

NEPAL 2013 HUMAN RIGHTS REPORT

EXECUTIVE SUMMARY

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 is responsible for drafting a new constitution. On November 19, Nepal held national elections to replace the Constituent Assembly, which was suspended in May 2012 after it did not draft a new constitution by the deadline established by the Supreme Court. Domestic and international observers characterized the Constituent Assembly election results as credible and well conducted, and the Asian Network for Free Elections (ANFREL) characterized them as essentially free and fair. There were reports of political violence, intimidation, and some voting irregularities, although many fewer than in the previous Constituent Assembly elections in 2008. Authorities maintained effective control of the security forces. As in previous years, there were reports that security forces committed human rights abuses.

The most significant human rights problems were exacerbated by the country's continuing delay in promulgating a permanent constitution (reflecting the absence of an elected legislature for most of the year); the continued absence of transitional justice mechanisms, such as a truth and reconciliation commission to account for past human rights abuses; and the related failure to implement court-ordered arrests of military personnel, Maoists, and other individuals accused or convicted of human rights violations stemming from the country's 10-year insurgency.

Other human rights problems included poor prison and detention center conditions. Corruption existed at all levels of government and police, and the courts remained vulnerable to political pressure, bribery, and intimidation. There were problems with self-censorship by members of the press. The government sometimes restricted freedom of assembly. The government limited freedoms for refugees, particularly for the Tibetan community. Discrimination against women was a problem, and citizenship laws that discriminate by gender contributed to statelessness. Domestic violence against women remained a serious problem, and dowry-related deaths occurred. Violence against children was widespread, although rarely prosecuted, and sex trafficking of adults and minors remained a serious problem. Discrimination against persons with disabilities, some ethnic groups, and persons with HIV/AIDS continued. Violence associated with caste-

based discrimination occurred. There were some restrictions on worker rights, and forced, bonded, and child labor remained significant problems.

A decreasing number of armed groups, largely in the Tarai region, attacked civilians, government officials, members of particular ethnic groups, and each other. Members of the Maoist-affiliated All Nepal National Independent Students Union-Revolutionary (ANNISU-R) were responsible for extortion, intimidation, and school bus burnings. Armed groups were responsible for abductions to obtain ransom, mainly in the Tarai region.

Impunity for conflict-era human rights violations continued to be a serious problem in the absence of a truth and reconciliation commission and a disappearances commission.

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

a. Arbitrary or Unlawful Deprivation of Life

There were several reports that the government or its agents committed arbitrary or unlawful killings. The Tarai Human Rights Defenders Alliance (THRDA), a local human rights organization, and the National Human Rights Commission reported that the Nepal Police killed at least three individuals. The Nepal Police Human Rights Cell (HRC) and the Nepal Army HRC did not receive any reports of arbitrary or unlawful deprivation of life.

On August 9, the body of Ramsewak Dhobi was found floating in a ditch near the Marchwar Area police station after Dhobi's arrest on August 8 for disorderly conduct, according to the THRDA. The body showed signs of severe beating, and there was no water in the lungs or stomach, indicating Dhobi died before being deposited in the ditch, the THRDA reported. After the body was retrieved, the THRDA stated, police pressured the local community to cremate it without an official post mortem, which is required by law, and guarded the cremation site throughout the process. Police officials reported that an internal investigation did not reveal a wrongful death at the hands of police. The officials acknowledged, however, that police should not have allowed the cremation to proceed without a post mortem.

On January 3, local police in Dailekh district in western Nepal arrested five Maoists implicated in the 2004 torture and murder of Radio Nepal journalist Dekendra Thapa. According to media reports, the Maoist-led government

attempted to block the investigation, claiming that only a truth and reconciliation commission (which has yet to be formed) could investigate conflict-era cases due to their sensitive political nature. On January 15, the Supreme Court disagreed and ordered senior government officials to stop interfering in the case. The Dailekh chief district officer, chief of police, and the police officer who filed the case were transferred shortly after the arrests in what the government and police claimed were part of the normal transfer cycle. The five accused Maoists attempted to appeal their arrest, but the appellate court rejected their case. The accused remained in jail pending trial at the Dailekh District Court.

