

# NEPAL 2019 HUMAN RIGHTS REPORT

## EXECUTIVE SUMMARY

Nepal is a federal democratic republic. The 2015 constitution established the political system, including the framework for a prime minister as the chief executive, a bicameral parliament, and seven provinces. In 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 noted a lack of transparency in the work of the Election Commission of Nepal (ECN).

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

Significant human rights issues included: reports of unlawful or arbitrary killings, including extrajudicial killings; torture; arbitrary detention by government; site blocking and criminal defamation laws; interference with the rights of peaceful assembly and freedom of association, including overly restrictive NGO laws; restrictions on freedom of movement for refugees, notably resident Tibetans; significant acts of corruption; 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 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.

### **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 June 20, police in Sarlahi killed a local leader of the Maoist splinter party Biplav. Police reported they shot Kumar Paudel after he fired at them. A preliminary investigation from the National Human Rights Commission (NHRC) suggested the death was suspicious and the human rights NGO Advocacy Forum-Nepal reported the encounter was likely staged. As of September, no police personnel had been charged.

The August 2018 case of Nepal Police killing two men suspected in the kidnapping and death of an 11-year-old boy, Nishan Khadka, in Bhaktapur remained unresolved. Human rights activists and local media said the suspects were already in police custody and that the police staged the encounter to justify their killing. In August 2018 the APF opened fire in Kanchanpur on a crowd that had gathered to demand justice after a 13-year-old girl, Nirmala Panta, was raped and killed; the APF shooting resulted in the death of a 14-year-old boy and injury to 24 protestors. As of September, eight police officers were suspended and two terminated based on the Home Ministry's probe committee recommendation into the APF shooting; in the underlying case of the rape and murder of Nirmala Panta, police had no suspect in custody.

The NHRC investigated the September 2018 death of Ram Manohar Yadav of the Free Madhesh movement in police custody following his arrest a week earlier. Human rights activists claimed police tortured Yadav and failed to provide adequate medical attention after he fell ill. The Ministry of Home Affairs denied the claims but admitted Yadav was taken to four different hospitals in search of an intensive care unit. In July the Home Ministry reached an agreement to compensate the victim's family NRs 1 million (\$10,000) and the NHRC closed the case, but no police personnel were punished.

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 the government had not made the report public by year's end.

## **b. Disappearance**

The 2018 criminal code formally criminalizes enforced disappearance. There were no reports of disappearances by or on behalf of government authorities during the year.

The fate of most of those who disappeared during the 1996-2006 civil conflict remained unknown. According to the NHRC, 801 cases of disappearances remain unresolved, most of which the NHRC says may have involved state actors. As of early December, 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 early December, the government had not prosecuted any Maoists or state actors for involvement in disappearances.

In 2017 the Commission of Investigation on 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. In April the CIEDP reported 2,008 cases completed.

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 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-Nepal (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.

Both AF and 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. AF and THRDA said 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 in 2017 that 34 percent of the detainees they interviewed were held in police detention centers in the country's southern Terai belt and had been subjected to some form of physical or mental abuse. According to the Nepal Police human rights section (HRS), 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.

### **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 nationwide assessment of prisons, facilities held nearly twice the inmate population of designed capacity. 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 ventilation, 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 medical care was poor for detainees with serious conditions. 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: Authorities including the OAG conducted investigations of allegations of mistreatment (see above).

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.

#### **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 and file a criminal charge

sheet. In special cases, that timeframe is extended. For narcotics violations, a suspect can be held for up to 90 days; for suspected acts of corruption, six months. Human rights monitors expressed concern that the law vests too much discretionary power in local authorities. 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 can afford their own lawyer, and the justice system does not receive sufficient funding to provide free and competent counsel to indigent defendants. There are, however, independent organizations providing free legal services to a limited number of detainees accused of criminal violations.

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. A functioning bail system exists; 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: The human rights NGO Informal Sector Service Center documented 247 incidents of arbitrary arrest (without timely warrant presentation) from January to June but attributed the comparative increase during the year to greater attention toward Biplav Maoist security threats.

