

BHUTAN 2019 HUMAN RIGHTS REPORT

EXECUTIVE SUMMARY

Bhutan is a democratic, constitutional monarchy. King Jigme Khesar Namgyel Wangchuck is the head of state, with executive power vested in the cabinet, headed by Prime Minister Lotay Tshering. In 2018 the country held its third general elections, in which approximately 71 percent of eligible voters cast their ballots. International election witnesses reported the elections were generally free and fair.

The Royal Bhutan Police (RBP) is responsible for internal security. The Royal Bhutan Army (RBA) is responsible for defending against external threats but also has responsibility for some internal security functions, including counterinsurgency operations, protection of forests, and security for prominent persons. The RBP reports to the Ministry of Home and Cultural Affairs, and the king is the supreme commander in chief of the RBA. Civilian authorities maintained effective control over the security forces.

Significant human rights issues included: political prisoners; criminal libel laws; restrictions on freedom of peaceful assembly and association; restrictions on domestic and international freedom of movement; trafficking in persons; and child labor.

The government took steps to identify, investigate, prosecute, and punish officials who committed human rights abuses.

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 no reports that the government or its agents committed arbitrary or unlawful killings.

b. Disappearance

There were no reports of disappearances by or on behalf of government authorities.

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

The constitution prohibits such practices, and there were no reports that government officials employed them.

Prison and Detention Center Conditions

There were no significant reports regarding prison or detention center conditions that raised human rights concerns.

Physical Conditions: According to police, there were no separate prisons designated for women and children. The country's Open-Air Prison (OAP) system has reduced overcrowding and assisted inmates to prepare for reintegration into society. Since 2013, prisoners who have served 75 percent of their sentence and exhibit good conduct are eligible for transfer to an OAP, according to UN figures. Until January, 725 male inmates had been transferred to OAPs, and by year's end there were 185 male inmates residing in eight different OAPs across the country. By year's end, there were 27 female inmates based at the only OAP for women. Their children are permitted to live in the OAP up to the age of nine years. Inmates enjoy more freedom at OAPs than prisons, including the ability to earn money by undertaking work in the community, greater access to family members as well as the ability to move freely in the vicinity of the facility and to use mobile telephones.

Administration: Police administer the prison system. Authorities conducted proper investigations of credible allegations of mistreatment. There was no available information regarding recordkeeping on prisoners.

Independent Monitoring: The International Committee for the Red Cross (ICRC) has not renewed its memorandum of understanding with the government since 2012 and did not actively revisit the issue during the year, although it continued to facilitate family visits.

d. Arbitrary Arrest or Detention

The law prohibits arbitrary arrest and detention and provides for the right of any person to challenge the lawfulness of his or her arrest or detention in court, and the government generally observed these requirements.

In its preliminary findings conducted during a January visit to the country, a UN Working Group on Arbitrary Detention noted significant progress had been made on the arbitrary deprivation of liberty since prior visits in 1994 and 1996.

Arrest Procedures and Treatment of Detainees

Under the law, police may only arrest a person with a court-issued warrant or probable cause. Police generally respected the law. Police may conduct “stop and frisk” searches only if they have a reasonable suspicion that a crime has been committed. Arresting authorities must issue an immediate statement of charges and engage in reasonable efforts to inform the family of the accused. The law requires authorities to bring an arrested person before a court within 24 hours, exclusive of travel time from the place of arrest. The UN Working Group on Arbitrary Detention visited the country from January 14-24, visiting over 20 places of detention and confidentially interviewing more than 150 detained individuals. The vast majority of detainees interviewed by the UN working group confirmed that they had been brought before a judge for their first remand hearing within 24 hours of their arrival at a police station, which the UN group noted was “a remarkable achievement” given that other jurisdictions did not meet such a tight deadline on a regular basis. The working group regarded production before a court as an essential protection against arbitrary detention and other possible abuses of power, such as torture and other forms of mistreatment, and commended the work of police in ensuring that the 24-hour time limit was regularly met.