Several other conflict-era killings have not yet been resolved. On July 22, the parents of Krishna Prasad Adhikari, a student who Maoists allegedly killed in Chitwan district in 2004, entered into a widely publicized “fast unto death” until the government took action to investigate their son’s death and bring the alleged perpetrators to justice. The fast led the government to begin an investigation. Police made one arrest on September 6 but released the suspect on September 30 after the Chitwan district attorney stated there was insufficient evidence for a murder trial; 10 other suspects remained at large. Bal Krishna Dhungel – a Maoist convicted of killing Ujjan Kumar Shrestha in 1998 – remained at large despite a 2011 Supreme Court order for his arrest. Dhungel attempted to run in the November 19 elections for Sindhupalchok district. On November 6, the Election Commission Nepal annulled his candidacy because the Supreme Court had sentenced him to life imprisonment for Shrestha’s murder.

As in past years, there was violence in the Tarai region, although the number and severity of incidents decreased markedly following the end of the Maoist insurgency in 2006. Groups associated with the Unified Communist Party of Nepal-Maoist (UCPN(M)), which headed the government until March, and a breakaway Maoist party, the Communist Party of Nepal-Maoist (CPN-M), reportedly committed acts of violence, extortion, and intimidation 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 National Human Rights Commission (NHRC), there were approximately 846 unresolved cases of

disappearances, 606 of which may involve the state. As of year's end, the government had not prosecuted 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 with state involvement. The NHRC reported that Maoists were believed to be involved in 146 unresolved disappearances during the conflict. As of year's end, the government had not prosecuted any Maoists for involvement in disappearances.

The overall number of conflict-era missing persons has generally remained stable in recent years. In August the International Committee of the Red Cross (ICRC) listed on its website 1,360 names of missing persons. In 2012 the ICRC and the Nepal Red Cross Society listed 1,401 missing persons. The ICRC listed 1,383 missing persons in 2011; 1,391 missing persons in 2010; and 1,348 missing persons in 2009. In 2008 and 2007, the numbers were 1,227 and 812, respectively. The ICRC reported that the number decreased for 2013, although new cases were filed as the whereabouts of many previously missing persons was established.

No one has been held responsible for the disappearance of 49 suspected Maoists from the Maharajgunj Army barracks in Kathmandu in 2003. A Nepal Army HRC investigative committee submitted its findings to the Ministry of Defense with a recommendation that the matter be revisited when the government forms a truth and reconciliation commission. In 2012 the Nepal Army promoted Raju Basnet, an officer implicated in the disappearances, to brigadier general despite a Supreme Court stay order for further judicial review.

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

Although the interim constitution of 2007 requires that torture be criminalized, 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 Advocacy Forum (AF), a local human rights nongovernmental organization (NGO), at least 17 abuse cases were filed with the Nepal Police during the year, adding to 140 cases filed since 2007, 46 of which have not yet been resolved. Of the pending cases, as of August the judicial system had awarded compensation in four cases. During the year the Nepal Police HRC reported receiving 11 torture complaints, which are subject to ongoing investigations.

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 received treatment 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 prisoners 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 22 percent of 3,773 detainees it interviewed in 2012, reported to the AF some form of physical abuse. According to the Nepal Police HRC, the vast majority of these alleged incidents were not formally reported, making them impossible for police to investigate.

As of August, Child Workers in Nepal, a leading local child rights NGO, recorded 111 cases of children under the age of 18 who were detained and generally reported receiving poor treatment by police. In March, according to the AF, the Nepal Police arrested a 14-year-old child from Dhanusha district for fighting. The AF alleged that police beat him at the time of arrest and throughout the night, leaving injuries and bruises on his head, torso, legs, and feet.

Prison and Detention Center Conditions

Prison and detention center conditions were extremely 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 September, 15,244 prisoners, including 1,131 women and 87 dependent children of imprisoned parents, were in custody. Of the total, 965 were foreign nationals. The 2012 OAG monitoring report indicated that prison authorities did not separate serious offenders from moderate offenders in accordance with the law.