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 courts do not have any substantive legal role in preventive detentions under the act.

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 2018 that 14 percent of detainees did not appear before judicial authorities within 24 hours of their arrests, down from 41 percent in 2015. 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 upheld. 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 once the charge sheet establishes a prima facie criminal violation. 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 Committee (TRC) and CIEDP. 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 and other property disputes remained outstanding, particularly in Provinces 1, 5, and 7.

### **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 abuse of discretionary authority.

## **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 criminal and civil codes and Privacy Act criminalize normal media activity, such as 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 several 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.”

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 February a popular folk singer released a satirical song criticizing government corruption; the singer removed his song from YouTube after allegedly receiving threats from the ruling Nepal Communist Party’s youth organization. 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 Refugee Welfare Office to celebrate the Dalai Lama’s birthday publicly. When Tibetan Buddhists held private events in the largest settlement in Kathmandu, police intervened to stop the celebration. On December 12, the Tibetan Refugee Welfare Office was allowed to celebrate the 30th anniversary of the Dalai Lama’s receipt of the Nobel Peace Prize in Dhagkar Monastery, Swoyambhu following discussions with the Swoyambhu police officials.

Press and Media, Including Online Media: The independent media were active and expressed a wide variety of views without restriction, with some exceptions. Several editors and journalists reported they faced intimidation by police and government officials and that vague provisions in laws and regulations prompted an increase in self-censorship by journalists.

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. In June a ward chair in

Birgunj attacked campaigner Piraj Yadav for requesting road construction costs under right to information provisions.

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 criminal code, for example, extends 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 were not 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.

Libel/Slander Laws: In June authorities jailed a satirist for defamation under the Electronic Transactions Act (ETA) after he lampooned a Nepali film on social media. Widespread public protests ensued, and authorities released him after nine days; he was acquitted of all charges in court.

## **Internet Freedom**

There were several incidents in which authorities took action under the 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.” In 2017 the government issued an amended online media operation directive, which requires all domestically 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. Human rights and press freedom NGO Freedom Forum reported more than 100 cases filed in court, mostly related to the ETA.

In April online reporter Arjun Giri was briefly jailed for writing about a businessman’s alleged financial fraud; he was officially absolved of wrongdoing in August.

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

The law provides for the freedom to hold cultural 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. Government permits are required to hold large public events. The government continued its attempts to stop Tibetans from celebrating culturally important events, such as Tibetan New Year 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 June large protests erupted in Kathmandu against a bill, since withdrawn, to nationalize the administration of Guthis, community-run land ownership organizations. The gathering was the largest since the antimonarchy movement during 2006-2007. Police exhibited restraint and there were no reports of violence.

### **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 <https://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 except as noted below.

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 exploited in trafficking or otherwise abused in overseas employment, 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 exploitation.

### **e. Internally Displaced Persons**

The 2015 earthquake and its aftershocks displaced millions of individuals. According to the Internal Displacement Monitoring Center, natural disasters in 2018 led to 12,000 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, safe, and dignified return 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.

## **f. 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 Bhutanese refugees. 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 approximately 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. UNHCR reported 639 refugees and 49 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 with claims to Bhutanese residency or 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, 45 in 2018, and 10 as of September. The government previously issued UNHCR-facilitated exit permits for recent arrivals from Tibet who were transiting while traveling to India but ceased doing so. 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 a 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 fines of \$5 per day out of status and a discretionary penalty of up to \$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. NGOs reported an improvement in refugees' ability to obtain civil registration documents, although some refugees continued to experience difficulties documenting 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 urban refugees, but 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 with claims to Bhutanese residency or citizenship to work or have access to public education or public health clinics, but it previously allowed UNHCR to provide parallel free education and health services to refugees in the camps. During the year new local authorities were allowing Bhutanese children access to public schools on an ad hoc basis. Since 2007 the government permitted third-country resettlement for more than 113,000 Bhutanese refugees.

### **g. Stateless Persons**

An estimated six million individuals lacked citizenship documentation, although the majority of these would be eligible for citizenship under local law. 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.