The law provides for prompt access to a lawyer and government provision of an attorney for indigent clients. Bail is available depending on the severity of charges and the suspect’s criminal record, flight risk, and potential threat to the public. In addition, bail can be granted after the execution of the bail bond agreement. Police can hold remanded suspects for 10 days pending investigation, which courts can extend to 49 days. In cases of “heinous” crimes, the period can then be extended to 108 days should the investigating officer show adequate grounds. The law expressly prohibits pretrial detention beyond 108 days. The Anticorruption Act empowers an Anticorruption Commission to arrest, in accordance with the country’s broader civil and criminal code, a person having committed or about to commit a corruption-related offense. The arrested individual must make a court appearance within 24 hours. The UN working group found that while there were some dedicated pretrial detention facilities for children, there were no dedicated pretrial detention facilities for adults. Instead, police held pretrial detainees in police stations where they were the majority of detainees.

e. Denial of Fair Public Trial

The law provides for an independent judiciary, and the government generally respected judicial independence and impartiality. The rulings of judges, however, often lacked consistency, according to Freedom House's *Freedom in the World 2019* report.

Trial Procedures

The law stipulates that defendants must receive fair, speedy, and public trials, and the government generally respected this right. A court must hold a preliminary hearing within 10 days of registration of a criminal matter. Before registering any plea, courts must determine whether the accused is mentally sound and understands the consequences of entering a plea. Defendants benefit from a presumption of innocence, have the right to confront witnesses, and cannot be compelled to testify. Conviction requires that cases be proven beyond a reasonable doubt. The government has prescribed a standing rule for courts to clear all cases within a year of the case filing, and in practice, most trials were completed within a year from the start of the proceedings, according to the UN working group. The country has an inquisitorial judicial system and has no jury trials. The law stipulates a defendant's right to plead or defend himself or herself in person and that a defendant's right to a speedy trial not limit his or her time to prepare a defense.

Defendants have the right to appeal to the High Court and may make a final appeal to the king, who traditionally delegates the decision to the Royal Advisory Council. Trials are conducted publicly, although a court can order that press and the public be removed from the courtroom for part or all of the trial in the interest of justice. While the law does not require that defendants in criminal trials receive the free assistance of an interpreter, in practice interpreters are provided free of charge or the proceedings are conducted in a language the defendant understands. The court must provide the opportunity for the parties to present relevant evidence, including witness testimony. Prosecutors and defendants are allowed to conduct direct and cross-examination.

The law provides for the right to representation. Although representation occurred frequently in criminal cases, in civil cases most defendants and plaintiffs represented themselves. In criminal cases, representation might be declined by the accused based either on an incorrect understanding of the law and a belief that the accused would not be subject to a serious sentence if they were convicted, or

because they had committed the offense and did not think that legal representation was important. The law states that criminal defendants may choose legal representation from a list of licensed advocates. According to testimonies received by the UN working group, a majority of defendants in criminal matters did not have access to legal representation at crucial stages of their proceedings: following arrest, during pretrial detention, and during their trial and appeal. Detainees were generally not aware of their right to a lawyer because they had not been informed of this right by police. In many cases, defendants could not afford to retain a private lawyer. The government promoted the use of judiciary websites for legal information as a means of self-help for defendants.

Political Prisoners and Detainees

Family members of prisoners are allowed to meet their relatives and receive a travel allowance paid by the ICRC. Most political prisoners were Nepali-speaking persons associated with protests in the early 1990s. Government officials claimed that those remaining in prison were convicted of having committed violent crimes during demonstrations. The government reported that as of December 2016, there were 57 prisoners serving sentences resulting from convictions under the National Security Act or its related penal code provisions.

Civil Judicial Procedures and Remedies

The constitution provides the right to initiate proceedings for the enforcement of “fundamental rights” enumerated within the text, and individuals and organizations may seek civil remedies for human rights violations through domestic courts. The law governs the resolution of criminal trials and civil litigation and states a suit may be initiated by a litigant or a member of the litigant’s family. The law also provides for compensation to those detained or subjected to unlawful detention but later acquitted. Often local or community leaders assisted in resolving minor disputes. As plaintiffs and defendants often represented themselves in civil matters, judges typically took an active role in investigating and mediating civil disputes.

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

The constitution prohibits such actions, and the government generally respected these prohibitions.

Citizens seeking to marry noncitizens require government permission. Government workers are barred from receiving promotions in the case of marriage to a noncitizen.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Expression, Including for the Press

The constitution provides for freedom of expression, including for the press, and the government generally respected this right. An independent press, an effective judiciary, and a functioning democratic political system combined to promote freedom of expression.

Freedom of Expression: Defamation can carry criminal penalties, and citizens were cautious in their expression, especially as it related to criticism of the royal family. Local contacts reported increased use of social media to raise complaints of official misconduct or abuse.

