailendra Yadav, and Durgesh Lav--who disappeared after their arrest in Janakpur in 2003. Based on DNA and forensic analysis, the NHRC identified five bodies buried in Dhanusha district as these five youths. Labeling their deaths as homicides, the report concluded that they had been shot and killed. Upon releasing the final report, the NHRC reiterated its previous calls for the government to take action against Nepal Army and Nepal Police officials implicated in the deaths.

### **c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment**

Contrary to requirements in the interim constitution of 2007, torture is not explicitly criminalized, and the law does not have clear guidelines for punishing offenders. The Torture Compensation Act provides for compensation for victims of torture; the victim must file a complaint and pursue the case through the courts.

According to human rights activists and legal experts, police resorted to torture, primarily beatings, to force confessions. Advocacy Forum (AF), a local human

rights NGO, reported an overall decrease in the incidence of torture in the country. The AF stated that complaints of torture remained relatively high in the Tarai region and among the Muslim and Dalit communities. THRDA reported that police abuse in rural parts of the Tarai region had not changed.

THRDA stated that torture victims often were hesitant to file complaints because police or other authorities intimidated them and they feared retribution. THRDA stated that many cases of alleged torture were ultimately dismissed by the courts for lack of credible expert evidence, especially medical documentation. In cases where courts awarded compensation or ordered disciplinary action against the police, the court decisions were rarely implemented, according to THRDA and other NGOs.

THRDA reported that as of August, it had documented eight cases of police abuse. Among these eight, four complaints were lodged both with the Nepal Police and, for compensation claims, with the district courts. The district courts awarded compensation and ordered disciplinary action in one case, and the other three remained pending. Complaints were not filed in the other four cases. Separately, the AF reported filing at least three abuse cases with the Nepal Police HRC as of August this year, adding to 146 cases filed since 2007, 59 of which had not been resolved. As of August, the AF filed three torture compensation claims with the district courts. Of the pending cases from previous years, the district courts awarded compensation in four cases. As of August the Nepal Police HRC reported receiving five complaints of torture and six complaints of other cruel, inhuman, or degrading treatment. In one case alleging torture and all six of the cases alleging cruel treatment, officials penalized the accused officers administratively. In the other four cases alleging torture, officials cleared the accused.

In a case that attracted media attention, torture reportedly contributed to three individuals falsely confessing to the murder of an individual later found to be alive. On February 11, police in Okhaldhunga district arrested five individuals for the abduction and murder of their neighbor Gyan Bahadur Majhi, missing since November 2013. Police released two of the suspects, but three individuals, Chitra Bahadur Majhi and his sons Kamal Bahadur and Surendra, confessed to the killing. In April the alleged victim was seen alive. Police released the three accused and launched an investigation. Criminal complaints were pending against the police officers, who allegedly used torture to obtain false confessions, as well as civilians who allegedly conspired to frame the accused.

In 2012 a prison and detention center monitoring report by the Office of the Attorney General (OAG) indicated that nearly 15 percent of detention center detainees were subject to abuse that amounted to torture, generally described as beating a detainee's soles with the guard's hands, fists, or a bamboo stick, or being kicked with police boots. The report added that 25 percent of detainees reported verbal abuse and 10 percent reported physical abuse. According to the report, many detainees said they deserved abuse for not following orders.

An AF report stated that an estimated 17 percent of the 3,662 detainees interviewed in 2013 reported some form of physical abuse, compared with 22 percent in 2012. According to the Nepal Police HRC, the vast majority of the alleged incidents were not formally reported and thus not investigated.

As of August the NGO Child Workers in Nepal documented three cases of security forces physically and mentally abusing children. THRDA stated that in May, police in Nepalgunj beat a 14-year-old girl and her mother after they were detained on allegations of theft.

### **Prison and Detention Center Conditions**

Prison conditions, especially those in pretrial detention centers, were poor and did not meet international standards, according to human rights groups and a 2012 prison and detention center monitoring report issued by the OAG.

Physical Conditions: According to the Department of Prison Management, as of July 15, there were 17,589 convicted prisoners in 74 prisons designed to hold 10,608 individuals. The prisoner rolls included 1,264 women, 80 dependent children of imprisoned parents, and 974 foreign citizens. Authorities generally held pretrial detainees separately from convicted prisoners. There were three government-run juvenile reform homes, located in the Bhaktapur, Kaski, and Morang districts, where all convicted minors served their sentences. Due to a lack of adequate juvenile detention facilities, authorities sometimes incarcerated pretrial detainee children with adults or allowed children to remain in jails with their incarcerated parents. There were reports that authorities falsely registered minors as being older than their actual age in order to incarcerate them as adults.

The 2012 OAG monitoring report indicated that prison authorities did not separate serious offenders from moderate offenders in accordance with the law, but it noted that all detention centers and prisons had separate facilities for men and women.

Overcrowding remained a serious problem in detention centers, THRDA stated, but with some improvement as police opened new detention centers. As of July overcrowding in prisons was most severe in Banke District Prison, with 486 inmates in a facility designed to hold 150 individuals.

According to the OAG report, sanitation conditions in prisons and detention centers were extremely poor, although prisoners usually drank the same water as their guards and the local population. The OAG report added that 90 percent of detention center inmates received a medical examination within 24 hours after arrest as the law required, and prisoners had access to local hospitals at any time of need. The report stated doctors did not conduct routine checkups on healthy prisoners, as the law requires. According to the AF and THRDA, which monitor detention center conditions, the medical examinations generally were perfunctory. The AF also reported medical care was poor for detainees with serious conditions. Some detainees had access only to unfiltered and dirty water and inadequate food, and many detention centers had poor ventilation, lighting, and bedding, according to the AF.

According to Child Workers in Nepal, minors housed in adult facilities often faced bullying from adult detainees and received poor treatment by police. Hygiene was poor, and police and adult detainees often made minors clean the toilets.

Administration: Recordkeeping in detention centers was poor, and falsification of arrest records was common, according to the AF and THRDA. The AF stated that there was improvement in some centers over previous years. There were no alternatives to sentencing for nonviolent offenders. Prisoners and detainees had reasonable access to visitors and could observe their religious practices.

A NHRC monitoring report stated that prisoner and detention facilities allowed prisoners to submit complaints through established procedures. The AF, however, stated that there was little possibility for detainees to make complaints, due to threats and intimidation. Authorities were quicker to respond to allegations brought to their attention by NGOs or international organizations. There were no prison ombudsmen to handle prisoner complaints.

Independent Monitoring: The government generally allowed pretrial detention center visits by independent human rights observers. On occasion detention center authorities did not allow them to interview detainees during visits. It was difficult for international observers to obtain permission to visit prisons where those convicted serve their sentences. The government generally permitted the attorney

general and the NHRC, an independent constitutional body, to make unannounced visits to prisons and detainees in army and police custody. The NHRC could request government action, but the government often denied NHRC requests.

Improvements: In some districts the government constructed separate detention center buildings for women and children, whereas previously women and children detainees merely had separate rooms. To address overcrowding in prisons, between July 2013 and July 2014, the government built additions to facilities in Palpa, Sindhupalchowck, and Rasuwa districts.

#### **d. Arbitrary Arrest or Detention**

The law prohibits arbitrary arrest and detention, but there were reports that security forces arbitrarily arrested persons during the year. The law gives chief district officers wide latitude to make arrests, and human rights groups contended that police abused their 24-hour detention authority by holding persons unlawfully, in some cases without proper access to counsel, food, and medicine or in inadequate facilities.

As of August, the Nepal Police HRC reported receiving four complaints of arbitrary arrest or detention. In all of these cases, officials penalized the accused officers administratively.

On May 5, a police officer in Dhanusha district detained a 65-year-old resident without an arrest warrant when he filed a criminal complaint against a fellow resident from his village for trafficking his daughter to India. THRDA alleged that the officer, who was intoxicated, severely beat and mentally tortured the individual in an attempt to force him to withdraw the complaint. Police released the individual the following day without filing any charges or bringing him before a court. Human rights defenders submitted a torture claim in the courts that remained pending at year's end.

#### **Role of the Police and Security Apparatus**

The Nepal Police is responsible for enforcing law and order across the country, while the Armed Police Force (APF) is responsible for combating terrorism, providing security during riots and public disturbances, assisting in natural disasters, and protecting vital infrastructure, public officials, and the borders.

