

# NEPAL 2018 HUMAN RIGHTS REPORT

## EXECUTIVE SUMMARY

Nepal is a federal democratic republic. The 2015 constitution establishes the political system, including the framework for a prime minister as the chief executive, a bicameral parliament, and seven provinces. In November and December 2017 the country held national elections for the lower house of parliament and the newly created provincial assemblies. Domestic and international observers characterized the national elections as “generally well conducted,” although some observers noted a lack of transparency in the work of the Election Commission of Nepal (ECN).

Civilian authorities maintained effective control of security forces.

Human rights issues included reports of unlawful or arbitrary killings; torture; cruel, inhuman or degrading treatment, and arbitrary detention; site blocking and criminal defamation; interference with the rights of peaceful assembly and freedom of association, such as overly restrictive nongovernmental organization (NGO) laws; corruption; trafficking in persons; early and forced marriage; restrictions on freedom of movement for refugees, notably resident Tibetans; lack of official accountability related to discrimination and violence, including rape, against women; and use of forced, compulsory, and child labor.

The government investigated but did not routinely hold accountable those officials and security forces accused of committing ongoing violations of the law. Security personnel accused of using excessive force in controlling protests in recent years did not face notable accountability, nor did most conflict-era human rights violators; there were significant delays in implementing, providing adequate resources for, and granting full independence to the country’s two transitional justice mechanisms.

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

#### **a. Arbitrary Deprivation of Life and Other Unlawful or Politically Motivated Killings**

There were several reports that the government or its agents committed arbitrary or unlawful killings.

On August 5, two Nepal Police officers shot and killed two men who had allegedly kidnapped and killed an 11-year-old boy in Bhaktapur, near Kathmandu. The police involved asserted that they encountered the suspects in a forested area, the suspects fired upon police officers first, and the officers responded with deadly force. Human rights activists and local media said the suspects were already in custody and that police staged the encounter. The families of the alleged abductors filed a complaint with the quasi-governmental National Human Rights Commission (NHRC). On August 24, the Armed Police Force (APF) opened fire on a crowd in Kanchanpur that had gathered to demand justice after 13-year-old girl Nirmala Panta was raped and killed. A 14-year-old boy was killed and 24 individuals were injured at the hands of police during the protest. The Ministry of Home Affairs announced it would investigate police handling of the incident. As of October, eight police officers were suspended based on the Home Ministry's probe committee recommendation, and police had no suspect in custody for the rape and murder. On September 1, Ram Manohar Yadav of the Free Madhesh movement died while undergoing medical treatment after remaining in police custody following his arrest August 23. Rights activists claimed police tortured Yadav and failed to provide adequate medical attention after he fell ill while in custody. The Ministry of Home Affairs denied the claims but admitted Yadav was taken to four different hospitals in search of an intensive care unit. The NHRC instructed its regional office to investigate Yadav's death.

In August the federal government released its report on the March 2017 Saptari incident in which APF officers killed five protesters. As of October no charges had been filed, and the provincial government formed another investigative committee.

The High Level Enquiry Commission (HLEC) formed to investigate allegations of excessive use of force by the Nepal Police and APF completed its investigation of more than 3,000 complaints received in 2017 related to protests over the promulgation of the constitution in 2015. The 2015 protests left 45 individuals dead, including nine police officers. The HLEC disbanded after it completed its report, but by year's end the government had not made the report public.

In May, President Bhandari pardoned Bal Krishna Dhungel, a Maoist politician convicted of killing Ujjan Kumar Shrestha in 1998.

## **b. Disappearance**

The new criminal code, which came into effect in August, formally criminalized disappearance. There were no reports of disappearances by or on behalf of government authorities during the year. There was no update on police investigation into the 2016 disappearance, allegedly with government involvement, of Kumar Tamang.

The fate of most of those who disappeared during the 1996-2006 civil conflict remained unknown. According to the NHRC, 846 cases of disappearances remain unresolved, 612 of which may have involved state actors. As of September the government did not prosecute any government officials, current or former, for involvement in conflict-era disappearances, nor had it released information on the whereabouts of the 606 persons the NHRC identified as having been disappeared by state actors. The NHRC reported that Maoists were believed to be involved in 149 unresolved disappearances during the conflict. As of September the government had not prosecuted any Maoists or state actors for involvement in disappearances.

In June 2017 the Commission for the Investigation of Enforced Disappeared Persons (CIEDP) formed five teams to begin investigating complaints of disappearances filed by conflict-era victims. The commission had before it 3,197 registered cases and ultimately pursued 2,512 cases. Of these, 1,686 investigations were near completion.

Human rights organizations continued to express concern over flaws related to the CIEDP. According to the International Commission of Jurists, CIEDP investigations suffered from inadequate human and financial resources to handle the large number of cases, opaque appointment processes of investigators, and a lack of measures to ensure confidentiality and security of victims and witnesses. Victims also have expressed concern that investigators in many districts have asked about their interest in reconciliation.

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

The constitution prohibits torture and the newly enacted criminal code criminalizes torture and enumerates punishment for torture. The Torture Compensation Act provides for compensation for victims of torture.

According to human rights activists and legal experts, police resorted to severe abuse, primarily beatings, to force confessions. Local human rights NGO

Advocacy Forum (AF) reported no evidence of major changes in police abuse trends across the country, but AF stated that police increasingly complied with the courts' demand for preliminary medical checks of detainees.

The Terai Human Rights Defenders Alliance (THRDA), another local NGO, stated that torture victims often were hesitant to file complaints due to police or other official intimidation and fear of retribution. In some cases victims settled out of court under pressure from the perpetrators. According to THRDA the courts ultimately dismissed many cases of alleged torture due to a lack of credible supporting evidence, especially medical documentation. In cases where courts awarded compensation or ordered disciplinary action against police, the decisions were rarely implemented, according to THRDA and other NGOs.

THRDA reported that 34 percent of detainees in police detention centers in the country's southern Terai belt had been subjected to some form of physical and/or mental abuse. According to the Nepal Police Human Rights Section, many alleged incidents were not formally reported or investigated by any police authorities.

There have been no cases brought to the criminal justice system of torture committed during the civil conflict.