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 explicitly 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; LGBTI activists noted that this mandate excludes nonbinary candidates from running for office.

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

The law provides criminal penalties for corruption by officials, but 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 February a commissioner, Raj Narayan Pathak, at the Commission for the Investigations of Abuse of Authority (CIAA), the country's chief anticorruption agency, resigned after a video leaked of his accepting a bribe to

resolve an ongoing case before CIAA concerning privatization of a public educational institution. After the resignation the OAG advised CIAA to investigate its former commissioner. In March CIAA lodged a corruption case against Pathak. The CIAA sought to fine and punish Pathak under Section 3 (1) of the Prevention of Corruption Act. The case is pending before the Special Court.

The CIAA expanded its investigative scope in 2018 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 the year the CIAA conducted 97 sting operations which facilitated the arrest of 154 civil servants, including a senior civil servant.

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 publicly available, generally did 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 insufficient staff (95 out of 309 positions were vacant as of September, 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 year's end, it had made recommendations for prosecution and reparations in 995 cases (as of September). More than three-quarters of these involved conflict-era incidents.

The Nepal Police and APF each have an 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.

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.

There were significant delays in implementing and granting full independence to the country's two transitional justice mechanisms, CIEDP and the TRC. Human rights experts continue to report that neither of the mechanisms have made significant progress on investigations or reporting. The CIEDP and TRC commissioners' tenure expired in April without having fulfilled their mandate and new commissioners had to be appointed as of December.

Local human rights advocates cite 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 instances in which parliament 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 September, parliament had not amended the act to bring it in line with the Supreme Court decision, although the CIEDP 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 rape victims. In July 2018, 13-year-old Nirmala Panta was raped and killed in Kanchanpur district. A government panel that reviewed the police response found that investigators acted with grave negligence and destroyed key evidence in the case. In March the district court charged eight police personnel for tampering with evidence. As of September the case was unresolved. 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 reported that police often preferred to use mediation rather than criminal investigation to resolve conflicts. On October 1, allegations of rape against Speaker of Federal Parliament Krishna Bahadur Mahara led to his resignation at the request of Prime Minister Oli and the ruling Nepal Communist Party. As of November Mahara remained in police custody pending trial.

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 relatively poor health, livelihood insecurity, and inadequate social mobilization and contributed to intergenerational poverty. The law 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, some 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 law 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. 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. Early and forced marriages were especially common in the Dalit and Madhesi communities (see "Children" section). Government agencies documented incidents of dowry-related violence and forced marriage, 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 some cases of violence against alleged witches, and civil society organizations raised public awareness of the problem.

The law criminalizes acid attacks. The NGO Burns Violence Survivors Nepal documented two acid attacks from January to September.

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. In 2018 a law that formally criminalized the practice went into effect; it stipulates a punishment of up to three months' imprisonment, a maximum fine of NRs 3,000 (\$30), or both. Some local officials implemented various efforts to eliminate chhaupadi, including education campaigns and physical destruction of sheds, but stigma and tradition maintained the practice, particularly in rural western districts, where women periodically died from exposure to the elements. For example, local media reported that in January a woman died from exposure in her menstruation hut in Achham district, and two days later, a mother and her two children died of smoke inhalation while sleeping in her hut. On December 5, Nepal Police arrested an individual reportedly involved in the death of a woman in a menstruation hut, the first arrest of its kind since adoption of the 2018 law.

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 gender and caste discrimination. 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 these provisions.

The Gender Equality Act adopted in 2006--along with more than 60 other laws--contains 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 and has no specific provision for naturalization of foreign husbands married to citizen wives.

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.

## 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 sex of the child.

The constitution states that citizenship derives from one citizen parent, but it also stipulates that a child born to a citizen mother and a noncitizen father may obtain citizenship only through naturalization. In some cases, mothers faced extreme difficulties in securing citizenship papers for children of citizen parents, even when the mother possessed 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 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 but be eligible for naturalization. In practice many single women face difficulties registering their children as citizens by descent. The Supreme Court ruled in 2017 that government authorities must not deny the registration of birth and citizenship of children of citizen 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 he 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.