Overcrowding was a serious problem in prisons, the THRDA claimed, with detention facilities designed to hold 10 persons, holding up to 40 individuals in Siraha district. Media reports indicated that Khandbari District Prison held 100 prisoners and detainees despite its 25-person capacity. 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 report added that 90 percent of detention center inmates received a medical examination after arrest as the law required and that prisoners had access to local hospitals at any time of need, but doctors did not conduct routine checkups

for healthy prisoners, as the law requires. According to the AF, medical care was poor for prisoners with serious conditions, and some prisoners had access only to unfiltered and dirty water.

Due to a lack of adequate juvenile detention facilities, authorities occasionally incarcerated children with adults or allowed children to remain in jails with their incarcerated parents.

The OAG report stated that all detention centers and prisons had separate facilities for men and women. There were three government-run juvenile reform homes, located in Bhaktapur, Kaski, and Morong districts. According to the AF, pretrial juvenile detainees were sent there and were not kept with convicted prisoners.

Administration: There were no alternatives to sentencing for nonviolent offenders. Prisoners and detainees had reasonable access to visitors and could observe their religious practices. There were procedures for prisoners to submit complaints, although, according to NGOs, authorities were quicker to respond to allegations when NGOs or international organizations were aware of the complaints. There were no prison ombudsmen to handle prisoner complaints.

Independent Monitoring: The government generally allowed visits by independent human rights observers, but it was difficult for international observers to obtain permission to visit prisons. The government generally permitted the attorney general and the NHRC 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.

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, i.e., without proper access to counsel, food, and medicine, or in inadequate facilities.

On February 28, police in Rupandehi district arrested Renu Shrivastav on suspicions of engaging in armed activity and held him for six days without the opportunity to speak to an attorney or his family, according to the THRDA. The individual's family reportedly learned of the arrest after three days, but police prevented them from visiting him and denied having him in custody. Activists

alleged that authorities tortured Shrivastav while in detention. Local police denied these assertions, claiming that police followed due process and that no torture occurred. After human rights defenders submitted the case to the Nepal Police HRC, local police allowed family visits. Shrivastav remained in jail on a charge of theft and robbery.

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. There were allegations that the Nepal Police released them due to pressure from political leaders.

The Nepal Police, APF, and Nepal Army have HRCs. The Nepal Army and Nepal Police HRCs have independent investigative powers. The Nepal Army's investigations were not fully transparent, but the Nepal Police worked with human rights activists to increase transparency. From July 2012 to July 2013, the Nepal Police HRC reported 93 complaints, which resulted in the punishment of 13 police officers. After July it received an additional 43 complaints. The Nepal Army HRC maintained that it had investigated 70 percent of human rights allegations against the Nepal Army and had punished 177 personnel. All security forces provide human rights training prior to deployments on UN peacekeeping operations. The Nepal Police, APF, and Nepal Army HRCs provide human rights training to every individual in their organization. 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 impunity 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 (e.g., suspected acts of terrorism), a suspect can be held for up to six months. In some

cases, the Supreme Court ordered the release of detainees held longer than 24 hours without a court appearance. Some foreigners, including refugees, reported difficulty obtaining bail. The 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.

NGOs expressed concern about police use of private houses to hold detainees after arrest.

e. Denial of Fair Public Trial

The law provides for an independent judiciary, but courts remained vulnerable to political pressure, bribery, and intimidation. Authorities did not consistently respect court orders. 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.

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. There is no regional court mechanism for human rights in South Asia. 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 the Comprehensive Peace Agreement requires but kept other illegally seized lands and properties. According to a report published by the Carter Center, by February 2012, seven of 32 districts surveyed reported significant numbers of outstanding conflict-era land disputes. The largest numbers of unresolved cases were in the southwestern districts of Bardiya, Dang, Kailali, and Kanchanpur. The Carter Center also stated that in some cases Maoists resolved land disputes by coercing the owner to sell at below-market rates.

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 is at least at 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.

There were some reports of nongovernmental actors forcibly evicting residents, although some reports were exaggerated. One such case occurred in April, when local media reported that the CPN-M, which separated from the UCPN(M) in 2012, had seized land belonging to the family of interim government chairman Khil Raj Regmi. In reality the CPN-M had only placed flags on the property, which police promptly removed.

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, however, the government failed to enforce the law effectively.