The United Nations reported that during the year, it had received one allegation of sexual exploitation and abuse against peacekeepers from Nepal deployed in United Nations Mission in South Sudan. The case alleged sexual abuse (sexual assault and attempted sexual assault, involving minors). Investigations both by the United Nations and by Nepal were pending.

### **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.

Physical Conditions: There was overcrowding in the prison system. The Office of the Attorney General (OAG) reported that in its survey of 31 prisons, facilities designed to hold 4,308 inmates held 7,909 convicted prisoners. THRDA stated that overcrowding also remained a serious problem in detention centers. According to the OAG report, most prisons and detention centers had sufficient windows, daylight, and air, with a few exceptions.

Some facilities held pretrial detainees with convicted prisoners. 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.

The OAG reported that prisoners and detainees in the 31 detention centers it monitored had been deprived of regular medical check-up and treatment. According to THRDA most prisons lacked separate facilities for women, children, and persons with disabilities.

According to AF, medical examinations for detainees generally were perfunctory and reported medical care was poor for detainees with serious conditions. According to the OAG, the government increased each prisoner's daily allowance from 45 Nepalese Rupees (NRs) (\$.45) to NRs 60 (\$.60). AF reported that some detainees slept on the floor due to lack of beds and had access only to unfiltered and dirty water and inadequate food, and many detention centers had poor ventilation, lighting, heating, and bedding.

Administration: There were no alternatives to imprisonment or fines, or both, for nonviolent offenders.

Independent Monitoring: The government generally allowed prison and pretrial detention center visits by the OAG, NHRC, the National Women's Commission, and the National Dalit Commission as well as by lawyers of the accused. THRDA and AF reported that they and some other NGOs often were prevented from meeting with detainees or accessing detention facilities, although some independent human rights observers, including the United Nations and international organizations, were given such access. Media had no access to prisons or detention centers. The NHRC could request government action, but authorities often denied such requests.

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

The law prohibits arbitrary arrest and detention, but security forces reportedly conducted arbitrary arrests 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.

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

The Nepal Police is responsible for enforcing law and order across the country. The 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 and APF report to the Ministry of Home Affairs. The Nepali Army (NA) is responsible for external security and international peacekeeping, but also has some domestic security responsibilities such as disaster relief operations and nature conservation efforts. The NA reports to the Ministry of Defense. Civilian authorities maintained authority over the Nepal Police, APF, and Army.

The Nepal Police and APF each have a human rights section (HRS) and the NA has a human rights directorate (HRD). The NA HRD and Nepal Police HRS have independent investigative powers. The NA's investigations were not fully transparent according to human rights NGOs.

In the local fiscal year 2017 to 2018, the Nepal Police HRS received 144 human rights violation complaints, for which 67 police personnel were punished. The Nepal Army HRD stated it received no complaints of human rights violations during the year. All security forces received human rights training prior to deployments on UN peacekeeping operations. The NA incorporated human rights training into professional military education, and conducted ongoing training in all units. Each brigade has a designated human rights officer, and divisions have larger human rights staff. At the Army headquarters, a brigadier general, who reports directly to the chief of staff, heads the HRD. Similarly, the Nepal Police and APF incorporated training on human rights into their overall training curricula for security forces. The APF and Nepal Police HRSs issued booklets outlining human rights best practices to most police officers, and mobile training teams reached remote areas of the country to instruct officers on human rights and democratic policing principles. The head of the Nepal Police Human Rights Cell credited this training with eliminating many of the minor human rights violations committed by untrained police personnel, including physical and verbal abuses, allowing her office to focus on serious cases when they arise. Nepal Police incorporated human rights into all levels of training, covering nearly 15,000 personnel during the year.

Lack of punishment or accountability for police abuses remained problems.

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

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 corruption), a suspect can be held for up to six months. The 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, and the justice system does not receive sufficient funding to provide free and competent counsel to indigent defendants.

Detainees have the legal right to receive visits by family members, but family access to prisoners varied from prison to prison. Authorities routinely denied defense attorneys access to defendants in custody. While a system of bail exists, bonds are too expensive for most citizens. The accused have the option of posting bail in cash or mortgaging their property to the court. Unless prisoners are released on recognizance (no bail), no alternatives to the bail system exist to assure a defendant's appearance in court.

Arbitrary Arrest: Human rights organization Informal Sector Service Center documented 84 incidents of arbitrary arrest as of June.

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 castes 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 local authorities.

According to human rights groups, 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. AF estimated in a 2015 report--the most recent available--that 41 percent of detainees did not appear before judicial authorities within 24 hours of their arrests. THRDA stated police frequently circumvented the 24-hour requirement by registering the detainee's name only when they were ready to produce the detainee before the court.

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

The constitution and law provide for an independent judiciary, but courts remained vulnerable to political pressure, bribery, and intimidation.

#### **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, public trials, and the right to be present at one's own trial, 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. 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 to indigent detainees only upon request. Persons who are unaware of their rights, in particular lower-caste individuals and members of some ethnic groups, are thus at risk of being deprived of legal representation. Defense lawyers reported having insufficient time to prepare their defense. A 2016 Supreme Court directive ordered that the courts must provide free interpretation services to those who do not speak Nepali, and interpreters were made available to interpret a variety of languages. Defense lawyers may cross-examine accusers. 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. The Army Act requires that soldiers accused of rape or homicide be transferred to civilian authorities for prosecution. Under normal circumstances the army prosecutes all other criminal cases raised against soldiers under the military justice

system. Nevertheless, the NA has told the government it is willing to cooperate with the Truth and Reconciliation Commission (TRC) and CIEDP and will not “hide” behind the Army Act. 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.

### **Property Restitution**

The Maoists and their affiliate organizations have returned some previously seized property as required by the 2006 Comprehensive Peace Accord that ended the civil conflict, but they kept other illegally seized lands and properties. According to the Asia Foundation, a significant number of conflict-era land disputes remained outstanding.

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

The law prohibits arbitrary interference with privacy, family, home, and correspondence and there were no reports that the government failed to respect these provisions.

The law allows police to conduct searches and seizures without a warrant if there is probable cause to believe 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 officer to conduct a search, and there must be another official present who holds at least the rank of assistant subinspector. Some legal experts claimed that by excluding prosecutors and judges from the warrant procedure, there are relatively few checks against police discretion.