Press and Media, Including Online Media: Independent media were active and generally expressed a variety of views. The law does not provide specific protections for journalists or guarantee freedom of information, although there were no official restrictions on the media. The law also prohibits media outlets from supporting political parties and prohibits outlets from endorsing candidates during the election period. Journalists engaged in self-censorship, especially relating to the royal family, and were hesitant to criticize politicians with whom they had personal relationships. The government controlled the majority of media outlets, and there were barriers to the creation of private outlets.

Censorship or Content Restrictions: Public expression is generally free from censorship, although citizens often engage in self-censorship relating to the royal family. In 2017, legislation established an independent body, the Media Council, tasked with monitoring the media to determine what content is harmful or offensive. Freedom House's *Freedom in the World 2019* report noted "press advocates fear that the new body will further erode press freedom and contribute to greater self-censorship," although the report noted there were no instances of this during the year.

Libel/Slander Laws: In its *Freedom in the World 2019* report, Freedom House noted that individuals could use defamation laws to retaliate against critics.

Internet Freedom

The government generally did not restrict or disrupt access to the internet or censor online content, and there were no credible reports the government monitored private online communications without appropriate legal authority. Government officials stated the government did not block access, restrict content, or censor websites.

Academic Freedom and Cultural Events

There were no government restrictions on academic freedom and cultural events.

b. Freedoms of Peaceful Assembly and Association

The government restricted freedoms of peaceful assembly and association.

Freedom of Peaceful Assembly

While the constitution provides for the right to assemble peacefully, the government retains the right to restrict assembly. The law permits the government to control the public's right to assembly "to avoid breaches of the peace" by requiring licenses, prohibiting assembly in designated areas, and declaring curfew. Freedom House noted government permission for public gatherings was "sometimes denied." The law prohibits "promotion of civil unrest" as an act that is prejudicial to the maintenance of harmony among different nationalities, racial groups, castes, or religious groups.

Freedom of Association

The constitution provides for freedom of association, and the government permitted the registration of political parties pursuant to relevant election laws and nongovernmental organizations (NGOs) deemed "not harmful to the peace and unity of the country." NGOs in the country maintained formal or informal connections to members of the royal family, although this was not legally mandated. In its *Freedom in the World 2019* report, Freedom House stated the government did not permit the operation of NGOs working on the status of Nepali-speaking refugees, but that other local and international NGOs worked with relative freedom from official scrutiny. Under the law all NGOs must register with the government. To register an NGO, an individual must be a citizen, disclose his

or her family income and assets, provide his or her educational qualifications, and disclose any criminal record (see also section 5).

c. Freedom of Religion

See the Department of State's *International Religious Freedom Report* at <https://www.state.gov/religiousfreedomreport/>.

d. Freedom of Movement

The law provides for freedom of internal movement, foreign travel, emigration, and repatriation, but the government limited freedom of movement and repatriation. Freedom of movement was sometimes restricted based on the location of one's permanent residence. Additionally, the government was generally reluctant to repatriate Nepali-speaking refugees who currently live outside of the country.

In-country Movement: The law establishes different categories of citizenship and determines whether a person may be granted a "route permit" to travel internally, which primarily affected foreigners married to a citizen and their children and those who were permitted to reside in the country to conduct business.

Foreign Travel: The law establishes different categories of citizenship under which foreign travel may be restricted. NGOs reported these restrictions primarily affected ethnic Nepalis, although children of single mothers who could not establish citizenship through a Bhutanese father also were affected. Citizens are required to obtain a security clearance certificate to obtain a passport.

Exile: In the early 1990s, the government reportedly forced between 80,000 and 100,000 Nepali-speaking residents to leave the country, following a series of decisions taken during the 1970s and 1980s establishing legal requirements for citizenship.

At the end of 2018, after years of international efforts resulting in the resettlement of thousands of refugees, UNHCR reported approximately 6,500 Nepali-speaking refugees remained in the two refugee camps it administered in Nepal.

There continued to be delays in government consideration of claims to Bhutanese citizenship by refugees in Nepal.