The Nepal Police, APF, and Nepal Army have human rights commissions. The Nepal Army and Nepal Police HRCs have independent investigative powers. The Nepal Army's investigations were not fully transparent, according to human rights NGOs. Nepal Army HRC representatives stated that nearly all the cases derived from the Maoist insurgency and that full disclosure should come only in the context of a functioning TRC. The Nepal Police increased its efforts to work with human rights activists to increase transparency, although primarily on postconflict cases. The Nepal Police also stated that conflict-era allegations of abuse should be handled in the context of a functioning TRC. From July 2013 to July 2014, the Nepal Police HRC reported 58 complaints, which resulted in the punishment of 20 police officers. The Nepal Army HRC stated that it had investigated and punished 177 Nepal Army personnel for human rights violations. All security forces provided human rights training prior to deployments on UN peacekeeping operations. The Nepal Police, APF, and Nepal Army HRCs provided human rights training to every individual in their organizations. The APF and Nepal Police HRCs issued booklets outlining human rights best practices to nearly every police officer.

Police corruption, especially among low-level and underpaid police officers, and lack of punishment for police abuses remained problems.

### **Arrest Procedures and Treatment of Detainees**

Arbitrary Arrest: The law stipulates that, except in cases involving suspected security and narcotics violations, or when the crime's punishment would be more than three years' imprisonment, authorities must obtain an arrest warrant and present the suspect to a court within 24 hours of arrest (not including travel time).

If the court upholds a detention, the law generally authorizes police to hold the suspect for up to 25 days to complete an investigation. In special cases (such as for suspected acts of terrorism), a suspect can be held for up to six months. The 2007 interim constitution provides for access to a state-appointed lawyer or one of the detainee's choice, even if charges have not been filed. Few detainees could afford their own lawyer.

Detainees have the legal right to receive visits by family members, but family access to prisoners varied from prison to prison. There is a system of bail, but bonds were too expensive for most citizens.

Pretrial Detention: Time served is credited to a prisoner's sentence, but pretrial detention occasionally exceeded the length of the ultimate sentence following trial and conviction.

Under the Public Security Act, security forces may detain persons who allegedly threaten domestic security and tranquility, amicable relations with other countries, or relations between citizens of different classes or religious groups. The government may detain persons in preventive detention for as long as 12 months without charging them with a crime, as long as the detention complies with the act's requirements. The court does not have any substantive legal role in preventive detentions under the act.

Other laws, including the Public Offenses Act, permit detention without charge for as long as 25 days with extensions. This act covers crimes such as disturbing the peace, vandalism, rioting, and fighting. Human rights monitors expressed concern that the act vests too much discretionary power in the chief district officer.

According to the AF, in some cases detainees appeared before judicial authorities well after the legally mandated 24-hour limit, allegedly to allow injuries from police mistreatment to heal. THRDA stated that police frequently circumvented the 24-hour requirement by registering the detainee's name only when it was ready to produce the detainee before the court.

#### **e. Denial of Fair Public Trial**

The law provides for an independent judiciary, but courts remained vulnerable to political pressure, bribery, and intimidation. The Supreme Court has the right to review the constitutionality of laws. Appellate and district courts showed independence and impartiality in most cases, although they remained susceptible to political pressure. On May 27, the government appointed eight Supreme Court justices, some of whom had been subject to previous allegations of corruption. Three divisional benches of the Supreme Court had previously recommended that disciplinary action be taken against one of these judges for issuing not-guilty verdicts in the cases of allegedly corrupt defendants. No action was taken, and there was no investigation into corruption allegations against any of the other Supreme Court nominees.

Authorities did not consistently respect and implement court orders, including Supreme Court decisions, particularly decisions referring to conflict-era cases as discussed above.

## **Trial Procedures**

The law provides for the right to counsel; equal protection under the law; protection from double jeopardy; protection from retroactive application of the law; and public trials, but these rights were not always applied. Defendants enjoy the presumption of innocence except in some cases, such as human trafficking and drug trafficking, where the burden of proof is on the defendant. Judges decide cases; there is no jury system. The law provides detainees the right to legal representation and a court-appointed lawyer, a government lawyer, or access to private attorneys. The government provided legal counsel only upon request. Persons who are unaware of their rights may thus be deprived of legal representation. Defense lawyers may cross-examine accusers. By law defense lawyers are entitled to access to government-held evidence, but access can be difficult to obtain. All lower-court decisions, including acquittals, are subject to appeal. The Supreme Court is the court of last resort.

Military courts adjudicate cases concerning military personnel under the military code, which provides military personnel the same basic rights as civilians. Military personnel are immune from prosecution in civilian courts, except in cases of homicide or rape involving a civilian. The Nepal Army asserted that military personnel are immune from prosecution in civilian courts for conflict-era violations, an interpretation of law not shared by the human rights community and inconsistent with Supreme Court decisions. Military courts cannot try civilians for crimes, even if the crimes involve the military services; civilian courts handle these cases.

## **Political Prisoners and Detainees**

There were no reports of political prisoners or detainees.

## **Civil Judicial Procedures and Remedies**

Individuals or organizations could seek remedies for human rights violations in national courts. Individuals can seek justice from international organizations, such as the UN Human Rights Council, if domestic legal options are exhausted.

## **Property Restitution**

The Maoists and their affiliate organizations returned some previously seized property, as required by the 2006 Comprehensive Peace Agreement that ended the civil conflict, but kept other illegally seized lands and properties. According to a report published August 20 by the Carter Center, there remained significant numbers of outstanding conflict-era land disputes.

#### **f. Arbitrary Interference with Privacy, Family, Home, or Correspondence**

The law allows police to conduct searches and seizures without a warrant if there is probable cause that a crime has been committed, in which case a search may be conducted as long as two or more persons of “good character” are present. If a police officer has reasonable cause to believe that a suspect may possess material evidence, the officer must submit a written request to another office to conduct a search, and there must be another official present who holds least the rank of assistant subinspector.

The law prohibits arbitrary interference with privacy, family, home, and correspondence. While the government generally respected these prohibitions, there were complaints about a lack of due process in the demolition of property associated with the government’s road expansion project in Kathmandu.

### **Section 2. Respect for Civil Liberties, Including:**

#### **a. Freedom of Speech and Press**

The law provides for freedom of speech and press, and the government generally respected these rights. In some cases the government failed to enforce the law effectively.

Freedom of Speech: Generally citizens believed they could voice their opinions freely. Citizens often voiced critical opinions in print and electronic media without restrictions. The government limited freedom of expression for the Tibetan community, restricting community gatherings and public demonstrations that the government interpreted as favoring Tibetan independence. In May police detained a foreign citizen of Tibetan descent for wearing a jacket with the words “Team Tibet” on the back. The police released him several hours later without charge.

Press Freedoms: The independent media were active and expressed a wide variety of views without restriction, except for a few instances. *Kantipur*, a daily newspaper, faced a contempt of court charge over a June publication of two

unrelated newspaper articles that the government claimed defamed judges and eroded the dignity and integrity of the court system. The first was an article that criticized a court decision to release the prime suspects in a gold smuggling case on ordinary bail and to order the detention of the taxi driver found transporting the gold. The second was an editorial that criticized the appointment of controversial judges to the Supreme Court, arguing that it undermined the legitimacy of the judiciary. On July 27, the government introduced in parliament a contempt-of-court bill that media and human rights organizations argued could be used to restrict media scrutiny of the courts. Following criticism over some provisions in the bill, the Constituent Assembly, the government, and the major political parties decided to seek public feedback before endorsing the bill.

Violence and Harassment: There were several instances of violence and harassment against journalists. In early March journalist K. P. Dhungana received death threats over his newspaper story exposing alleged mistreatment and other irregularities in a seniors' home. According to human rights activists, Dailekh district-based journalists continued to receive threats from Maoists for reporting on the alleged 2004 Maoist killing of Dekendra Thapa.

According to the Federation of Nepali Journalists, the government did not make sufficient efforts to preserve the safety and independence of the media and rarely prosecuted individuals who attacked or killed journalists, although no journalists were killed during the year.

Censorship or Content Restrictions: The 2007 interim constitution provides that media licenses cannot be revoked based on the content of what is printed or broadcast. Although government-owned stations by law operated independently from direct government control, indirect political influence sometimes led to self-censorship. This was particularly true of stories that could be considered politically provocative.