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

### **a. Freedom of Expression, Including for the Press**

The constitution and the law provide for freedom of speech and press, and the government generally respected these rights, although journalists, NGOs, and political activists said the government restricted media freedom by threatening journalists and news organizations that criticized the government. Journalists and NGOs said the new criminal and civil codes and Privacy Act criminalized normal media activity, like reporting on public figures and triggered a significant increase in self-censorship by the media. Human rights lawyers and some journalists stated that both the constitution and civil code enable the government to restrict freedom of speech and press in ways they considered vague and open to abuse. For example, the constitution lists a number of circumstances under which laws curtailing freedom of speech and press may be formulated. These include acts that “jeopardize harmonious relations between federal units” and acts that assist a foreign state or organization to jeopardize national security. The constitution prohibits any acts “contrary to public health, decency, and morality” or that “disturb the public law and order situation.” The same provision of the constitution also prohibits persons from converting other persons from one religion to another or “disturbing the religion” of others.

Freedom of Expression: Citizens generally believed they could voice their opinions freely and often expressed critical opinions in print and electronic media without restriction. In July the government attempted to limit freedom of expression for the members of Kathmandu’s Tibetan community by initially rejecting requests from the Tibetan Buddhist community to celebrate the Dalai Lama’s birthday publicly. Tibetan Buddhists eventually were allowed to hold an event in the largest settlement in Kathmandu.

Press and Media Freedom: The independent media were active and expressed a wide variety of views without restriction, with a few exceptions. Several editors and journalists reported they faced intimidation by police and government officials and that vague provisions in new laws and regulations prompted an increase in self-censorship by journalists. In January authorities from the president’s office barred accredited private media journalists from covering the swearing-in ceremony for newly appointed governors of the seven provinces. Only journalists affiliated with the government were permitted to cover the ceremony.

In June Minister of Communications and Information Technology Gokul Baskota arranged for the firing of a talk show host who in May had asked the minister

pointed questions on live television about the source of his wealth and how it was reported to the public.

Violence and Harassment: According to the Federation of Nepali Journalists (FNJ), the government did not make sufficient efforts to preserve the safety and independence of the media and rarely prosecuted individuals who attacked journalists.

Journalists stated that they continued to receive vague threats from officials in response to their investigative reporting on corruption. For example, in January, five men who were allegedly colluding with local police in an illegal sand extraction enterprise physically assaulted a *Kathmandu Post* investigative correspondent.

On February 25, the Supreme Court ordered the Press Council of Nepal to ban news criticizing then-Chief Justice Gopal Parajuli. *Kantipur Daily* had published a series of articles reporting discrepancies in Parajuli's date of birth. Although the issue directly concerned the chief justice, Parajuli heard the case as a one-member bench and ruled in his own favor, entering an interim order calling for a probe of news reports.

Censorship or Content Restrictions: The constitution prohibits prior censorship of material for printing, publication or broadcasting, including electronically. The constitution also provides that the government cannot revoke media licenses, close media houses, or seize material based on the content of what is printed, published, or broadcast. The constitution, however, also provides for "reasonable restrictions" of these rights for acts or incitement that "may undermine the sovereignty, territorial integrity, nationality of Nepal, or harmonious relations between the federal units or harmonious relations between the various castes, tribes, religions, or communities." Speech amounting to treason, defamation, or contempt of court is also prohibited.

Media professionals expressed concern regarding an additional provision in the constitution that allows the government to formulate laws to regulate media. The 2017 Criminal Code Act, for example, has extended the scope of limitation on freedom of expression compared to the language in the Constitution for national security and for maintaining public order, and defines defamation as a criminal offense. The FNJ argued that such laws could be used to close media houses or cancel their registration. The constitution also includes publication and dissemination of false materials as grounds for imposing legal restrictions on press

freedom. Media experts reported, however, that these provisions have not been enforced against any media houses.

Although by law all media outlets, including government-owned stations, operate independently from direct government control, indirect political influence sometimes led to self-censorship.

### **Internet Freedom**

On September 21, the Ministry of Communication and Information Technology announced it would block access to pornography on the internet, and enacted the controls shortly thereafter.

There were several incidents in which authorities took action under the Electronic Transaction Act (ETA) in response to material posted on social media. The ETA prohibits publication in electronic form of material that may be “contrary to the public morality or decent behavior,” may “spread hate or jealousy,” or may “jeopardize harmonious relations.” On June 27, the Metropolitan Crime Division of Nepal Police publicly warned those who misuse social media accounts to defame others could be punished or jailed. On August 21, police arrested Homnath Sigdel for allegedly sharing a digitally altered image on Facebook showing Prime Minister KP Sharma Oli’s head superimposed on a monkey’s head. In March 2017 the government issued an amended Online Media Operation Directive, which requires all country-based online news and opinion websites to be registered. The directive gives the government the authority to block websites based on content if it lacks an “authoritative source,” creates “a misconception,” or negatively affects international relationships. The government also has the authority to block content that threatens the country’s sovereignty, territorial integrity, nationality, or harmonious relations. Online sedition, defamation, contempt of court, or indecent and immoral content may also be blocked. The new version makes the registration, license renewal, and content production provisions for online platforms more complicated, including by requiring a copy of a site’s Value Added Tax or Permanent Account Number registration certificate. Renewals now require online platforms to provide updated human resource and payroll records annually. The FNJ expressed concern that the directive’s vague language gives the government power to censor online content.

According to the International Telecommunications Union’s latest data, in 2016 only 20 percent of residents in the country accessed the internet. By contrast the

Nepal Telecommunications Authority reported that 63 percent of citizens accessed the internet in 2018.

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

The law provides for the freedom to hold cultural events. Government permits are required to hold large public events. There were no government restrictions on academic freedom or cultural events, with the exception of events in the Tibetan community, which faced restrictions (see section 2.b.).

### **b. Freedoms 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 Peaceful Assembly**

Freedom of assembly generally was respected for citizens and legal residents, but there were some restrictions. The government continued its attempts to stop Tibetans from celebrating culturally important events, such as Tibetan New Year (Losar), World Peace Day (the anniversary of the Dalai Lama's award of the Nobel Peace Prize), and the Dalai Lama's birthday. The law authorizes chief district officers to impose curfews when there is a possibility that demonstrations or riots could disturb the peace.