Citizenship: The law provides for revocation of the citizenship of any naturalized citizen who “has shown by act or speech to be disloyal in any manner whatsoever to the king, country, and people.” The law permits reapplication for citizenship after a two-year probationary period. The government may restore citizenship after successful completion of the probation and a finding that the individual was not responsible for any act against the government.

e. Internally Displaced Persons

According to the Internal Displacement Monitoring Center, there were 690 new displacements in disasters during 2016, the last year for which data is available.

f. Protection of Refugees

The government cooperated with the Office of the High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing protection and assistance to internally displaced persons, refugees, returning refugees, asylum seekers, stateless persons, or other persons of concern.

Access to Asylum: The law does not provide for the granting of asylum or refugee status, and the government has not established a system for providing protection to refugees, but some refugees were eligible for residence permits.

The Central Tibetan Administration (CTA) reported that since the 1960s, the country had sheltered Tibetan refugees who were initially located in seven settlements. Tibetan officials reported the Tibetans had largely successfully integrated into society. According to the CTA’s 2017-18 annual report, the latest for which information is available, 1,847 Tibetan refugees lived in the country; approximately 1,654 of them had refugee resident permits. No records indicated any of these refugees held work permits. The Tibetan population was decreasing as Tibetan refugees adopted Bhutanese citizenship, according to the Department of Immigration.

Freedom of Movement: Tibetan refugees reportedly encountered difficulties traveling within and outside the country. Many Tibetan refugees faced obstacles in obtaining travel permits. There were also reports the government did not provide the travel documents necessary for Tibetan refugees to travel beyond India. Some restrictions on movement exist based on categories of citizenship, which have the greatest impact on Nepali-speaking citizens.

Employment: Reports suggested some Tibetan refugees could not obtain security clearances for government jobs or obtain licenses to run private businesses. While Tibetan refugees are not eligible for government employment, the CTA previously reported that at least 13 refugees received business licenses and others found public-sector employment under temporary government contracts.

Access to Basic Services: The government stated Tibetan refugees have the same access to government-provided health care and education as citizens, although some reports stated Tibetans could not enroll in higher education.

Durable Solutions: The government continued to delay implementing a process to identify and repatriate refugees with claims to Bhutanese residency or citizenship.

g. Stateless Persons

A nationwide census in 1985 resulted in a determination that many Nepali-speaking persons in the country were not citizens, effectively rendering them stateless. The government alleged they were not citizens because they could not prove they had been resident in the country in 1958. Officials repeated the census in 1988-89 in the southern districts. During the second round of the census, those who were deemed not to be citizens in 1985 could apply for citizenship provided they met certain conditions. The government categorized those who did not meet the new criteria as illegal immigrants and expelled them. According to NGOs an unknown number of Nepali-speaking stateless persons remained in the country, mainly in the south. Officials conducted the last census in 2017. While no records exist, civil society sources estimated 1,000 families were stateless, but other estimates put the figure as high as 30,000 persons.

For a child to qualify for citizenship, both parents must be citizens. NGOs and media sources highlighted the existence of stateless children born to unwed mothers who were unable to prove the identity of the father of the child. Government reports indicated that 20 children in the kingdom fell into this category.

Stateless persons cannot obtain “no objection certificates” and security clearance certificates, which are often necessary for access to public health care, employment, access to primary and secondary education, enrollment at institutions of higher education, travel documents, and business ownership. The National Commission for Women and Children stated children without citizenship were eligible for public educational and health services.

Section 3. Freedom to Participate in the Political Process

The constitution 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 successfully held national elections in 2018. Voter participation stood at approximately 66 percent in the first round and 71 percent in the second. International witnesses generally considered the elections free and fair. There were no reports of significant irregularities during the election process.

Political Parties and Political Participation: The constitution states that political parties shall promote national unity and shall not resort to regionalism, ethnicity, or religion to incite voters for electoral gain. Political parties are required to be broad based, have a national membership, not be limited to a particular region or other demographic constituency, and not receive money or other assistance from foreign sources. The government provided funding only for general elections and maintained rigid guidelines on party financing. Four parties contested the 2018 elections.

Participation of Women and Minorities: Women were underrepresented in public office. Women occupied 15 percent of the seats in the National Assembly. Seven of the 10 women candidates who contested the National Assembly election won, up from three in the previous election. There are also four women in the upper house or National Council, including two elected members.

As part of the country's strict separation of religion from politics, the law barred ordained members of the clergy, including Buddhist monks and nuns, from participating in politics. This prohibition meant clergy could not vote or run for office. No other laws limit the participation of women and members of minorities in the political process.