## **Internet Freedom**

The government did not restrict or disrupt access to the internet or censor online content, and there were no credible reports that the government monitored private online communications without appropriate legal authority. Authorities took action on two incidents over comments on social media (Facebook), citing the Electronic Transaction Act. In May they arrested Raju Prasad Sah for commenting on a newspaper photograph of Home Minister Bam Dev Gautam, seen jumping over a road barrier in violation of traffic rules. Sah had remarked, "He should be

shot in the back.” On June 1, police arrested businessman Mohammad Abdul Rahman after he commented on a Facebook post of a news story, “Improving Security in Saptari.” Rajham stated, “How to say the security improving as I had to pay 50,000 rupees to bring back my looted motorcycle.” Police later released both Sah and Rahman without charges.

### **Academic Freedom and Cultural Events**

The law provides for the freedom to hold cultural events. Tibetan groups were required by the government to obtain permission to hold events, which were generally small and confined to their own settlements. Authorities granted approval to the Tibetan community to organize a ceremony for the Dalai Lama’s birthday on July 6, which included Buddhist prayers, traditional song and dance, and a speech from the Dalai Lama’s unofficial representative in Nepal. Tibetans throughout Kathmandu valley attended with minimal reports of restrictions of movement.

### **b. Freedom of Peaceful Assembly and Association**

The law provides for the freedoms of assembly and association; however, the government sometimes restricted freedom of assembly.

#### **Freedom of Assembly**

Freedom of assembly was generally respected for citizens and legal residents of the country, but there were some restrictions. The law authorizes chief district officers to impose curfews if there is a possibility that demonstrations or riots may disturb the peace.

The government continued to limit freedom of assembly for the Tibetan community, particularly in Kathmandu. As in previous years, police were present in Tibetan neighborhoods in the days surrounding the March 10 Tibetan Uprising Day. On the date of the anniversary, police detained 10 Tibetans, releasing five within a few hours without charge. The police held the other five, who had been attempting to protest outside of the Chinese consular building (located separately from the Chinese embassy), for 23 days before releasing them after they paid a fine of 6,000 rupees (\$60) each.

On July 24, police intervened in a peaceful sit-in organized by Dalit rights activists in front of the administrative building of the central government. According to the

Informal Sector Service Center, a leading human rights monitoring organization, police with batons injured three protesters.

### **Freedom of Association**

The law provides for freedom of association, and the government generally respected this right.

#### **c. Freedom of Religion**

See the Department of State's *International Religious Freedom Report* at [www.state.gov/religiousfreedomreport/](http://www.state.gov/religiousfreedomreport/).

#### **d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons**

The law provides for freedom of internal movement, foreign travel, emigration, and repatriation, except for most refugees, whose freedom of movement within the country is legally limited. Constraints on refugee movements were enforced unevenly. While the government did not always fully cooperate with the Office of the UN High Commissioner for Refugees (UNHCR) in providing protection and assistance, authorities generally implemented established procedures for handling newly arrived Tibetans entering the country without documents, and coordination among police, immigration officials, and UNHCR officials was generally conducted in a timely, standardized fashion. The government does not allow the UNHCR to assist Tibetan refugees who reside in Nepal.

Political groups, especially the Communist Party of Nepal-Maoists (CPN-M) and affiliated fringe parties, attempted to restrict freedom of movement, including by forced general strikes known locally as “bandhs,” to pressure the government and civil society. The number of strikes was significantly lower than in previous years.

#### **Internally Displaced Persons (IDPs)**

Although the government and Maoists agreed to support the voluntary return in safety and dignity of IDPs to their homes following the 10-year civil war, the agreement was not fully implemented. The Ministry of Peace and Reconstruction estimated that 78,700 persons were displaced from 1996 to 2006, but according to the UN Resident Coordinator's Office, an estimated 50,000 were unwilling or unable to return home. The reasons included unresolved land and property issues

and security concerns, since the land taken from IDPs by Maoists during the conflict was often sold or given to landless or tenant farmers.

The government provided relief packages for the rehabilitation and voluntary return of IDPs and allowed international organizations to operate programs to assist IDPs. According to the UN Resident Coordinator's Office, many of those still displaced preferred to integrate locally and live in urban areas, mostly as illegal occupants of government land along riversides or together with the landless population. The absence of public services and lack of livelihood assistance also impeded the return of IDPs.

### **Protection of Refugees**

Access to Asylum: The laws do not provide for the determination of individual refugee or asylum claims or a comprehensive legal framework for refugee protection. The government recognized large numbers of Bhutanese and Tibetans as refugees and supported resettlement of Bhutanese refugees to foreign countries. The government does not provide for local integration as a durable solution.

The government officially restricted freedom of movement and work for the approximately 26,000 Bhutanese refugees residing in the two remaining refugee camps in the eastern part of the country, but those restrictions were largely unenforced for this population. The government officially does not allow Bhutanese refugees to work or have access to public education or public health clinics, but it allows the UNHCR to provide parallel free education and health services to refugees in the camps. In 2007 the government agreed to permit third-country resettlement for Bhutanese refugees. Since resettlement began, more than 92,500 Bhutanese refugees have been resettled in foreign countries.

The government does not recognize Tibetans who arrived in the country after 1989 as refugees. Most Tibetans who arrived since then transited to India, although an unknown number remained in Nepal. The UNHCR estimated more than half of the 15,000-20,000 resident Tibetan refugees were undocumented. After China heightened security along its border and increased restrictions on internal freedom of movement in 2008, the number of Tibetans who transited Nepal dropped significantly. The UNHCR reported that 171 Tibetans transited the country in 2013, compared with 54 as of October 20. The government issued UNHCR-facilitated exit permits for recent arrivals from Tibet who were transiting Nepal to India.

Refugee Abuse: There were reports that police and other local officials harassed Tibetans engaged in daily activities. Police reportedly conducted random checks of identity documents of Tibetans, including monks. Police sometimes detained Tibetans for short periods, threatened detention, or requested bribes.

Fewer Tibetan refugees and individuals of Himalayan descent were detained than in years past, including on politically sensitive dates such as Tibetan Uprising Day March 10.

Access to Basic Services: Most Tibetan refugees who lived in the country, particularly those who arrived after 1990, did not have documentation, nor did their Nepal-born children. Even those with acknowledged refugee status had no legal rights beyond the ability to remain in the country. The Nepal-born children of Tibetans with legal status often lacked documentation. The government allowed NGOs to provide primary- and secondary-level schooling to Tibetans living in the country. Tibetan refugees had no entitlement to higher education in public or private institutions; were denied the right to work officially; and were unable to apply legally for business ownership, licenses, or bank accounts or to document properly births, marriages, and deaths. Some in the Tibetan community resorted to bribery to obtain these services. While Nepal-based Tibetans with refugee certificates were eligible to apply for travel documents to leave the country, the legal process was often arduous, expensive, and opaque.

Nearly 500 refugees and asylum seekers from other countries, including Somalia, Iraq, Sri Lanka, Afghanistan, Burma, and Pakistan, lived in the country. The government continued to deny these groups recognition as refugees, even when recognized as such by the UNHCR, and required prohibitive fines--500 rupees (\$5.00) for each day out of status--to obtain permission to exit the country for third-country resettlement. The government waived the fines for a group of 25 individuals in July, but it did not change its policy to enable other registered refugees destined for resettlement to obtain exit permits without paying prohibitive fines. The government allowed the UNHCR to provide some education, health, and livelihood services to these refugees, but the refugees lacked legal access to public education and public hospitals and the right to work.

### **Stateless Persons**

There was no reliable data on how many Nepalis lacked citizenship documentation, but estimates were as high as two to four million. Prior to the 2013 elections, the government deployed citizenship/voter registration mobile teams to

remote areas with the goal of issuing citizenship cards and registering new voters. The Home Ministry reported issuing more than 600,000 new citizenship cards during the exercise. A February study estimated that 20 percent of the population age 16 or over lacked citizenship certificates.

Ambiguous citizenship laws and regulations that discriminate by gender contributed to statelessness. The 2006 Citizenship Act states that anyone born to a Nepali mother or father has the right to Nepali citizenship. The same law states, contradictorily, that a child born to a Nepali woman who is married to a foreign citizen is able to obtain citizenship only through naturalization. Securing citizenship papers for the child of Nepali parents, even when the mother possesses Nepali citizenship documents, was extremely difficult unless the father of the child supported the application. These difficulties persisted despite a 2011 Supreme Court decision to grant a child Nepali citizenship through the mother if the father was unknown or absent.