In early July the government restricted demonstrations at the Maitighar Mandala, a historical public space. Opposition leaders, media, and civil society members said the government's decision violated citizens' right to peaceful assembly. The Supreme Court issued an interim order to the government not to implement the decision.

#### **Freedom of Association**

The law provides for freedom of association, and the government generally respected this right. NGOs, however, stated the existing legal framework does not adequately recognize the independence of civil society and opens the door to the exercise of excessive discretion by the government. They added that the registration process for civil society organizations (CSOs) is restrictive and cumbersome, the government has wide discretion to deny registration, and requirements vary among various registration authorities, with some entities

requiring documents not mentioned in existing laws on an ad hoc basis. Additionally, the Association Registration Act empowers the government to give directions to associations and to terminate associations if they refuse to follow directions. To receive foreign or government resources, CSOs must seek separate and additional approval from the Social Welfare Council (SWC), the government entity responsible for overseeing CSOs. The SWC requires that CSOs allocate at least 80 percent of their budgets for hardware or tangible development outputs, which places undue restrictions on CSOs that focus on advocacy issues.

### **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**

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 limited by law. Constraints on refugee movements were enforced unevenly. The government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing protection and assistance to refugees and asylum seekers.

In-country Movement: The government has not issued personal identification documents to Tibetan refugees in more than 20 years, leaving the majority of this refugee population without recourse to present required documents at police checkpoints or during police stops. Some refugees reported being harassed or turned back by police at checkpoints.

Foreign Travel: In an attempt to protect women from being trafficked or abused, the government maintained a minimum age of 24 for women traveling overseas for domestic employment. NGOs and human rights activists viewed the age ban as discriminatory and counterproductive because it impelled some women to migrate through informal channels across the Indian border rendering them more vulnerable to being trafficked.

On August 24, immigration officers at Tribhuvan International Airport detained and prevented from traveling Lenin Bista, a former Maoist child combatant who had been invited to a conference in Thailand on youth in conflict. Immigration authorities told Bista he could not travel because he had not received government

permission, although they reportedly were unable to explain why such permission would be necessary.

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

The 2015 earthquake and its aftershocks displaced millions of individuals. According to the Internal Displacement Monitoring Center, natural disasters in 2017 led to 384,000 displacements.

Many earthquake-affected IDPs remained in camps or informal settlements because they did not hold a title to land and were occupying it illegally when the earthquake occurred. Others stayed because their homes remained vulnerable to or were destroyed by subsequent landslides. The government promoted their safe, voluntary return and had policies in place to help them.

Although the government and the Maoists agreed to support the voluntary return in safety and dignity of conflict-displaced IDPs to their homes following the 10-year civil war, the agreement has not been fully implemented. The Ministry of Peace and Reconstruction estimated that 78,700 persons were displaced from 1996 to 2006, but an estimated 50,000 remained unwilling or unable to return home. The reasons included unresolved land and property issues, lack of citizenship or ownership documentation, 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 conflict-era IDPs. 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 law does 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 Tibetans as refugees and supported resettlement to foreign countries of certain refugees claiming Bhutanese citizenship. The government does not recognize Tibetans who arrived in the country after 1990 as refugees. Most Tibetans who arrived since then transited to India, although an unknown number remained in the country. The government has not issued refugee cards to Tibetan refugees since 1995. UNHCR estimated three-

quarters of the roughly 12,000 resident Tibetan refugees remained undocumented, including all of whom were younger than the age of 16 in 1995 or had been born since. More than 500 refugees and asylum seekers from other countries, including Pakistan, Burma, Afghanistan, Sri Lanka, Bangladesh, Somalia, Iran, Iraq, and Democratic Republic of the Congo, lived in the country. The government continued to deny these groups recognition as refugees, even when recognized as such by UNHCR.

Freedom of Movement: The government officially restricted freedom of movement and work for the approximately 6,500 refugees asserting claims to Bhutanese citizenship residing in the two remaining refugee camps in the eastern part of the country, but those restrictions were largely unenforced for this population. After China heightened security in 2008 along its border and increased restrictions on internal freedom of movement for ethnic Tibetans, the number of Tibetans who transited through the country dropped significantly. UNHCR reported that 53 Tibetans transited the country in 2017, and 31 from January through September. The government issued UNHCR-facilitated exit permits for recent arrivals from Tibet who were transiting while traveling to India. 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 and travel documents were typically valid for one year and one single trip. A 2016 government directive authorized chief district officers to skip the verification step, which required witnesses and a police letter, for Tibetans who had previously been issued a travel document. For individuals whom the government did not recognize as refugees, even when recognized by UNHCR, the government levied NRs 563 (approximately \$5) fines per day out of status--and a discretionary penalty of up to NRs 50,000 (approximately \$500) to obtain an exit permit. The government maintained its policy enabling Nepali government-registered refugees destined for resettlement or repatriation to obtain exit permits without paying these fines.

Access to Basic Services: Most Tibetan refugees who lived in the country, particularly those who arrived after 1990 or turned 16 after 1995, did not have documentation, nor did their locally 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 and were denied the right to work officially. They were unable legally to obtain business licenses, driver's licenses,

bank accounts, or to own property, or consistently document births, marriages, and deaths. Some in the Tibetan community resorted to bribery to obtain these services.

The government allowed 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.

Durable Solutions: The government does not provide for local integration as a durable solution. The government officially does not allow the approximately 6,500 refugees asserting claims to Bhutanese citizenship to work or have access to public education or public health clinics, but it allows UNHCR to provide parallel free education and health services to refugees in the camps. Since 2007 the government permitted third-country resettlement for more than 109,000 refugees claiming Bhutanese citizenship.

### **Stateless Persons**

An estimated 5.4 million individuals (24 percent of the population age 16 and over) lacked citizenship documentation. Citizenship documents, which are issued at age 16, are required to register to vote, register marriages or births, buy or sell land, appear for professional exams, open bank accounts, or gain access to credit and receive state social benefits.