Section 4. Corruption and Lack of Transparency in Government

The law provides criminal penalties for corruption by officials, and the government generally implemented the law effectively. There were isolated reports of government corruption during the year.

Corruption: The government took an active role in addressing official corruption through the Public Accounts Committee in the National Assembly and the Royal Audit Authority, which monitored the use of government funds. The Anticorruption Commission (ACC) is authorized to investigate cases of official corruption and allows citizens to submit information to its website regarding corrupt practices. The constitution enables the ACC to act as an independent body although its investigative staff were primarily civil servants answerable to the Royal Civil Service Commission. Based on the UN Convention against Corruption, the 2011 Anticorruption Act expanded the mandate of the ACC to cover the private sector and enhanced the ACC's investigatory powers and functions. The ACC has the authority to suspend the registration of civil society organizations under investigation and two suspensions were ongoing according to government figures.

The 2018 ACC report detailed 182 complaints of "abuse of functions," 23 of embezzlement, seven of bribery, and 121 other related corruption offenses. Approximately one-fourth of corruption complaints were against government ministries, which saw a substantial increase in complaints from the prior year, while there was a reduction in complaints against local governments. The ACC forwarded 19 cases for investigation.

Financial Disclosure: The law requires public servants, and persons working for NGOs using public resources, their spouses, and dependents to declare their income, assets, and liabilities.

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

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were somewhat cooperative and responsive to their views. According to international NGOs, local civil society organizations practiced self-censorship to avoid issues perceived as sensitive by the government. Sensitive issues included women's rights and environmental issues, as well as issues related to the Nepali-speaking community. The government did not permit human rights groups established by the Nepali-speaking

community to operate by categorizing them as political organizations that did not promote national unity (see section 2.b., Freedom of Association).

The United Nations or Other International Bodies: The government did not renew its agreement with the ICRC allowing it to make prison visits to persons detained for crimes against the security of the state after their agreement expired in 2013. The ICRC continued to engage with the government to facilitate prison visits for Bhutanese refugees living in Nepal.

Government Human Rights Bodies: The National Assembly Human Rights Committee conducted human rights research on behalf of the National Assembly. The Civil Society Organization (CSO) Authority has the legal authority to regulate civil society operations. Of the 51 registered CSOs, 41 were categorized as public-benefit organizations and 10 as mutual-benefit organizations. Two CSOs had ongoing registration suspensions pending ACC investigation.

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

Women

Rape and Domestic Violence: The penal code makes no reference to gender in its definition of rape. In cases of rape involving minors, sentences range from five to 15 years in prison. In extreme cases, a person convicted of rape may be imprisoned for life. Spousal rape is illegal and prosecuted as a misdemeanor. The Office of the Attorney General (OAG) stated in its 2018 *Annual Report* that there were 22 sexual offenses committed against women during the year, including eight cases of rape. A report from the National Commission for Women and Children in March found more than two in five women experienced at least one form of sexual, physical, psychological, or economic violence.

The law prohibits domestic violence. Penalties for perpetrators of domestic violence range from a prison sentence of one month to three years. Offenders also face a fine of the daily national minimum wage (approximately \$3) for 90 days. Three police stations housed women and child protection units to address crimes involving women and children, and eight police stations housed desks with officers specifically devoted to women and children's issues. A dedicated toll-free helpline exists to report violence against women and children. The government trained police on gender issues, and allowed civil society groups to undertake further efforts, including operation of a crisis and rehabilitation center. Freedom House reported that cultural taboos resulted in the underreporting of domestic violence,

although reports have increased in recent years. In its 2018 *Annual Report*, the OAG noted one case of domestic violence during the year and highlighted antidomestic violence “dissemination programs” in schools and in nationwide community outreach.

Sexual Harassment: The Labor Employment Act has specific provisions to address sexual harassment in the workplace. NGOs reported these provisions were generally enforced.

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

Discrimination: The law provides for equal inheritance for sons and daughters. In some areas, however, traditional inheritance practices stipulate inheritance is matrilineal and that daughters inherit family land. It is not normal practice for daughters to assume their father’s name at birth or their husband’s name upon marriage in most of the country.

The law mandates the government take appropriate measures to eliminate all forms of discrimination and exploitation of women, including trafficking, abuse, violence, harassment, and intimidation, at work and at home. The government generally enforced this law.