For women to obtain citizenship for themselves, regulations require a married woman to submit a formal attestation from her husband, father, or her husband's family (if widowed) that she qualifies for citizenship and that she has his or their permission to receive it, thereby making a woman's right to citizenship contingent on her father's or husband's cooperation. In many cases husbands refused to provide their wives this attestation. Preventing women from obtaining citizenship documentation precludes their access to the courts and thus their ability to make legal claims to land and other property, leaving the husband or male relatives free to stake their own claims.

While stateless persons did not experience violence, they experienced discrimination in employment, education, housing, health services, marriage, birth registration, identity documentation, access to courts and judicial procedures, migration opportunities, and land and property ownership.

### **Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government**

The law provides citizens the ability to change their government through free and fair elections, which they exercised through elections based on universal suffrage.

#### **Elections and Political Participation**

Recent Elections: In November 2013 citizens participated in the country's second Constituent Assembly elections, which international and domestic observers deemed essentially credible, free, and fair. In an effort to obstruct the elections, the CPN-M committed acts of political violence and intimidation and attempted to enforce a 10-day transportation ban. Despite these efforts the Election Commission reported that more than 74 percent of registered voters participated, the highest figure in the country's history. According to domestic and international observers, including the Carter Center and the EU, the elections themselves were well conducted and generally free of major irregularities.

There have not been local elections since 1997. In public statements the government stated that conducting local elections was a priority. Elected local councils were dissolved in 2002, and in their absence senior civil servants conducted local administration in consultation with local political party representatives.

Participation of Women and Minorities: No specific laws restrict women, indigenous people, or minorities from voting or participating in government or political parties, but tradition limited the participation of women, some castes, and some ethnic groups in the political process. The larger political parties had associated women's wings, youth wings, trade unions, and social organizations. Women, youth, and minorities complained that party leaders, mostly upper-caste men, prohibited meaningful political participation.

#### **Section 4. Corruption and Lack of Transparency in Government**

Although the law provides criminal penalties for corruption by officials, there continued to be reports that officials engaged in corrupt practices with impunity.

Corruption: After five years without commissioners, in 2013 the interim government headed by then chief justice Khil Raj Regmi named a chief commissioner and one associate commissioner to head the Commission for the Investigation of the Abuse of Authority (CIAA), which is mandated to investigate official acts of corruption. Under new leadership the CIAA took high-profile actions against the Nepal Energy Authority, Department of Immigration, Department of Education, Department of Foreign Employment, Department of Health Services, and local government officials. In March the CIAA arrested six Department of Foreign Employment officials for taking bribes. The CIAA accused the officials of accepting 3.27 million rupees (\$32,700) to allow 109 migrants with

fraudulent documents to travel to Qatar and another 1.89 million rupees (\$18,900) to allow another 63 migrants with fraudulent documents to travel to Dubai.

The arrests followed a campaign in August and September 2013 in which the CIAA arrested 18 officials from the Department of Immigration, 15 from the Department of Foreign Employment, and nine from the Tribhuvan International Airport Labor Desk for sending 77 Nepali migrants to Qatar with fraudulent or improper documentation--a human trafficking-related offense. The most senior official arrested was the director general of the Department of Foreign Employment. Charges were filed in court in December 2013, and the trial for all of the officials continued.

There were numerous reports of corrupt actions by government officials, political parties, and party-affiliated organizations. As in previous years, student and labor groups associated with political parties demanded contributions from schools and businesses.

Corruption and impunity remained general problems within the Nepal Police.

Financial Disclosure: Public officials are subject to financial disclosure laws. According to the National Vigilance Center, the body mandated to monitor financial disclosures and make them available to the public, an estimated 35,000 civil servants had not submitted their annual financial statements as required by law in 2012, according to the latest data available. They may face a fine of up to 5,000 rupees (\$50). The CIAA publicly demanded that officials be more diligent in submitting financial disclosure reports. Ministers are required to submit their property details within two months of assuming office, and 23 of the 24 ministers did so.

Public Access to Information: The 2007 interim constitution provides for the right to information on any matters of concern to oneself or the public. It does not compel the government to provide information protected by law. The 2007 Right to Information Act paved the way for the formation of the National Information Commission, which is charged with adjudicating cases in which petitioners allege that they have been wrongly denied access to information, that information has been improperly classified, or that individuals were punished for whistle-blowing. The entity had been without commissioners since mid-2013, and lower-level civil servants were handling cases. As of August more than 500 cases were pending in the commission.

## **Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights**

While domestic and international human rights groups generally were free to operate, investigate, and publish their findings on human rights cases, the government placed administrative burdens on some international NGOs by complicating procedures for obtaining visas and compelling them to sign asset control documents.

The United Nations or Other International Bodies: The government generally allowed the UN and other international bodies to operate and did not refuse visa applications for staff or representatives from any such bodies. However, it did not extend invitations for visits by representatives from a number of special UN bodies, including the Special Rapporteur on the situation of human rights defenders, the Working Group on Enforced or Involuntary Disappearances, and the Special Rapporteur on the promotion of truth, justice, reparation, and guarantees of non-recurrence.

Government Human Rights Bodies: The NHRC investigated allegations of abuses, but resource constraints and insufficient manpower restricted the number of investigations it conducted. The NHRC claimed the government helped promote impunity by failing to implement its recommendations fully. The NHRC stated that since its establishment in 2000, it had made recommendations for prosecution and reparations in 735 cases, regarding approximately 2,000 victims. More than three-quarters of these involve conflict-era incidents. The NHRC noted the government had fully implemented 14 percent of these recommendations by carrying out prosecution and awarding reparations and partially implemented 48 percent through reparations alone. In the remaining cases, the government did not implement the NHRC's recommendations for prosecution or reparations.

On October 20, a full slate of newly appointed NHRC commissioners assumed office. The NHRC had lacked commissioners since September 2013, when the six-year term of the previous chairperson and other commissioners concluded. In the absence of commissioners, the NHRC operated under an acting secretary with limited authority and was unable to make recommendations on cases. The absence of commissioners also hindered filling more than 150 vacant NHRC staff positions, out of approximately 310 total positions.

The government and judiciary had not completely addressed conflict-era human rights and humanitarian law violations committed by the Nepal Army, Nepal

Police, APF, and Maoist parties. One criminal trial was completed, and there were five active or pending criminal investigations for conflict-related abuses by some of these actors.

On January 2, the Supreme Court struck down a 2013 presidential ordinance to establish a Truth and Reconciliation Commission, finding that the ordinance's provisions on amnesty and prosecutions violated the 2007 interim constitution. On May 11, the president signed into law legislation passed by the Constituent Assembly establishing a separate TRC and Commission on Investigation of the Disappeared Persons (CIDP), both of which were promised in the 2006 Comprehensive Peace Agreement. Human rights activists criticized the law for containing provisions on amnesty similar to those of the overturned 2013 ordinance. On June 3, a group of 234 conflict victims filed a writ petition in the Supreme Court challenging the TRC/CIDP law, contending the law included provisions that allow amnesty for serious crimes in violation of the interim constitution and international obligations. The writ petition also contended the law did not adequately ensure that victims' consent must be obtained in the reconciliation process. Finally, the petition challenged the constitutionality of a provision that gives the Ministry of Peace and Reconstruction the authority to vet any recommendations for prosecution from the TRC/CIDP (rather than having those recommendations made directly to the Office of the Attorney General). As of November the Supreme Court had not ruled on the legal challenge to the TRC/CIDP law.

Two additional challenges to the TRC/CIDP law, filed August 5 and September 23, sought to halt preparations to enact the TRC/CIDP on procedural grounds. The August 5 lawsuit argued that provisions for selecting the Recommendation Committee that, in turn, nominates the TRC and CIDP commissioners, violated the 2007 interim constitution. The September 23 lawsuit argued that the issuance of a public vacancy notice on September 18 for TRC and CIDP nominees was illegitimate in light of the other pending lawsuits. As of October both legal challenges were pending with the Supreme Court.

## **Section 6. Discrimination, Societal Abuses, and Trafficking in Persons**

The law prohibits discrimination based on race, caste, gender, disability, language, and social status, but the government did not effectively enforce these prohibitions. Despite passage of the Caste Discrimination and Untouchability Act in 2011, a rigid caste system continued to operate throughout the country in many areas of religious, professional, and daily life. Societal discrimination against lower castes,

women, and persons with disabilities remained common, especially in rural areas. Human trafficking persisted.