Constitutional provisions, laws, and regulations governing citizenship discriminated by the gender of the registering parent, which contributed to statelessness. The constitution states that citizenship derives from one Nepali parent, but it also stipulates that a child born to a Nepali mother and a non-Nepali father may obtain citizenship only through naturalization. In some cases, mothers faced extreme difficulties in securing citizenship papers for children of Nepali parents, even when the mother possessed Nepali citizenship documents, except in cases in which the child's father supported the application. These difficulties persisted despite a 2011 Supreme Court decision granting a child Nepali citizenship through the mother if the father was unknown or absent.

The constitution states that the children of unidentified fathers may obtain citizenship through their mothers, but if it is later determined that the father is a foreign citizen, the child will lose citizenship by descent and be eligible for naturalization. In practice many single women face difficulties registering their children as citizens by descent. The Supreme Court ruled in May 2017 that

government authorities must not deny the registration of birth and citizenship of children of Nepali mothers and fathers who cannot be traced. According to human rights lawyers, although this provision applies to the children of single mothers, including rape and trafficking victims, it does not address situations in which the identity of a child's father is known but refuses to acknowledge paternity. The legal and practical restrictions on transferring citizenship imposed particular hardships on children whose fathers were deceased, had abandoned the family, or (as was increasingly common) departed the country to work abroad.

Since naturalization is not a fundamental right under the constitution, although it could be an option for those not eligible for citizenship by descent, it is subject to state discretion. Although they lack specific data, human rights lawyers reported that the government has processed few applications for naturalization of children in recent years.

For women and girls to obtain citizenship by descent for themselves, regulations require a married woman to submit a formal attestation from her husband, father, or husband's family (if widowed) that she qualifies for citizenship and has his or their permission to receive it. This requirement makes 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, which permits the husband or male relatives free to stake their own claims.

Stateless persons experienced discrimination in employment, education, housing, health services, marriage, birth registration, identity documentation, access to courts and judicial procedures, migration opportunities, land and property ownership, and access to earthquake relief and reconstruction programs.

### **Section 3. Freedom to Participate in the Political Process**

The law provides citizens the ability to choose their government in free and fair periodic elections held by secret ballot and based on universal and equal suffrage.

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

Recent Elections: The government held parliamentary, provincial, and local assembly elections over five phases throughout 2017. International observers indicated that these parliamentary and provincial assembly elections were

generally well conducted, despite some violent incidents, and logistical and operational challenges, including a notable lack of transparency and adequate voter education by the ECN, which affected the electoral process. According to domestic observer groups, the elections were free, fair, and peaceful and saw high voter turnout. There were three reports, however, of individuals being killed by police and sporadic reports of interparty clashes or assaults, vandalism, and small explosive devices and hoax bombs.

Participation of Women and Minorities: No laws limit participation of women or minorities in the political process, and they did participate in local, provincial, and national elections. The constitution mandates proportional inclusion of women in all state bodies and allocates one third of all federal and provincial legislative seats to women.

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

The law provides criminal penalties for corruption by officials. The government did not implement the law effectively. Officials sometimes engaged in corrupt practices with impunity, and there were reports of government corruption during the year.

Corruption: In one of several high-profile corruption cases, on October 5, the Commission for the Investigations of Abuse of Authority filed corruption charges against 12 individuals including parliamentarian Hari Narayan Prasad Sah Rauniyar and the former proprietor of Pappu Construction. The CIAA accused the lawmaker and his son of misappropriating more than NRs 193 million (\$1.6 million) for awarding construction projects reportedly worth billions of rupees for infrastructure projects, including bridges that collapsed before their inauguration.

The CIAA expanded its investigative scope during the year to include a civil engineering lab to determine the quality of materials used in public infrastructure, a common target for systemic corrupt cost cutting. During a nine-month sting operation, the CIAA facilitated the arrest of 88 civil servants, including two joint secretaries, and the filing of 56 cases.

As in previous years, student and labor groups associated with political parties demanded contributions from schools and businesses. Corruption remained problematic within the Nepal Police and APF.

Financial Disclosure: Public officials are subject to financial disclosure laws and the vast majority of civil servants complied with the requirement. Despite the required financial disclosures, the National Vigilance Center, the body mandated to monitor financial disclosures and make them publically available, generally does not systematically review its findings or publish these details.

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

A variety of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. While government officials were generally cooperative with NGO investigations, the government placed administrative burdens on some international NGOs by complicating procedures for obtaining visas and compelling them to sign asset control documents. Some NGOs, particularly those with a religious element, reported increasing bureaucratic constraints after the devolution of power to local level officials.

Government Human Rights Bodies: The NHRC investigated allegations of abuses, but resource constraints, insufficient staff (95 out of 309 positions were vacant as of August, a decrease from 232 vacant positions in August 2016), and limitations on its mandate led some activists to view the body as ineffective and insufficiently independent. The NHRC claimed the government helped promote impunity by failing to implement its recommendations fully. The NHRC stated that from its establishment in 2000 through the current year, it had made recommendations for prosecution and reparations in 818 cases (as of July). More than three-quarters of these involved conflict-era incidents.

The government and judiciary have not significantly addressed conflict-era human rights and humanitarian law violations committed by the NA, Nepal Police, APF, and Maoist parties.

The TRC and Commission of Investigation on Enforced Disappeared Persons (CIEDP) began their initial two-year terms in February 2015. As of October human rights experts reported that neither the TRC nor the CIEDP had made significant progress on investigations or reporting.

Local human rights advocates cite a number of legal shortcomings that pose obstacles to a comprehensive and credible transitional justice process in the

country. For example, the law does not retroactively criminalize torture or enforced disappearance, and the statute of limitations for rape is only 180 days.

Additionally, the law does not specifically recognize war crimes or crimes against humanity, although the constitution recognizes as law treaties to which the country is a party. Critics also cite a number of instances in which parliament has failed to implement Supreme Court decisions. For example, in a 2015 ruling, the court nullified provisions of the TRC and CIEDP Act that would have granted the commissions discretionary power to recommend amnesty for serious crimes because amnesty would violate the then interim constitution and international obligations. As of November parliament had not amended the act to bring it in line with the Supreme Court decision, although the commissions have stated they intend to abide by the Court's rulings.

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

### **Women**

Rape and Domestic Violence: Rape, including marital rape, is illegal, with minimum prison sentences that 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.