Freedom of Speech: Generally citizens felt they could voice their opinions freely. Citizens often voiced critical opinions in print and electronic media without any restrictions, but the government limited freedom of expression for the Tibetan community, restricting public demonstrations that the government interpreted as favoring Tibetan independence. In February police apprehended a woman from the Jawalakhel Tibetan settlement and detained her for wearing a “Free Tibet” T-shirt. Police released her several hours later without charge.

Press Freedoms: The independent media were active and expressed a wide variety of views without restriction. The Federation for Nepali Journalists (FNJ), an organization that promotes journalists’ rights, remained concerned that impunity for past attacks on members of the press could promote self-censorship. The FNJ reported that a “psychological threat” against journalists existed, and the government had not been able to curb attacks on the press by both state and nonstate actors. Radio remained the primary source of information for 90 percent of the population.

Violence and Harassment: There were several instances of violence and harassment against journalists. On January 24, widespread media reports indicated that the UCPN(M) and the CPN-M threatened Dailekh district-based journalists in midwestern Nepal for reporting on the alleged 2004 Maoist killing of Dekendra Thapa. The threats prompted 22 journalists and human rights defenders to flee the district; they returned on January 29 after police and Maoist parties assured their safety.

According to the FNJ, the government did not take sufficient measures to preserve the safety and independence of the media, and the government rarely prosecuted individuals who attacked or killed journalists. On January 29, Maoist cadres in Kavre district attacked several journalists who were defying a general strike. Six journalists were injured and some received death threats, according to widely published media reports. Despite promises from the local government, the FNJ added, no actions were taken against the perpetrators.

Censorship or Content Restrictions: The 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. On January 18, the Film Development Board declined to issue a screening permit for the film *Badhshala* because the actors wore official Nepal Army uniforms

without permission, which the law prohibits. The media reported that the real reason the Defense Department requested the action was because the film depicted alleged Nepal Army torture during the conflict. In April the government lifted the ban, and the movie was shown in the country.

Nongovernmental Impact: Political parties influenced media outlets through their powerful trade unions. In the Tarai and the eastern hills, armed groups coerced journalists, resulting in self-censorship and fear for personal safety. Groups purporting to represent ethnic communities and political parties on occasion burned copies of newspapers they found objectionable.

Internet Freedom

There were no reports that the government monitored e-mail or internet chat rooms without appropriate legal authority. There were no reports of government restrictions on access to the internet. According to the Nepal Telecommunications Authority, internet penetration was more than 25 percent.

Academic Freedom and Cultural Events

The law provides for the freedom to hold cultural events, but Tibetans hesitated to hold them because of strict restrictions on such events in the past.

The media continued to report instances of abduction, extortion, and intimidation of school officials by politically affiliated student groups, and the government did not take adequate measures to stop this practice. On April 25, members of the UCPN (M)-affiliated ANNISU-R forced a school to close in Jhapa district in southeast Nepal to protest the arrests of two of its cadres for vandalizing a private school in March.

b. Freedom of Peaceful Assembly and Association

The law provides for freedom 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, despite 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 visibly present in Tibetan neighborhoods in the days surrounding the March 10 Tibetan Uprising Day. On March 9, police preemptively detained a Tibetan woman and held her for 10 days on the charge of organizing a protest for Tibetan Uprising Day. On September 2, government authorities prohibited celebrating Tibetan Democracy Day.

In contrast to 2012, government authorities allowed a celebration at a Kathmandu monastery for the Dalai Lama's birthday on July 6. Approximately 8,000 individuals attended.

Freedom of Association

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

c. Freedom of Religion

See the Department of State's *International Religious Freedom Report* at www.state.gov/j/drl/irf/rpt/.

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 CPN-M, restricted freedom of movement, including forced general strikes, known locally as “bandhs,” to pressure the government and civil society. In an attempt to prevent violence between strike enforcers and irate citizens who are denied the ability to conduct daily business, police often assisted the strikers by blocking traffic.

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. There were no reliable estimates of the number of IDPs in the country. The Ministry of Peace and Reconstruction estimated that 78,689 persons were displaced from 1996 to 2006, but many of them have opted not to return.