## Women

Rape and Domestic Violence: Violence against women remained a problem. Under the civil code, prison sentences for rape vary between five and 15 years, depending on the victim's age. The law also mandates five years' additional imprisonment in the case of gang rape, rape of pregnant women, or rape of a woman with disabilities. The victim's compensation depends on the degree of mental and physical abuse. The legal definition of rape includes marital rape for which the husband can be jailed for three to six months. The statute of limitations for filing rape charges is 35 days. Human rights groups highlighted concerns with the statute and implications for addressing sexual violence committed during the country's 10-year conflict.

Most incidents of rape went unreported, although in the rape cases that were reported, police and the courts were responsive. During fiscal year 2013-14, there were 912 cases of rape and 414 cases of attempted rape filed with police, compared with 677 cases of rape and 245 cases of attempted rape in the previous fiscal year, according to the Women and Children Service Directorate, commonly known as the Women's Police Cell, a special Nepal Police unit that investigated crimes against women and children.

Domestic violence against women remained a serious problem. There was much anecdotal evidence that physical and verbal abuse was common. Violence against women was believed to be one of the major factors responsible for the poor health of women, livelihood insecurity, and inadequate social mobilization. The domestic violence law imposes a fine of 3,000 to 25,000 rupees (\$30 to \$250), six months' imprisonment, or both, on violators. Repeat offenders receive double punishment. Any person holding a position of public responsibility is subject to 10 percent greater punishment than a person who does not hold such a position. Anyone who does not follow a court order is subject to a fine of 2,000 to 15,000 rupees (\$20 to \$150), four months' imprisonment, or both. Reports from women's rights defenders suggested that the majority of cases of gender-based violence against women incidents were unreported. The Women's Rehabilitation Center estimated that 25 percent of women who were survivors of violence sought medical care and 20 percent sought legal remedies. Dalit women in particular faced high levels of violence, and there were reports of cases of violations against widowed, divorced, and separated women, as well as women living in the hill regions.

Although the government passed the Domestic Violence (Crime and Punishment) Act in 2009, many security officials and citizens remained unaware of the law. The government's effort to establish the structures necessary to implement the act successfully were uncoordinated and incomplete. Most domestic violence cases were settled through mediation, with an emphasis on reconciliation. Legal prosecution was usually an option only when mediation fails.

NGOs offered educational programs for police, politicians, and the general public aiming to promote greater awareness of domestic violence. Police had women's cells in each of the country's 75 districts, but they had minimal resources and untrained personnel to deal with victims of domestic violence and trafficking. Police instructions indicated that officers should treat domestic violence as a criminal offense, but this guidance was difficult to implement because of entrenched discriminatory attitudes. Beginning in April women's rights activists staged a weekly hour-long sit-in to support their campaign to draw attention to violence against women. The protesters called on the government to establish a fast-track court to deal with rape cases.

Although the law generally prohibits polygamy, there are exceptions if the wife is infertile, sick, or crippled. According to the latest Nepal Demographic Health Survey in 2011, 4 percent of women and 2 percent of men lived in polygamous unions. Polygamists not covered under the above exceptions are subject to a one-to two-year prison term and a fine, but the second marriage is not invalidated.

Female Genital Mutilation/Cutting (FGM/C): There are no laws specifically prohibiting FGM/C, but the practice did not occur in the country.

Other Harmful Traditional Practices: Despite laws prohibiting the practice, which include penalties of up to 10,000 rupees (\$100) and prison sentences of up to three years, dowries remained common. According to traditional practice, a woman's family must pay the husband's family a predetermined amount based on the husband's training and education. Women's rights activists stated that the high cost of dowries was a leading cause of gender-based violence in the south-central district of Dhanusa, despite efforts to eradicate the practice. They claimed that in Dhanusa the cost of a dowry had increased over the past several years from the cost of a cow (\$250) to 400,000-1,000,000 rupees (\$4,000-\$10,000), demanded in cash. Activists reported that many men left the country to work abroad to earn money to pay for family members' dowries, which left the men's wives more vulnerable to abuse. The tradition was also strong in the Tarai districts bordering

India, and there were sporadic incidents of bride killing and attempted killing over dowry disputes. For example, on May 5, the husband, mother-in-law, and father-in-law of 19-year-old Rihana Sheikh Dhapali set her on fire for not providing a motorcycle and a water buffalo as part of her dowry. They then locked her in a room without medical treatment for two days. As of August she was undergoing treatment in Kathmandu, and the accused persons remained at large.

Traditional beliefs about witchcraft negatively affected rural women, especially widows, the elderly, persons of low economic status, or members of the Dalit caste. Shamans or family members publicly beat and otherwise physically abused alleged witches as part of exorcism ceremonies. The media and NGOs reported numerous cases of such violence during the year. There was no government mechanism to prevent such abuses or to provide compensation to those abused, but civil society organizations raised public awareness of the problem. Women accused of witchcraft were severely traumatized and suffered physical and mental abuse, including acts such as being fed human excreta, being hit with hot spoons in different parts of the body, being forced to touch hot irons or breathe in chili smoke, having their genitals perforated, or being banished from their community. According to Informal Sector Service Center, in 2013, 69 women accused of witchcraft were victims of violence, with an additional 20 victims in the first quarter of the year.

The practice of chhaupadi (expelling women from their homes, including forcing women to reside in cattle sheds during menstruation and sometimes following childbirth) continued to be a serious problem. The practice puts adolescent girls, women, and infants who are expelled with their mothers at risk of exposure to extreme elements and predators. The most recent Nepal Multi-Index Survey in 2010 reported that while 19 percent of women between the ages of 15 and 49 nationwide practiced chhaupadi, the problem was particularly acute in the hilly regions of mid- and far-west parts of the country, where approximately 50 percent did so. Women in Kathmandu also reported being forced to practice a less extreme form of chhaupadi and generally were not allowed in the kitchen or where any religious rituals were being practiced. Chhaupadi directly limited girls' access to education for a large portion of the academic year.

Sexual Harassment: The law contains a provision against sexual harassment, with a maximum penalty of one year in prison and a fine of 10,000 rupees (\$100). Sexual harassment was a problem, and government enforcement was weak. Lack of awareness about what constitutes sexual harassment led victims not to report

many incidents. The private sector remained limited in developing proactive policies to address the practice.

Reproductive Rights: Couples and individuals generally could decide freely the number, spacing, and timing of their children and were not subject to discrimination, coercion, or violence regarding these choices. Contraception was available to both men and women. According to the latest Demographic Health Survey in 2011, 43 percent of married women used a modern contraceptive method and 7 percent used a traditional method--approximately the same rate as in the prior survey in 2006--while 27 percent of married women had an unmet need for family planning.

According to the World Health Organization, the maternal mortality rate for 2013 was 190 deaths per 1,000 live births, down from 310 deaths in 2005. With more than 75 percent of the national health budget directed towards maternal and child care, the Ministry of Health endeavored to decrease maternal mortality by providing financial assistance to women seeking skilled delivery care in a health facility and to family planning services. Even so, skilled birth attendants assisted in only 36 percent of deliveries, according to the health survey.

Discrimination: Although the law provides protections for women, including equal pay for equal work, the government did not implement those provisions, including in many state industries.

Women faced systemic discrimination, particularly in rural areas where religious and cultural traditions, lack of education, and ignorance of the law remained severe impediments to the exercise of basic rights, such as the right to vote or to hold property in a woman's name. The law grants women equal shares of their parents' inheritance and the right to keep their property after marriage, but many women were not aware of their rights, and others were afraid to challenge existing practice. The law also grants widows complete access and authority to the estate of their deceased husbands. Traditional attitudes stigmatizing and shunning widows persisted, and communities often ignored the law, however, while the government did not take sufficient measures to enforce it.

While there are legal provisions to confer citizenship automatically through either Nepali parent, laws governing citizenship are ambiguous. Government officials often refused to grant citizenship documents based on the mother's citizenship if a father's identity was unknown or if he was a foreign citizen.

Despite the 2006 Gender Equality Act, discriminatory provisions remain in the law and in more than 60 other laws. For example, the law on property rights favors men in land tenancy and the division of family property. The law encourages bigamy by allowing men to remarry without divorcing if the first wife is incapacitated or infertile.