Police and the courts were responsive in most cases when rape was reported, although several high-profile cases highlighted the government's failure to secure justice for victims of rape. On July 26, 13-year-old Nirmala Panta was raped and killed in Bhimdutta Municipality, Kanchanpur district. A government panel that reviewed the police response found that investigators acted with grave negligence and destroyed key evidence in the case. Human rights activists outside of Kathmandu expressed concern that police frequently refuse to register cases of gender-based violence, including occasionally rape cases. These groups report that police often prefer to use mediation rather than criminal investigation to resolve conflicts.

Domestic violence against women and girls remained a serious problem. NGOs reported that violence against women and girls, including early and forced marriage, was one of the major factors responsible for women's relative poor health, livelihood insecurity, and inadequate social mobilization and contributed to intergenerational poverty. Additionally, the practice of early and forced marriage,

which remained prevalent, limited girls' access to education and increased their susceptibility to domestic violence and sexual abuse, including sex trafficking. The 2009 Domestic Violence (Crime and Punishment) Act allows for settling complaints of domestic violence through mediation with an emphasis on reconciliation. Authorities usually pursued prosecution under the act only when mediation failed.

The Nepal Police had women's cells staffed by female officers in each of the country's 77 districts to make it easier for women and girls to report crimes to police. According to the Women and Children Service Directorate, many women's cells were not fully operational, but the Nepal Police, with assistance from foreign governments and NGOs, endeavored to build and improve their infrastructure and capacity. NGOs stated that despite improvements, resources and training to deal with victims of domestic violence and trafficking were insufficient. Although police guidelines call on officers to treat domestic violence as a criminal offense, this guidance was difficult to implement outside of the women's cells due to entrenched discriminatory attitudes.

The government maintained service centers in 17 districts, rehabilitation centers in eight districts, and hospital-based one-stop crisis management centers in 17 districts to provide treatment, protection, and psychosocial and legal support for survivors of gender-based violence. Gender experts said the service centers have improved coordination among police, NHRC, National Women's Commission, chief district officers, local authorities, community mediation centers, and NGOs working to address violence against women and girls.

Other Harmful Traditional Practices: The constitution criminalizes violence against or oppression of women based on religious, social, or cultural traditions and gives victims the right to compensation. The criminal code makes the practice of paying dowries illegal and imposes penalties of up to NRs 30,000 (\$300), prison sentences of up to three years, or both. The legislation also criminalizes violence committed against one's spouse in connection to a dowry, imposing fines of up to NRs 50,000 (\$500), prison sentences of up to five years, or both. Additionally, the 2015 Act to Amend Some Nepal Acts to Maintain Gender Equality and End Gender-Based Violence stipulates that any psychological abuse of women, including asking for dowry, humiliation, physical torture, and shunning women for not providing a dowry, is punishable. Nevertheless, according to NGOs dowries remained common, especially in the Terai region. Government agencies documented incidents of dowry-related violence, recommended interventions, and occasionally rescued victims and offered them rehabilitation services.

Traditional beliefs about witchcraft negatively affected rural women, especially widows, the elderly, persons of low economic status, or members of the Dalit caste, despite a law specifically criminalizing discrimination and violence against those accused of witchcraft. There were no reported prosecutions under the law. Media and NGOs reported numerous cases of violence against alleged witches, and civil society organizations raised public awareness of the problem. For example, on August 2, family members of two persons accused of witchcraft filed a complaint against their accuser. According to the family members, both of the accused were socially neglected after the allegations of witchcraft.

Acid attacks were specifically criminalized; the NGO Burns Violence Survivors Nepal documented five acid attacks from January to September. For example, in September Bimal Shripali of Chitwan district attacked his neighbor Basanti Pariyar with acid. Police arrested Shripali, after, according to his police statement, he attacked Pariyar after she refused his marriage proposal.

The practice of *chhaupadi* (expelling women and girls from their homes during menstruation and sometimes following childbirth, including forcing women and girls to reside in cattle sheds) continued to be a serious problem despite a 2005 Supreme Court decision and 2008 guidelines from the Ministry of Women, Children, and Social Welfare outlawing the practice. The practice was particularly common in rural western districts, where women periodically died from exposure to the elements. For example, local media reported that in January a 21-year-old woman died of smoke inhalation while trying to warm herself in her menstruation hut, and in July a 19-year-old woman died of a venomous snakebite she suffered while sleeping in her hut. The criminal code formally criminalized the practice by stipulating a punishment of up to three months' imprisonment, a maximum fine of NRs 3,000 (\$30), or both.

Sexual Harassment: The law allows the top administrative official in a district to impose up to six months imprisonment, a maximum fine of NRs 50,000 (\$500), or both, against a perpetrator, once a series of internal workplace processes to address a complaint have been exhausted. According to women's rights activists, the law provides adequate protective measures and compensation for victims, but the penalties are insufficiently severe and the law does not cover the informal sector, where sexual harassment is most common.

Coercion in Population Control: There were no reports of coerced abortion or involuntary sterilization.

Discrimination: Although the law provides protection, women faced systemic discrimination, including in employment (see section 7.d.) and especially in rural areas. Dalit women in particular faced discrimination by virtue of their gender and caste status. 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; the government did not take sufficient measures to enforce it.

The Gender Equality Act adopted in 2006--along with more than 60 other laws--contain discriminatory provisions. For example, the law on property rights favors men in land tenancy and the division of family property. The constitution, however, confers rights for women that had not previously received legal protection, including rights equal to those of their spouses in property and family affairs, and special opportunities in education, health, and social security.

The constitution does not allow women to convey citizenship to their children independent of the citizenship of the child's father (see section 2.d.) and has no specific provision for naturalization of foreign husbands married to Nepali wives.

## **Children**

Birth Registration: Constitutional provisions, laws, and regulations governing citizenship discriminated by the gender of the parent, which contributed to statelessness (see section 2.d. Statelessness). There was no difference in birth registration policies and procedures based on the gender of the child.

Education: The constitution makes basic primary education free and compulsory nationwide. The 2016 Education Act divides the education system into Basic Education (Early Childhood Development and grades one to eight), which is free and compulsory, and Secondary Education (grades nine to 12), which is free but not compulsory. The government reported that during the 2017-18 school year 97.2 percent of school-age children attended primary schools with gender parity. A gender gap in secondary education persisted, with two-thirds of adolescent girls in rural areas reportedly not attending school.