The government allowed several international organizations, such as the Norwegian Refugee Council, ICRC, Caritas, International Relief and Development, and Action Aid Nepal, to initiate programs to assist IDPs. According to international NGOs, the main obstacles preventing most IDPs from returning to their homes continued to be fear of Maoist reprisal and conflict with those occupying the houses and lands of the IDPs. According to international NGOs, most IDPs were unwilling to return home, due not only to security worries but also to economic concerns, primarily involving property, housing, and employment opportunities in urban areas.

Protection of Refugees

Access to Asylum: The country is not a signatory to the 1951 Refugee Convention or its 1967 protocol. The laws do not provide for the granting of asylum or refugee status, and the government has not established a system for providing protection to refugees and does not provide for local integration as a durable solution.

The government officially restricted freedom of movement and work for the approximately 32,000 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 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, 84,838 Bhutanese refugees have been resettled in third countries.

The government does not recognize Tibetans who arrived in the country after 1989 as refugees. Consequently, most Tibetans who arrived since then transited to India, although an estimated 15,000 to 20,000 remained in the country. After China heightened security along its border and increased restrictions on internal freedom of movement in 2008, the number of Tibetans who transited the country dropped significantly. The UNHCR reported that 242 Tibetans transited the country in 2012, compared with 136 as of November 21. UNHCR-facilitated exit permits for recent arrivals from Tibet transiting Nepal to India became regularized, with only minor administrative delays.

There were instances in which local police assisted and protected Tibetans found in the border region.

Refugee Abuse: There were numerous 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. These identity checks sometimes included threats of detention, followed by requests for bribes.

There were reports during the year of the preventive detention of Tibetan refugees and individuals of Himalayan descent, particularly on politically sensitive dates, such as Tibetan Uprising Day on March 10, although fewer were detained than in years past.

Access to Basic Services: Most Tibetan refugees who lived in the country did not have legal resident status or documentation, particularly those who arrived after 1990 and their Nepal-born children. Even those with acknowledged refugee status had no legal rights beyond the ability to remain in the country, and 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, the right to work, business ownership or licenses, bank accounts, or legal transactions, including documentation of births, marriages, and deaths, although bribery often made these possible. While Nepal-based Tibetans with registration cards were eligible to apply for travel documents to leave the country, the legal process was arduous, expensive, opaque, and poorly publicized.

Approximately 400 refugees 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 and required prohibitive fines (\$5 for each day out of status) for permission to exit the country for third-country settlement. 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 the right to work.

Stateless Persons

There is no reliable data on how many Nepalis do not have citizenship documentation, but estimates ranged from 2.3 to 2.6 million.

Citizenship laws that discriminate by gender contributed to statelessness. The 2006 Citizenship Act, which allowed more than 2.6 million persons to receive certificates, 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. This 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.

During the constitution-drafting process, equal citizenship rights for women was one of the most contentious and highly politicized problems, with no final decisions made to date. 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, and land or property ownership.

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

The law provides citizens the right to change their government peacefully, and citizens generally exercised this right in practice.

Elections and Political Participation

Recent Elections: On November 19, citizens turned out in record numbers to participate in the country's second Constituent Assembly elections, which ANFREL observers deemed essentially 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 of Nepal reported that more than 74 percent of registered voters participated, the highest figure in Nepal's history. According to domestic and international observer groups, 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, but the March 14 accord that brought the interim government to power includes a provision to hold local elections by April 2014. Elected local councils were dissolved in 2002, and civil servants and political appointees headed local government units.

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, the interim government 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, the Department of Immigration, and the Department of Foreign Employment.

In August and September, 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. All the officials were in detention pending trial.

There were numerous reports of corrupt actions by government officials, political parties, and party-affiliated organizations. The UCPN(M) and CPN-M, in particular, reportedly demanded money from schools, businesses, workers, private citizens, and NGOs. There were less frequent reports that student and labor groups associated with other political parties also demanded contributions from schools and businesses.

Corruption and impunity remained general problems within the Nepal Police.

Whistleblower Protection: According to the Prevention of Corruption Act, 2002, the name or address of a whistleblower must be kept confidential and not released unless the whistleblower authorizes it. Anyone hindering a corruption case, including harassing whistleblowers, may face a maximum prison term of six months and/or a fine of up to 5,000 rupees (\$50) depending on the severity of the interference.