In an attempt to protect women from trafficking and abuse, the government maintained a prohibition on women under the age of 30 traveling to the Persian Gulf for domestic employment. According to Human Rights Watch, the regulation did not prevent trafficking or abuse but forced women to seek irregular channels to the Gulf, putting them at greater risk of exploitation. Antitrafficking NGOs reported that this was now the case, but no reliable data existed. Some NGOs also viewed the regulation as discriminatory because young men were not similarly prohibited from traveling to the Gulf.

## **Children**

Birth Registration: According to the 2006 Nepal Citizenship Act, citizenship is derived from one of the parents with Nepali nationality. Despite the Supreme Court's 2011 decision that applicants may seek citizenship through either their father or mother, many were denied citizenship due to lack of access to local authorities, or lack of awareness of the law by applicants or government officials. This led to problems attaining citizenship and difficulty in school admissions. Children living without parents, such as street children whose parents' whereabouts were not known, faced many hurdles, although children in institutional care can attain citizenship through the guardianship of their respective institutions. Children found within the borders of the country, whose parents were not known, were considered citizens on the basis of lineage until the parents of the child were identified.

Education: Education is not compulsory across the country, but there are 13 compulsory education pilot districts. Government policy provides free primary education for all children between the ages of five and 12, although most students bore some costs for examinations and had to buy uniforms. The government reported that more than 95 percent of school-age children attended primary schools. A gender gap in education persisted with a reported two-thirds of adolescent girls in rural areas not attending school. Literacy rates for women were approximately 44.5 percent versus 71 percent for men. Some school-age girls did not attend school due to the absence of separate or proper toilets. The Department

of Education estimated that 25-30 percent of public schools did not have separate toilets for girls, a 5-10 percent improvement from 2013.

Medical Care: The government provided basic health care free to children and adults, although prevalent parental discrimination against girls often resulted in impoverished parents giving priority to their boys when seeking medical services.

Child Abuse: Violence against children, including sexual abuse, was reportedly widespread, but there were no reliable estimates on the level of abuse. The government has some mechanisms, including helplines, to respond to child abuse and violence against children, such as the Central Child Welfare Board (CCWB), which has chapters in all 75 districts of the country. In some locations these agencies did not provide adequate support to the NGOs that operated the helplines. According to the NGO Children and Women in Social Service and Human Rights (CWISH), the strengthening of community mechanisms such as child protection committees at the village level and parent-teacher associations in schools resulted in an increase in the reporting of violence against and sexual abuse of children at home and in schools. According to CWISH, police were often not receptive to such reports.

Early and Forced Marriage: The law prohibits marriage for girls before the age of 18. While families in many areas sometimes forced their young children to marry, the rate of early and forced marriage decreased since 2002. According to a UN Children's Fund report published in July, based on data from 2005 to 2013, the prevalence of early and forced marriage remained high. Nearly 18 percent of women ages 20 to 49 were married before age 15, while approximately 34 percent of women were married or in a union sometime between ages 15 and 18.

Social, economic, and cultural values promoted the practice of early and forced marriages. The law sets penalties for violations according to the age of the girls involved in child marriage. The penalty includes both a prison sentence and fine, with the fees collected going to the girl involved. The civil code provides that the government must take action whenever a case of child marriage is filed with authorities.

The government worked with local child rights groups and international donors on the problem of early and forced marriage. A number of government child protection and welfare programs, such as scholarship programs targeting girls, attempted to encourage girls to stay in school.

Female Genital Mutilation/Cutting (FGM/C): There are no laws specifically prohibiting FGM/C, but the practice did not occur in the country.

Sexual Exploitation of Children: Commercial sexual exploitation of children remained a serious problem, according to NGOs. There were reports of boys and girls living on the streets who survived through prostitution and of underage girls employed in dance bars, massage parlors, and cabin restaurants (a type of brothel). The minimum age for consensual sex is 16. The penalties for rape vary according to age of the victim and the relationship. Conviction for rape can result in six to 10 years' imprisonment if the victim is under 14 years of age or three to five years' imprisonment if she is 14 or older. Conviction for attempted rape may be punished by half the penalty provided for rape.

Child pornography is against the law, with fines of up to 100,000 rupees (\$1,000) and sentences of up to five years in prison, or both.

Displaced Children: The government did not have comprehensive data on children affected by the decade-long Maoist conflict, including the original number internally displaced and the number who remain displaced. In a 2009 report based on information from 53 districts, the CCWB recorded 9,691 children displaced with both of their parents, 3,930 children who lost one parent, and 1,657 children who lost both parents. Estimates of the number of children who remain displaced ranged widely.

Institutionalized Children: Abuse and mistreatment in orphanages and children's homes reportedly was common. An NGO working in this area estimated that approximately 10 percent of registered children's homes met the minimum legal standards of operation. A 2013 study by CWISH similarly showed that few such homes in the Kathmandu Valley met CCWB standards, although they provided some basic services. NGOs reported that inspections of homes by the CCWB and district-based child welfare boards were infrequent and did not cover the estimated 25 percent of unregistered homes.

An NGO estimated that at least two of three children in registered homes were not orphans, and the figure for unregistered homes was probably comparable. The CCWB stated that many children in institutions were inaccurately presented as orphans or destitute to attract the sympathy of fee-paying foreign volunteers and donors. According to the same NGO, staff sometimes threatened children if they revealed the truth of their parentage, or abused, starved, or otherwise mistreated the children to attract sympathy and financial support. When government agencies

took action against abuse, it often followed lobbying by civil society and concerned individuals. In cases where the CCWB participated in rescue raids, some homes reportedly lost their operating licenses and were prohibited from reopening for five years.

In July police arrested Rabin Shrestha, the former head of adoptions of the Nepal Children's Organization (commonly known as Bal Mandir), and Rabin Chalise, a former student who ran the youth club at the facility, on charges that they repeatedly raped and molested children in the home. The criminal case was pending.

International Child Abductions: The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction.

### **Anti-Semitism**

There was a small Jewish community in the country, and there were no reports of anti-Semitic acts.

### **Trafficking in Persons**

See the Department of State's *Trafficking in Persons Report* at [www.state.gov/j/tip/rls/tiprpt/](http://www.state.gov/j/tip/rls/tiprpt/).

### **Persons with Disabilities**

The 2007 interim constitution addresses the rights of persons with disabilities, but government efforts to enforce laws and regulations to improve rights and benefits for persons with disabilities were not effective. In 2012 the Supreme Court ordered the government to do more for persons with physical and mental disabilities, such as providing a monthly stipend, building shelters, and appointing one social welfare worker in each district. In July the government extended disability allowances to persons with a broader array of disabilities. The government also used a mandatory 5 percent public employment quota to hire 175 persons with disabilities as teachers.

The Ministry of Women, Children, and Social Welfare was responsible for the protection of persons with disabilities. Additionally, the Ministry of Education provided scholarships for 62,000 children with disabilities to attend public or private schools at the primary level. Far fewer attended at successive levels of

education, largely due to accessibility problems, school locations, and financial burdens on parents. Although incidents of abuse of children with disabilities reportedly occurred in schools, no incidents were filed in the courts or with the relevant agencies during the year.

The Ministry of Local Development allocated 5 percent of the budget of local development agencies for disability programs. Some NGOs working with persons with disabilities received funding from the government, but most individuals with physical or mental disabilities relied almost exclusively on family members for assistance.

There are no restrictions in law on the rights of persons with disabilities to vote and participate in civic affairs. According to the Ministry of Women, Children, and Social Welfare, however, there were obstacles to exercising these rights, especially the lack of accessibility to public facilities.

The NHRC received 37 complaints of discrimination based on mental illness. Access to mental health services was available in larger cities, and the Ministry of Women, Children, and Social Welfare doubled its allocation for mental health organizations during the year from 500,000 rupees to one million rupees (\$5,000 to \$10,000).

### **National/Racial/Ethnic Minorities**

The law provides that each community shall have the right “to preserve and promote its language, script, and culture,” and to operate schools at the primary level in its native language. The government generally upheld these provisions. There were more than 75 ethnic groups, some of which are considered indigenous nationalities, speaking more than 50 different languages.

Discrimination against lower castes and some ethnic groups was especially common in the Tarai region and in rural areas.