Children

Birth Registration: Under the constitution, only children whose parents are both citizens acquire citizenship at birth. Parents must register a birth before a child turns one year old, after which a petition must be filed with the king to be granted citizenship. Civil society groups noted disproportionate barriers to citizenship faced by Nepali-speaking *Lhotshampa* communities and the wives of noncitizens.

Education: The government provides 11 years of universal free education to children, although education is not compulsory. Gender parity at the primary level has been achieved. Girls have unequal access to the country’s secondary and tertiary schools because of their distance, their lack of adequate sanitation, and transportation difficulties.

Child Abuse: The law prohibits child abuse and provides for a minimum penalty of one year’s imprisonment for perpetrators.

Early and Forced Marriage: The statutory minimum age of marriage for both men and women is 18. UNICEF data from 2017 indicated that 26 percent of women were married before the age of 18. The Bhutan Multiple Indicator Survey (BMIS) Report estimated in 2010 that 7 percent of marriages occurred before the age of 15.

Sexual Exploitation of Children: The law prohibits commercial sexual exploitation, including child pornography, child prostitution, and the sale of children. Authorities generally enforced the law. The legal age of consent is 16 for both boys and girls. The OAG stated in its 2018 *Annual Report* there were 61 sexual offenses committed against children during the year, including 38 cases of rape and 17 cases of child molestation.

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/reported-cases.html>.

Anti-Semitism

The country does not have a Jewish population, and there were no reports of anti-Semitic acts.

Trafficking in Persons

See the Department of State's *Trafficking in Persons Report* at <https://www.state.gov/trafficking-in-persons-report/>.

Persons with Disabilities

The constitution specifically protects the rights of citizens with disabilities. The law directs the government to attend to the security of all citizens in the “event of sickness and disability.” The law requires that new buildings allow access for persons with disabilities, but the government did not enforce this legislation consistently. There were reports hospitals were generally accessible to persons with disabilities, but residential and office buildings were not.

No government agency had specific responsibility for protecting the rights of persons with disabilities.

National/Racial/Ethnic Minorities

The law establishing different categories of citizenship and governing domestic and international travel restrictions primarily affected ethnic Nepalis and foreign-born individuals. Reports suggested that some Nepali-speaking citizens could not obtain security clearances, which are required to obtain a passport, secure government jobs, enroll in higher education, and obtain licenses to run private businesses. The government claimed Nepali speakers were proportionally represented in civil service and government jobs. In its *Freedom in the World 2019* report, Freedom House stated some ethnic Nepalis who lacked a security clearance certificate sometimes faced difficulties in starting a business. The property registration process could also be lengthy for some. The government did not permit the operation of NGOs working on the status of ethnic Nepali issues, and that ethnic Nepali persons, who speak Nepali, sometimes faced employment discrimination and other forms of bias.

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

The constitution provides for equal protection of the laws and application of rights but does not explicitly protect individuals from discrimination based on their sexual orientation, gender identity or expression, or sex characteristics. Laws against “sodomy or any other sexual conduct that is against the order of nature” exist. The penal code imposes penalties of up to one year in prison for engaging in prohibited sexual conduct, although this was not generally enforced.

Members of the lesbian, gay, bisexual, transgender, and intersex community reported instances of discrimination and social stigma based on sexual orientation.

The law does not provide any distinct legal status for transgender individuals, nor does it provide explicit protections.

HIV and AIDS Social Stigma

While NGOs claimed persons with HIV/AIDS faced no widespread stigma, observers noted such persons feared being open about their condition.

The government provided free medical and counseling services to persons with HIV/AIDS and maintained programs meant to prevent discrimination.

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 independent unions. Workers can form a union with the participation of at least 12 employees from a single workplace. There is no national trade union. The law does not mention the right to conduct legal strikes. Most of the country's workforce engages in agriculture, a sector that is not unionized.

The law provides for the right of workers to bargain collectively with employers. The law prohibits antiunion discrimination and requires reinstatement of workers fired for union activity. Violators may face misdemeanor charges and be compelled to pay damages.

The government effectively enforced applicable laws. Resources, inspections, and remediation were adequate, and penalties were sufficient to deter violations. The law grants workers the right to pursue litigation.

Freedom of association and the right to bargain collectively were respected, although there were few employee unions. No unions formed during the year.