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, the latest data available. They may face a fine of up to 5,000 rupees (\$50). The CIAA publicly demanded that officials be more vigilant in submitting financial disclosure reports.

Public Access to Information: The Right to Information Law mandates that public organizations respond to citizens' requests for public information within 15 days. The government generally met this requirement. If authorities deny individuals

access to information, they must provide a valid explanation. The law provides that information may be withheld on five grounds: to facilitate the investigation and filing of criminal charges, to protect the economic and commercial interests of the country, to preserve banking and commercial secrecy, to prevent disruption of communal harmony, or to prevent disruption of personal life or security.

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

A number of domestic and international human rights groups operated with some government restriction, investigating and publishing their findings on human rights cases. Government officials were somewhat cooperative and responsive to their views, but the government also placed more burdens on NGOs by complicating procedures for obtaining visas and compelling them to sign asset control documents.

The Nepal Law Society also monitored human rights abuses, and a number of other NGOs focused on specific areas, such as torture, child labor, women's rights, and ethnic minorities. Members of the Maoist parties reportedly threatened human rights activists for their investigations into Maoist-related conflict-era human rights abuses.

UN and Other International Bodies: While the government generally allowed the UN and other international bodies to operate in the country, it did not approve the request of the Office of the High Commissioner for Human Rights (OHCHR) for a mandate extension, and the OHCHR left the country in March 2012.

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 stated that the government helped promote impunity by failing to fully implement its recommendations. The NHRC noted that, of the 736 recommendations it made during the previous 13 years, the government had fully implemented 105, partially implemented 352, and had 279 still pending.

The Nepal Army, Nepal Police, APF, and Maoist parties have not seriously addressed conflict-era human rights violations for which they were responsible. On March 14, the government approved an ordinance to form a truth and reconciliation commission. While the ordinance contains provisions to shield the commission from political influence, human rights defenders asserted that it could

provide amnesty to perpetrators of serious human rights violations and, therefore, did not meet international standards. The ordinance has been under judicial review since April 1.

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. Transnational and internal sex and labor 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 torture. The legal definition of rape includes marital rape for which the husband can be jailed for three to six months. Most incidents of rape went unreported, although in those rape cases that were reported, police and the courts were responsive. During fiscal year 2012-13, there were 677 cases of rape and 245 cases of attempted rape filed with police, compared with 555 cases of rape and 156 cases of attempted rape in the previous fiscal year, according to the Women's Police Cell, a special Nepal Police unit that investigated crimes against women.

Domestic violence against women remained a serious problem. While few cases were reported, there was much anecdotal evidence that physical and verbal abuses were common. Violence against women was 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.

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 rather than legal prosecution.

NGOs offered educational programs for police, politicians, and the general public aimed to promote greater awareness of domestic violence. Police have 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 directives instruct officers to treat domestic violence as a criminal offense, but the directives were difficult to enforce because of entrenched discriminatory attitudes. In September the National Alliance of Women Human Rights Defenders, in collaboration with two dozen other organizations, launched a three-month nationwide campaign against rape, calling for amendments to rape-related laws and establishment of 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 2011 Nepal Demographic Health Survey, 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.

Harmful Traditional Practices: Despite current 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. The tradition was strong in the Tarai districts bordering India, and there were sporadic incidents of bride killing over dowry disputes. For example, in April, according to press reports, Samyukta Devi's husband, brother-in-law, and mother-in-law doused her in kerosene and then burned her to death because of dowry and property disputes. More often husbands or in-laws seeking additional dowry from the woman's family physically abused wives or forced women to leave so the men could remarry.

Traditional beliefs about witchcraft negatively affected rural women, especially widows, the elderly, persons of low economic status, or members of the lower 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 such acts 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.

The practice of chhaupadi (expelling women from their homes, often to cattle sheds, during menstruation and sometimes following childbirth) continued to be a serious problem. The practice puts women and their breast-feeding babies at risk of exposure to extreme elements and predators. The Nepal Multi-Index Survey 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 Nepal, 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.