Caste-based discrimination is illegal, and the government outlawed the public shunning of Dalits and made an effort to protect the rights of disadvantaged castes. According to the Nepal National Dalit Social Welfare Organization, government progress in reducing discrimination remained limited in rural areas, and police were reluctant to investigate cases of alleged discrimination. Resistance to intercaste marriage sometimes resulted in ostracism or forced expulsion from the community, according to media reports and NGOs advocating for Dalit rights.

Media reports also covered incidents in which Dalits were barred from entering temples and teashops and sharing water sources, and they occasionally suffered violence in such situations, which NGOs said was decreasing but persisted. On May 14, according to media reports, members of an upper-caste family in Butwal Municipality assaulted Sabita Biswakarma, pregnant at the time, while she was filling her pitcher at a public water tap, causing her to lose consciousness.

In urban areas better education and higher levels of prosperity, especially in the Kathmandu Valley, were slowly reducing caste distinctions and increasing opportunities for lower socioeconomic groups. Members of better-educated, urban-oriented castes continued to dominate politics and senior administrative and military positions and control a disproportionate share of natural resources.

### **Indigenous People**

The government recognizes 59 ethnic/caste groups as indigenous nationalities, comprising approximately 36 percent of the population. Although some communities were comparatively privileged, many faced unequal access to government resources and political institutions as well as linguistic, religious, and cultural discrimination.

Conflicts between indigenous groups and government authorities over control of local resources and the distribution of benefits from development projects sometimes occurred. Some disputes arose over interpretation of the country's obligations under International Labor Organization Convention 169, which indigenous groups maintained granted them exclusive rights over natural resources.

In June there was a violent confrontation between residents and police in Dho village in Dolpo district in the Himalayan region after a dispute over collection of taxes on yarsagumba, a caterpillar fungus prized as a commodity for its purported medicinal properties. For the last five years, locals imposed a fee of 1,500 rupees (\$15) on each nonresident who picked yarsagumba, but the Buffer Zone Management Committee, recognized by the administration of a nearby national park, declared this tax illegal. The committee seized 800,000 rupees (\$8,000), and locals demanded the return of the funds. When police intervened, clashes broke out, leading to the deaths of two residents and many injuries. The government formed a committee to investigate the incident, but local Dolpo groups considered the committee biased and staged periodic protests.

## **Acts of Violence, Discrimination, and Other Abuses Based on Sexual Orientation and Gender Identity**

No laws specifically criminalize same-sex sexual activity, and lesbian, gay, bisexual, and transgender (LGBT) persons actively and openly advocated for their rights. LGBT activists continued to press for protections for sexual minorities in the new constitution.

In 2007 the Supreme Court directed the government to enact laws to protect LGBT persons' fundamental rights, enable third-gender citizenship, and amend laws that were sexually discriminatory. Implementation of the 2007 decision was initially slow. In 2013 the Home Ministry started issuing citizenship certificates with an "others" gender category for those applying for citizenship. In April the Ministry of Women, Children, and Social Welfare assigned an official to be the focal person for sexual and general minorities. According to Blue Diamond Society (BDS), a local LGBT advocacy NGO, the government did not provide equal opportunity to LGBT persons in employment, education, and health care.

Government authorities and private citizens reportedly harassed and abused LGBT persons, and the Nepal Police HRC documented two such incidents during the year, a decline from 2013. According to BDS, harassment of LGBT persons was common. BDS also stated the police targeted transgender sex workers, subjecting them to 25 days' detention without charge. The Nepal Police HRC confirmed that some low-level harassment occurred because many citizens held negative views of LGBT persons, and the Nepal Police were not immune to such social perceptions. The Nepal Police HRC conducted LGBT rights training and worked closely with the LGBT community to minimize and prevent such harassment.

### **HIV and AIDS Social Stigma**

There was no official discrimination against persons who provided HIV-prevention services or against high-risk groups that could spread HIV/AIDS.

Societal discrimination and stigma against persons with HIV, including self-stigma, remained common. In the most recent demographic and health survey for the country, 30.7 percent of women and 24.9 percent of men reported discriminatory attitudes towards those with HIV.

District AIDS Coordination Committee coordinators reported 552 discriminatory incidents between August 2013 and June 2014. According to NGOs, social

acceptance of people with HIV increased, largely due to government-sponsored awareness programs for health-care workers and volunteers, media, police, teachers and students, local leaders, and community members.

Most health-care facilities that provide HIV-related services did so without significant stigma or discrimination, but there were reported incidents of hampered access for persons with HIV to education and health care, especially for pregnant women in the Tarai seeking delivery services. In Banke district, two children of a parent with HIV were expelled from school. The coordinated intervention of NGOs and district health and education officials led to the students' return to the school.

### **Other Societal Violence or Discrimination**

Compared with previous years, there were fewer reports of violence by politically motivated armed groups in the Tarai region, including those identified with the Madhesi movement that began in 2007. Criminal violence in the Tarai region by nonpolitically motivated armed groups and individuals, including abduction, extortion, and assault, remained widespread.

## **Section 7. Worker Rights**

### **a. Freedom of Association and the Right to Collective Bargaining**

The law provides for the right of workers to form and join unions of their choice, except those deemed by the government as subversive or seditious organizations. Freedom of association extends to workers in both the formal and informal sectors. Noncitizens cannot be elected as trade union officials and do not have the right to form unions. Local workers have the right to strike and bargain collectively, except for employees in 16 essential services, including public transportation, banking, security, and health care, among others. Members of the armed forces, police, and government officials at the undersecretary level or higher are also prohibited from taking part in union activities. In the private sector, employees in managerial positions are not permitted to join unions.

The law stipulates that unions must represent at least 25 percent of workers in a given workplace to be considered representative. The minimum requirement does not prohibit the formation of unofficial union groups, which could call strikes and enter into direct negotiation with the government. Workers in the informal sector may also form unions, but many workers were not aware of these rights.

The law also protects union representatives from adverse legal action arising from their official union duties, including collective bargaining, and prohibits antiunion discrimination. Workers dismissed for engaging in union activities can seek reinstatement by filing a complaint in labor court or with the Department of Labor, which has semijudicial and mediation authority. Most cases are settled through mediation. By law employers can fire workers only under limited conditions and only after three counts of misconduct. The law stipulates that participation in a strike that does not meet legal requirements constitutes misconduct, for which the consequences are suspension or termination of employment.

To conduct a legal strike, 51 percent of a union's membership must vote in favor in a secret ballot, and unions are required to give 30 days' notice before striking. If the union is unregistered, does not have majority support, or calls a strike prior to issuing 30 days' notice, the strike is considered illegal.

The government was unable to enforce applicable laws fully, since resources, inspections, and remediations were inadequate and penalties for violations were insufficient to deter violations. Administrative and/or judicial procedures were subject to lengthy delays and appeals. Freedom of association and the right to collective bargaining were generally respected. Although the government restricted strikes in essential services, workers in hospitals, education services, and the transportation sector called numerous strikes during the year and did not face any legal penalties. Many unions had links to political parties and did not operate independently from them. Labor leaders faced challenges in reaching collective bargaining agreements due to political infighting among trade unions, which often delayed settlement.

The government did not interfere in the functioning of workers' organizations or threaten union leaders. Compared with previous years, there were fewer reports of major violence in labor disputes during the year. Strikes in essential service sectors such as hospitals, despite being prohibited, increased. A two-week strike by nearly 300 doctors at Bir Hospital, the oldest government-run hospital in the country, came to an end August 11, after doctors and the Health Ministry signed a nine-point agreement to upgrade the hospital's technology. An uncertified labor union affiliated with the CPN-M disrupted the distribution of newspapers published by Kantipur Publications, the largest media house in the country, in an effort to pressure the company to recognize the CPN-M as the primary labor union representing Kantipur workers. Kantipur, whose employees were represented by other certified independent unions, rejected the CPN-M's demands.

## **b. Prohibition of Forced or Compulsory Labor**

The law prohibits all forms of forced or compulsory labor, including slavery and bonded labor, and provides penalties ranging from one to 20 years in prison and fines of up to 200,000 rupees (\$2,000). The law does not criminalize the recruitment, transportation, harboring, or receipt of persons by force, fraud, or coercion for the purpose of forced labor. The government made significant efforts to comply with minimum standards for the elimination of trafficking despite limited resources, but the country continued to be a source, transit, and destination for men, women, and children who were subjected to forced labor.