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

Child Abuse: Violence against children, including sexual abuse, was reportedly widespread. NGOs stated that such reports have increased in part due to increased awareness, but no reliable estimates of its incidence exist. The government has some mechanisms to respond to child abuse and violence against children, such as special hotlines and the Central Child Welfare Board (CCWB), which has chapters in 75 districts.

Early and Forced Marriage: The law prohibits marriage for both boys and girls before the age of 20, but the country has a high rate of child marriage. According to UNICEF, more than a third of young women aged 20-24 report they were married by the age of 18, and somewhat more than 10 percent by age 15.

Social, economic, and cultural values promoted the practice of early and forced marriages, which was especially common in the Dalit and Madhesi communities. 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.

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 and exploited in prostitution and of underage girls employed in dance bars, massage parlors, and cabin restaurants (sometimes fronts for brothels). Enforcement was generally weak due to limited police investigation and capacity. The minimum age for consensual sex is 18 years. The penalties for rape vary according to the age of the victim and the relationship.

There is no specific law against child pornography, but the Children Act stipulates that no person can involve or use a child for an immoral profession, and photographs cannot be taken or distributed for the purpose of engaging a child in an immoral profession. Additionally, photographs that tarnish the character of the child may not be published, exhibited, or distributed.

Displaced Children: A large number of children remained displaced due to the 2015 earthquake and its aftershocks (see section 2.d.). The government did not have comprehensive data on children affected by the decade-long Maoist conflict, including the original number of internally displaced and the number who remained displaced.

Institutionalized Children: Abuse and mistreatment in orphanages and children's homes reportedly was common. An NGO working in this field estimated that approximately one-third of registered children's homes met the minimum legal standards of operation, and there is no reliable data on the many unregistered homes. The NGO also reported no significant change in the level or degree of abuse of children compared to previous years. A 2013 study by Children and Women in Social Service and Human Rights showed that few such homes in the Kathmandu Valley met CCWB standards, although they provided some basic services.

International Child Abductions: The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. See the Department of State's *Annual Report on International Parental Child Abduction* at <https://travel.state.gov/content/travel/en/International-Parental-Child-Abduction/for-providers/legal-reports-and-data.html>.

### **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 constitution prohibits discrimination based on disability or physical condition and contains additional rights for persons with disabilities. These include the right to free higher education for all physically disabled citizens who are "financially poor" and the provision of special instructional materials and curricula for persons with vision disabilities.

The government provides services for persons with physical and mental disabilities, including a monthly stipend, building shelters, and appointing one social welfare worker in each of 753 local governments. In 2017 parliament passed the Disability Rights Act, which provides that persons with disabilities have equal access to education, health, employment, public physical infrastructure, transportation, and information and communication services. The act also

prohibits discrimination based on disability. Although government efforts to enforce laws and regulations to improve rights and benefits for persons with disabilities have gradually improved, they still are not fully effective. For example, books printed in Braille are not available for students at all grade levels, and free higher education is not uniformly available to all interested persons with disability. According to the Ministry of Women, Children, and Senior Citizens, the government did “no additional work” in this area during the year.

The government provided monthly social security allowances for persons with disabilities of NRs 2,000 (\$20) for those categorized as “profoundly” disabled, and NRs 600 (\$6) for the “severely” disabled. The law states that other persons with disabilities should receive allowances based on the availability of funds and the degree of disability. Additionally, the government provided financial support to sign language interpreters in 20 districts to assist persons with hearing disabilities in obtaining government services. The government allocated NRs 80 million (\$800,000) from the national budget to fund programs for persons with disabilities, including grants to several disability-related organizations and a minimum budget to pay for community-based rehabilitation in all 75 districts. NGOs reported that, although the government attempted to implement the 2012 Supreme Court order by making budget allocations to empowerment and development programs, little progress had been made.

The Ministry of Women, Children, and Senior Citizens was responsible for the protection of persons with disabilities. Compared with primary school attendance, relatively few children with disabilities attended higher levels of education, largely due to accessibility problems, school locations, and financial burdens on parents. Although abuse of children with disabilities reportedly occurred in schools, no reports of such incidents were filed in the courts or with the relevant agencies during the year. The Ministry of Federal Affairs and Local Development mandates that each district allocate 15 percent of its budget for minority and vulnerable groups, including persons with disabilities. The Ministry of Women, Children, and Senior Citizens increased its budget for accessibility and distributed funds equally among 753 municipalities under the new federal system. Most persons with disabilities had to rely 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 or to access the judicial system. According to the Ministry of Women, Children, and Senior Citizens, however, there were obstacles to exercising these rights, especially the lack of accessibility to public facilities.

## **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. More than 125 caste and ethnic groups, some of which are considered indigenous nationalities, speak more than 120 different languages.

Discrimination against lower castes and some ethnic groups, including in employment (see section 7.d.), was widespread and especially common in the Terai 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 other disadvantaged castes. The constitution prohibits the practice of untouchability and stipulates special legal protections for Dalits in education, health care, and housing. It also established the National Dalit Commission as a constitutional body to strengthen protections for and promote the rights of Dalits.

According to the Nepal National Dalit Social Welfare Organization, government progress in reducing discrimination remained limited in rural areas.

The government recognized 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 and linguistic, religious, and cultural discrimination. Some NGOs stated that indigenous people, whose settlements were disproportionately damaged by the 2015 earthquakes, were discriminated against in the quality and quantity of reconstruction materials they received. Other NGOs, however, stated that discriminatory practices were not widespread, and local and international NGOs engaged in reconstruction made efforts to prevent discrimination in the distribution of reconstruction materials.

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

No laws criminalize same-sex sexual activity, and lesbian, gay, bisexual, transgender, and intersex (LGBTI) persons actively advocated for their rights. The constitution contains provisions outlining protections for LGBTI persons, but

LGBTI activists continued to press for further legislation to increase protections for gender and sexual minorities.

In August the cabinet registered an amendment to the 2006 Citizenship Act that officially recognizes nonbinary gender identity for citizenship documents. This step is intended to reduce discrimination experienced by transgender persons. The current civil code, however, defines marriage only between opposite-sex persons, which LGBTI activists have interpreted as a sign of bias against LGBTI persons.