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.

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 2011 Nepal Demographic Health Survey, 43 percent of married women used a modern contraceptive method, while 27 percent of married women had an unmet need for family planning.

From 2006 to 2011, 58 percent of mothers received prenatal care from a doctor, nurse, or midwife; 26 percent received care from trained health workers, such as a health assistant, auxiliary health worker, or village health worker; and 15 percent received no prenatal care. The country reduced its maternal mortality rate from 539 per 100,000 births in 1996 to 281 per 100,000 births in 2010. Factors contributing to this reduction included a significant decline in the fertility rate, an increase in skilled birth attendance and coverage of antenatal care, and a reduction

in anemia among pregnant women. 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, which also reported that 43 percent of women had a postnatal checkup in the first two days after birth.

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.

While citizenship is automatically conferred through either Nepali parent (see Children, below), 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 national.

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 becomes 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 region for domestic employment. According to Human Rights Watch, the regulation does not prevent trafficking or abuse but forces women to seek irregular channels to the Gulf region, putting them at greater risk of exploitation. Antitrafficking NGOs have reported that this is 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 region.

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 (see section 2.d., Stateless Persons).

Education: Education is not compulsory. Government policy provides free primary education for all children between the ages of six and 12, although most students bore some costs for examinations and had to buy uniforms. The government reported that 95.3 percent of school-age children (94.7 percent of girls and 95.9 percent of boys) attended public schools. Some school-age girls did not attend school due to the absence of separate or proper toilets. The Department of Education estimated that 35 percent of public schools did not have separate toilets for girls, a 25 percent decrease from 2012.

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 was widespread, although rarely prosecuted. The government established some mechanisms to respond to child abuse and violence against children, such as the Central Child Welfare Board, which had chapters in all 75 districts of the country.

Although the law forbids discrimination based on gender, there was considerable discrimination against girls.

Forced and Early 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 underage marriage decreased since 2002. The country's 2011 Demographic and Health Survey indicated that 71 percent of women between the ages of 15 and 19 in 2011 were unmarried, compared with 60 percent in 2001. In

the same period, it added, the marriage rate of girls under the age of 15 dropped from 24 percent to 5 percent. UN Population Fund data tracked this decrease, indicating that in 2011 the share of women between the ages of 20 and 24 who had entered marriage under the age of 18 was 40 percent; a 10 percent decrease from 2006.

Social, economic, and religious values promoted the practice of child 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 marriage. A number of government child protection and welfare programs, such as scholarship programs targeting girls, attempted to encourage girls to stay in school.

Sexual Exploitation of Children: Commercial sexual exploitation of children remained a serious problem. 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 Workers in Nepal reported that nearly 76 percent of rape victims were under the age of 16.

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: Internal displacement due to the decade-long Maoist conflict continued, and estimates of the number displaced ranged widely. As IDPs, children experienced poor social integration; inadequate food, shelter, and health care; and limited access to education. Displaced children also reported abuses by security forces.

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 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/.

Persons with Disabilities

The interim constitution addresses the rights of persons with disabilities, but government efforts to enforce existing 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, but progress was minimal.

According to the NHRC, persons with mental disabilities were the most stigmatized, discriminated against, and misunderstood. Access to mental health services was available only in the larger cities. The Ministry of Women, Children, and Social Welfare was responsible for the protection of persons with disabilities, the Ministry of Education provided scholarships for 67,800 children with disabilities to attend public or private schools, and 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.

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, which spoke 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. Progress in reducing discrimination was more successful 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. Better-educated, urban-oriented castes continued to dominate politics and senior administrative and military positions and control a disproportionate share of natural resources. Dalits occasionally were barred from entering temples and sharing water sources.

Resistance to intercaste marriage remained high and in some cases resulted in forced expulsion from the community. On March 14, according to media reports, a Dalit boy married a non-Dalit girl in Rupandehi district without the bride's parents' blessing. As a result, villagers forced the couple to leave their village. On August 6, the couple was forced to divorce in order to stop attacks on the boy's family.