Government enforcement of the laws against bonded labor was uneven, and social reintegration of victims remained difficult. Resources, inspections, and remediation were inadequate, and penalties for violations were insufficient to deter violations. During the year the government rehabilitated 2,457 Kamaiyas, bonded laborers of Tharu ethnicity who were freed 14 years ago, by providing financial, material, and other social welfare benefits. Nevertheless, many former Kamaiya families continued to reside on riverbanks and barren plots of land under poor living conditions, with limited employment opportunities and access to education. In July, Kamaiya groups demanded that the government form a high-level commission on freed bonded laborers, raise their entitlement from 10,000 rupees (\$100) to at least 50,000 rupees (\$500), and provide a minimum amount of land and building materials to each family for the construction of homes.

Following protests by former Kamlari laborers (girl bonded laborers) in Kathmandu and mid- and far-western regions of the country in 2013, the government agreed to abolish the practice of bonded labor (although it was already illegal) and compensate the victims' families. The government allocated 120 million rupees (\$1.2 million) for the education of former Kamlari, but authorities did not spend the full amount.

Also see the Department of State's *Trafficking in Persons Report* at [www.state.gov/j/tip/rls/tiprpt/](http://www.state.gov/j/tip/rls/tiprpt/).

## **c. Prohibition of Child Labor and Minimum Age for Employment**

The law establishes 14 as the minimum age for work and 16 as the minimum age for hazardous work, and it mandates acceptable working conditions for children. Employers must maintain separate records of laborers between the ages of 14 and

16. The law prohibits employment of children in factories, mines, and 60 other categories of hazardous work and limits children between the ages of 16 and 18 to a 36-hour workweek (six hours a day between 6 a.m. and 6 p.m., and six days a week). The law also establishes penalties of up to two years in prison and a fine up to 100,000 rupees (\$1,000) for those who unlawfully employ children, but the law was not fully implemented.

The Ministry of Labor and Employment, which is responsible for enforcing child labor laws and practices, had an inadequate enforcement record, and a significant amount of child labor occurred in the formal and informal sectors. The Department of Labor reported that it revamped its inspection program and added 11 new inspector positions, bringing the total to 21. Some of these positions were vacant due to regular rotation of civil servants, and resources devoted to enforcement were limited. There are a broad range of laws and policies designed to combat and eventually eliminate child labor. Penalties range from a 10,000 rupees (\$100) fine and one year in prison to a 200,000 rupees (\$2,000) fine and 20 years' imprisonment. Child labor in the informal sector occurred in agriculture, domestic service, portering, recycling, and transportation; the worst abuses were reported in brick kilns, the stone-breaking industry, the carpet sector, embroidery factories, and the entertainment sector. In the informal sector children worked long hours in unhealthy environments, carried heavy loads, were at risk of sexual exploitation, and at times suffered from numerous health problems (see section 6, Children).

The Social Welfare Department of Lalitpur located in the Kathmandu Valley rescued 49 child domestic workers under the age of 14. Most of the offenders paid 5,000-10,000 rupees (\$50-\$100) to compensate each victim. The operations were part of a "green-flag campaign," also adopted in some other municipalities, which aimed to rid Lalitpur of child labor by the end of the year.

According to the Nepal Labor Force Survey 2008, the most recent survey available, the labor-force participation rate was 13.4 percent for children between the ages of five and nine and 52.7 percent for children between 10 and 14.

Also see the Department of Labor's *Findings on the Worst Forms of Child Labor* at [www.dol.gov/ilab/reports/child-labor/findings/](http://www.dol.gov/ilab/reports/child-labor/findings/).

#### **d. Discrimination with Respect to Employment or Occupation**

The 2007 interim constitution prohibits discrimination on the basis of religion, race, sex, caste, tribe, original language, or ideological conviction. The interim constitution also stipulates that the government may make special provisions for the protection, empowerment or advancement of women, Dalits, indigenous peoples, persons with disabilities, and those “who belong to a class which is economically, socially or culturally backward.” Labor regulations prohibit discrimination in payment or remuneration based on gender. There are no provisions in the interim constitution, law, or regulations explicitly prohibiting discrimination, including labor discrimination, regarding sexual orientation or gender identity, HIV-positive status, or other communicable disease.

Despite these legal protections, discrimination in employment and occupation occurred with respect to gender, caste, ethnicity, disability, sexual orientation, and gender identity, as well as with respect to HIV-positive status (see section 6). Such discrimination was most common in the informal sector, where monitoring by the government and human rights organizations was weak or absent, and those in disadvantaged categories had little leverage or recourse. In the formal sector, labor discrimination generally took the form of upper-caste, able-bodied men being favored in hiring and promotions.

#### **e. Acceptable Conditions of Work**

The government last increased the minimum wage for unskilled laborers in 2013 from 6,200 rupees to 8,000 rupees (\$62 to \$80) per month. The minimum wage exceeded the official poverty line of 125 rupees (\$1.25) per day but was barely sufficient to meet subsistence needs. Minimum wage laws apply to both the formal sector (which accounted for approximately 10 percent of the workforce) and the informal sector, but implementation was stronger in the formal sector. As per an understanding reached between the Joint Trade Union Coordination Center (a common forum of 11 trade unions), the Federation of Nepali Chamber of Commerce and Industry, and the Ministry of Labor, the minimum wage should be revised every two years, meaning it should next be revised in May 2015.

The law stipulates a 48-hour workweek, with one day off per week and one-half hour of rest per five hours worked. The law limits overtime to no more than four hours in a day and 20 hours per week, with a 50 percent overtime premium per hour. Excessive compulsory overtime is prohibited. Employees are also entitled to paid public holiday leave, sick leave, annual leave, maternity leave, bereavement leave, and other special leave. The law provides adequate occupational health and safety standards and establishes other benefits, such as a provident fund, housing

facilities, day-care arrangements for establishments with more than 50 female workers, and maternity benefits.

The Ministry of Labor reported that most factories in the formal sector complied with laws on minimum wage and hours of work, but implementation varied in the informal sector, including in agriculture and domestic servitude. The ministry employed up to 10 factory inspectors for the entire country, who also acted as labor and occupational health and safety inspectors.

Implementation and enforcement of occupational health and safety standards were minimal, and the Ministry of Labor considered it the most neglected area of labor law enforcement. The ministry found violations across sectors, including in construction, mining, transportation, agriculture, and factory work.

The government had not created the necessary regulatory or administrative structures to enforce occupational safety and health provisions. The Ministry of Labor did not have a specific office dedicated to occupational safety and health, nor did it have inspectors specifically trained in this area. Penalties were insufficient to deter violations. Although the law authorizes factory inspectors to order employers to rectify unsafe conditions, enforcement of safety standards remained minimal, and monitoring was weak. Accurate data on workplace fatalities and accidents were not collected on a regular basis. Labor law and regulations do not specify if workers can remove themselves from situations that endanger health or safety without jeopardy to their employment.

The government regulated labor contracting, or “manpower,” agencies recruiting workers for overseas jobs, and penalized fraudulent recruitment practices. Some government officials were complicit in falsifying travel documents and overlooking recruiting violations by labor contractors. In June the special court for corruption convicted five immigration officials at Tribhuvan International Airport and four manpower agents for a bribery scheme in which one local citizen and two foreigners used passports belonging to others to facilitate foreign employment. The myriad unregistered and unregulated labor “brokers” and intermediaries, who were often trusted members of the community, complicated effective monitoring of recruitment practices. Workers were also encouraged to register and pay a fee to the Foreign Employment Promotion Board, which tracked migrant workers and provided some compensation for workers whose rights were violated.

The government required contracts for workers going abroad to be translated into Nepali and instituted provisions whereby workers must attend a predeparture

orientation program. During the orientation workers are made aware of their rights and legal recourse, should their rights be violated. The effectiveness of the initiatives remained questionable, since workers who went overseas often skipped the mandatory training, and many companies issued predeparture orientation certificates for a small fee rather than deliver the training. Nepali migrant workers abroad often continued to face exploitive conditions.

There were large numbers of workers in the informal sector, although no data were available to confirm the size of the informal economy with precision. According to the Nepal Labor Force Survey, in 2008 an estimated 2.15 million persons ages 15 and over were employed in the nonagricultural informal sector (70 percent of total nonagricultural employment at that time).

The law provides for protection of workers from work situations that endanger their health and safety, but in small and cottage industries located in small towns and village, employers sometimes forced workers to work in such situations or risk losing their jobs.