According to a media report, there are two wage rates in the country: the national minimum wage rate, and the national work force wage rate. The national minimum wage rate applies to anyone working in the country irrespective of nationality. The national work force wage rate, which is higher, applies only to Bhutanese nationals. The country's minimum wage when converted to a monthly income was above the poverty line.

b. Prohibition of Forced or Compulsory Labor

The law prohibits most forms of forced or compulsory labor, but the government did not always effectively enforce applicable laws. The law makes exceptions with regard to prison labor, work that might be required during an emergency, and work required for "important local and public" celebrations. The law criminalizes trafficking for illegal, but not exploitative, purposes. Violations of the law with respect to worst forms of child labor, forced and compulsory labor, improvement notice, prohibition notice, nonpayment of compensation, minimum age of admission into employment, employing foreigners without permit, and not complying with permits issued by the government are felonies subject to three to

five years' imprisonment. Resources, inspections, and remediation were adequate, and penalties were sufficient to deter violations. In addition, labor inspectors often mediated cases of nonpayment of wages and passport withholding in lieu of civil or criminal investigations.

Some domestic servants working in private homes, including Indian children, where the Ministry of Labor and Human Resources lacks jurisdiction are victims of forced labor. Officials relied on citizens to report forced labor of domestics directly to police. In addition civil society reported traffickers exploited Bhutanese students in forced labor abroad, including through student-worker programs (see section 7.c).

Migrant workers from India who worked in the country's construction and hydropower sectors and Indian women and girls who worked in domestic service or as caregivers were vulnerable to forced labor. The Ministry of Labor and Human Resources noted approximately 54,972 migrants worked in the country as of June 2018, mostly from India. The Ministry of Labor and Human Resources registered foreign migrant workers in the country, monitored working conditions, and produced and disseminated pamphlets advising workers of their rights, including full and prompt payment of wages and entitlement to retain personal identity documents. The UN Office of Drugs and Crime noted an increase in Indian child domestic workers in local homes, noting they were often brought in illegally and were hard to track. Young, rural citizens were transported to urban areas, generally by relatives, for domestic work, and some of these individuals were subjected to domestic servitude. Unconfirmed reports suggested that girls who worked as entertainers in *drayungs* (karaoke bars) were subjected to labor and sex trafficking through debt and threats of physical abuse.

Also see the Department of State's annual *Trafficking in Persons Report* at <https://www.state.gov/trafficking-in-persons-report/>.

c. Prohibition of Child Labor and Minimum Age for Employment

The law prohibits the worst forms of child labor. The minimum age for employment is 13, and the minimum age for hazardous work is 18. Children younger than age 18 are prohibited from working in dangerous occupations, including mining, construction, sanitary services, carpet weaving, or serving in bars.

While child labor laws were generally enforced, the Ministry of Labor and Human Resources reported that limited resources placed constraints on the number of inspections conducted and inspectors employed. Penalties included up to nine years' of nonbailable imprisonment and were generally sufficient to deter violations.

Children performed agricultural and construction work, completed chores on family farms, or worked in shops and restaurants after school and during holidays. Child labor also occurred in hotels and automobile workshops. Girls were employed primarily as domestic workers, where they were vulnerable to abuse and exploitation.

Also see the Department of Labor's *Findings on the Worst Forms of Child Labor* at <https://www.dol.gov/agencies/ilab/resources/reports/child-labor/findings>.

d. Discrimination with Respect to Employment and Occupation

The law prohibits employment discrimination for employees and job applicants and prescribes equal pay for equal work. Nepal-based organizations representing refugees claimed that Nepali-speaking citizens were subject to discrimination with respect to employment and occupation (see section 6, National/Racial/Ethnic Minorities).

e. Acceptable Conditions of Work

The national minimum wage was greater than the national poverty level. The law defines the workday as eight hours per day with a one-hour lunch break, and employers are required to grant regular rest days; however, these laws were sometimes difficult to enforce. According to one media report, although the government extended maternity leave by three months in 2016, most organizations in the private sector had not implemented the new rule. Work in excess of the legal workday was mandated to be paid at 1.5 times the normal rate.

Government occupational safety and health standards are current and appropriate. Labor regulations grant workers the right to leave work situations that endanger their health and safety without jeopardy to their employment.

The government generally enforced minimum wage, work hours, and occupational health and safety standards, fines and imprisonment effectively in the formal sector. Such penalties generally were sufficient to deter violations. The number of

labor inspectors was insufficient to cover the country's industries. Labor regulations were not effectively applied in the informal sector.