According to local LGBTI advocacy groups, the government did not provide equal opportunities for LGBTI persons in education, health care, or employment (see section 7.d.). Additionally, advocacy groups stated that some LGBTI persons faced difficulties in registering for citizenship, particularly in rural areas.

Although several LGBTI candidates ran for office in local elections in 2017, LGBTI activists noted that election authorities prevented one person who self-identified as third gender from registering as a candidate for vice mayor because electoral quotas required the individual's party to register a "female" candidate for the position. Separately, LGBTI activists stated that some transgender persons refrained from voting out of fear of harassment or social scorn because transgender persons were forced to stand in lines reflecting the gender on their citizenship documents, regardless of whether they had changed gender in practice.

According to LGBTI rights NGOs, harassment and abuse of LGBTI persons by private citizens and government officials declined during the year, especially in urban areas, although such incidents still occurred. Several NGOs praised the government, specifically the Ministry of Women, Children, and Senior Citizens, for taking the initiative in organizing LGBTI-related trainings and sensitivity programs to reduce violence and discrimination targeting LGBTI persons.

LGBTI rights groups reported that gender and sexual minorities faced harassment from police during the year. The Nepal Police HRS confirmed that some low-level harassment occurred because many citizens held negative views of LGBTI persons. The HRS added that the Nepal Police were not immune to such social prejudices. According to LGBTI advocacy group Blue Diamond Society, in February police officers assaulted two transgender women without cause. After registering the case with police and the NHRC, the victims received a formal apology and the police paid medical expenses.

## **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 remained common, according to NGOs.

## **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 organizations deemed by the government to be subversive or seditious. Freedom of association extends to workers in both the formal and informal sectors. Noncitizens cannot be elected as trade union officials. Local workers have the right to strike and bargain collectively, except for employees in essential services, including public transportation, banking, security, and health care. The Special Economic Zone (SEZ) Act approved in August 2016 prohibits workers from striking in any SEZ. There was only one SEZ under development. Members of the armed forces, police, and government officials at the undersecretary level or higher also are 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 may 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 instances 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.

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 occasionally called 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, but worked effectively to advance the rights of workers. The government did not interfere in the functioning of workers' organizations or threaten union leaders.

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

The law prohibits all forms of forced or compulsory labor and provides penalties ranging from one to 20 years in prison and fines of up to NRs 200,000 (\$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 meet the 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.

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 15 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 17. 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 17 to a 36-hour workweek (six hours a day between 6 a.m. and 6 p.m., six days a week).

The law also establishes penalties of up to two years in prison and a fine up to NRs 100,000 (\$1,000) for those who unlawfully employ children.

The Department of Labor, which is responsible for enforcing child labor laws and practices, had a weak enforcement record. The Department of Labor conducted most of its labor inspections in the formal sector while nearly all child labor occurred in the informal sector. The Department had 10 factory inspector positions in district labor offices and two senior factory inspector positions in Kathmandu. Chronic vacancies in these positions, however, limited the department's effectiveness. Some of these positions were vacant due to regular rotation of civil servants, and resources devoted to enforcement were limited. In 2015 the Department of Labor created five senior labor officer positions in industry-heavy districts, but as of September the positions were all vacant. A broad range of laws and policies are designed to combat and eventually eliminate child labor. Penalties range from a NRs 10,000 (\$100) fine and one year in prison to a NRs 200,000 (\$2,000) fine and 20 years' imprisonment.

Child labor 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).

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 and Occupation**

The constitution prohibits discrimination on the basis of religion, race, sex, caste, tribe, geographical or social origin, language, marital status, physical or health condition, disability, or ideological conviction. Labor regulations prohibit discrimination in payment or remuneration based on gender.

There are no provisions in the constitution, law, or regulations prohibiting discrimination, including labor discrimination, or discrimination based on color, age, national origin or citizenship, HIV-positive status, or other communicable disease.

Despite constitutional and legal protections, discrimination in employment and occupation occurred with respect to gender, caste, ethnicity, national origin, citizenship, disability, religion, sexual orientation and gender identity, and HIV-positive status. 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 men without disabilities being favored in hiring, promotions, and transfers.

To be eligible for government jobs, Nepali national origin or citizenship is mandatory.

According to the Ministry of Women, Children, and Senior Citizens and disability rights advocates, the overall rate of employment of persons with disabilities did not increase significantly. In the private sector, large numbers of persons with disabilities claimed they were denied work opportunities or dismissed due to their conditions. In all sectors employees with disabilities reported other forms of discriminatory treatment.

According to the Nepal National Dalit Social Welfare Organization, the government made little progress in implementing antidiscrimination legal provisions to assure employment opportunities for lower-caste individuals in both the public and private sectors. There was no comprehensive data on this abuse.

Reliable data on discrimination against LGBTI persons in various sectors was not available, but activists reported it was common for gender and sexual minorities to be denied promotions and competitive opportunities within the security services and athletics.

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

The government increased the minimum wage for unskilled laborers in July to NRs 13,350 (\$120) per month. For workers in the tea industry, the minimum wage was increased to NRs 10,781 (\$100) per month. The minimum wage exceeded the official poverty line of NRs 52 (\$.50) per day, but it was minimally 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 and Employment 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 12 factory inspectors for the 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 and Employment 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 has not created the necessary regulatory or administrative structures to enforce occupational safety and health provisions. The Ministry of Labor and Employment 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 was not available. Labor law and regulations do not specify that workers can remove themselves from situations that endanger health or safety without jeopardizing their employment.

The government regulated labor contracting, or “manpower,” agencies recruiting workers for overseas jobs, and penalized fraudulent recruitment practices. The government said it remained committed to the free-visa, free-ticket scheme introduced in 2015, but according to migrant rights NGOs, the government has failed to implement the policy effectively. Some government officials were complicit in falsifying travel documents and overlooking recruiting violations by

labor contractors. 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 and failed to deliver the training. Nepali migrant workers abroad often continued to face exploitive conditions.

According to the International Labor Organization, more than 70 percent of the economically active population is involved in the informal economy.

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 villages, employers sometimes forced workers to work in such situations or risk losing their jobs.