Societal Abuses, Discrimination, and Acts of Violence 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. Four openly LGBT individuals ran in the Constituent Assembly elections, and most mainstream political parties included pro-LGBT legislation in their party manifestos. 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 slow, however, and it was not until January 22 that the Home Ministry started issuing citizenship certificates with an "others" gender category.

Government authorities, especially low-level police in rural areas and the Tarai, sometimes harassed and abused LGBT persons. According to the Blue Diamond Society, a local LGBT advocacy NGO, harassment of such persons by both government and citizens was common, but acts of violence were on the decline. The Nepal Police HRC confirmed some low-level harassment occurred because many citizens had negative views of LGBT persons, and the Nepal Police were not immune to such social perceptions. Nonetheless, the Nepal Police HRC conducted

LGBT rights training and worked closely with the LGBT community to minimize and prevent such harassment. The Nepal Police HRC reported that it did not receive any reports of harassment of LGBT persons.

Other Societal Violence or Discrimination

There was no official discrimination against persons who provided HIV-prevention services or against high-risk groups likely to spread HIV/AIDS, although there was societal discrimination against these groups. Discrimination against women infected with HIV/AIDS was greater than for men, even though men who traveled to other countries for work were at higher risk than women of contracting the disease and spreading it to their spouses.

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. Nepali 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, who have no such rights. Members of the armed forces, police, and government officials at the under-secretary 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, however, 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 semi-judicial 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.

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.

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. Unions often 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. Violence in labor disputes usually involved labor unions that threatened government officials, employers, or other union members if they did not agree to the union's demands. Assailants belonging to a UCPN(M)-affiliated union attacked a senior manager at the Radisson Hotel on March 15. According to Radisson Hotel officials, six masked men on three motorcycles smashed the windows of the manager's car while he was in it, leaving him shaken but unharmed. The attack was allegedly due to the manager's refusal to reinstate two UCPN(M) union members, whom the hotel had suspended for roughing up another employee. Police arrested the perpetrators, who were released on bail, and their case remained pending. In another incident, the CPN-M-affiliated All Nepal Communication, Printing, and Publications Workers Union allegedly attacked the head office of Ncell, the country's major telecommunications company, to protest the removal of 87 staff from a second telecommunication company owned by Ncell. Despite damage to the building's windows, computers, and customer service section, authorities did not take action against the attackers.

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 government made significant efforts

to eliminate trafficking despite limited resources and the absence of a parliamentary body for the majority of the year, but the country continued to be a source, transit, and destination country 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. During the year the government rehabilitated 1,792 Kamaiyas, bonded laborers of Tharu ethnicity. In May and early June, former Kamlari laborers (girl bonded laborers) started protests and strikes in Kathmandu and mid- and far-western Nepal triggered by the immolation of a 12-year-old girl working as an indentured servant in a Kathmandu home. In June Kamlaris stopped their protest after the government, among other commitments, agreed to abolish the practice of bonded labor (although it was already illegal) and compensate the victim's family.

Also see the Department of State's *Trafficking in Persons Report* at www.state.gov/j/tip/.

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 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, which is responsible for enforcing child labor laws and practices, had a poor enforcement record, and a significant amount of child labor occurred in the formal and informal sectors. Resources devoted to enforcement were limited, and authorities had not filled all of the 10 labor inspector positions. Child labor in the informal sector occurred in agriculture, domestic service, portering, recycling, and transportation, although 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).

On June 13, the government raided 10 embroidery factories in the Kathmandu Valley, rescuing 39 children, 30 of whom were under the age of 14. The operation took place after senior government officials met with former child laborers and decided to take action. Six of the rescued children were from Bihar, India.

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 the ages of 10 and 14.

Also see the Department of Labor's *Findings on the Worst Forms of Child Labor* at www.dol.gov/ilab/programs/ocft/tda.htm.

d. Acceptable Conditions of Work

The government increased the minimum wage for unskilled laborers from 6,200 rupees to 8,000 rupees (\$62 to \$80) per month. The minimum wage exceeded the 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.

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.

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 August and September, the CIAA arrested 15 Department of Foreign Employment officials and six manpower agents for sending 77 migrant workers to Qatar with fraudulent or improper documents – a trafficking-related offense. 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 to be translated into Nepali and instituted provisions whereby workers have to 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, however, 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.

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.