Education: The constitution makes basic primary education free and compulsory nationwide. The law 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.

Some children, particularly girls, face barriers to accessing education due to lack of sanitation facilities, geographic distance, costs associated with schooling, household chores, and lack of parental support. Countrywide, 32.4 percent of schools lack separate toilet facilities for girls, which can deter them from attending school, especially when they are menstruating. Barriers for attending school for school-age boys include pressure to find employment, migration to work outside the country, and issues with drugs and alcohol. Children with disabilities face additional barriers to accessing education, including denial of school admission. In addition, children are required to attend school only up to age 13. This standard makes children age 13 and older vulnerable to child labor despite not being legally permitted to work.

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 greater 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 National Child Rights Council.

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 reported they were married by the age of 18, and approximately 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 act 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, including by tourists, 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, and police sometimes arrested girls in commercial sexual exploitation. 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 law 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. The legal framework, however, does not explicitly prohibit the use of a child in the production of pornography.

Displaced Children: Many 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, including sexual 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, but there is no reliable data on the many unregistered homes. NGOs reported some children in the institutions were forced to beg. The NGO also reported no significant change in the level or degree of abuse of children compared to previous years.

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**

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 <https://www.state.gov/trafficking-in-persons-report/>.

### **Persons with Disabilities**

The constitution prohibits discrimination based on disability or physical condition and contains additional specific 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 gradually improved, they still were not fully effective. For example, books printed in Braille were not available for students at all grade levels, and free higher education was 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. Three provincial governments funded sign language interpreters in 20 districts to assist persons with hearing disabilities in obtaining government services. The government allocated approximately NRs 90 million (\$900,000) 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 77 districts.

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 Women, Children, and Senior Citizens reported that most of the 753 municipalities have allocated funding to minority and vulnerable groups, including persons with disabilities, 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. While the government promulgated the accompanying laws to prohibit discrimination in late 2018, Dalit rights activists maintained that the laws banned discrimination too generally without explicitly protecting 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.

### **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.

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 recent years, LGBTI activists noted that election authorities prevented one person in 2017 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; the Supreme Court ruled in favor of the government. 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.

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.

### **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. The government is developing the country's first two special economic zones in Bhairahawa and Simara, both in the portion of the country near the Indian border. 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 under certain conditions 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 which if enforced would be sufficient to deter violations. 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 did not

effectively enforce the law and 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. The government did not effectively screen for labor trafficking among abused migrant workers and handled such cases administratively in lieu of criminal investigation. In addition, despite reports of worker exploitation, including trafficking, and illegal recruitment fees charged by recruitment agencies, the government did not sufficiently investigate agencies for violations.

Also see the Department of State's *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 establishes 15 as the minimum age for work and 17 as the minimum age for hazardous work, and it defines and mandates acceptable working conditions for children. The minimum age for hazardous work is not consistent with international standards because it does not prohibit children age 17 from engaging in hazardous work. The types of hazardous work prohibited for children also do not include brickmaking, a sector in which there is evidence that work involves carrying heavy loads and being exposed to hazardous substances. 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 for those who unlawfully employ children which are sufficient to deter violations.

The Department of Labor, which is responsible for enforcing child labor laws and practices, did not effectively do so. 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. Although labor inspectors periodically received training on child labor laws and inspection, this training did

not necessarily adhere to any formal schedule. A broad range of laws and policies were designed to combat and eventually eliminate child labor. Penalties are sufficient to deter violations.

Child labor, including forced 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 <https://www.dol.gov/agencies/ilab/resources/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 minimum wage exceeded the official poverty line 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, and Social Security 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 did not employ a sufficient number of inspectors to enforce the wage and hour laws or the occupational health and safety laws. The government did not effectively enforce the law.

Implementation and enforcement of occupational health and safety standards were minimal, and the Ministry of Labor, and Employment, and Social Security 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, and Social Security 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 Department of Foreign Employment introduced measures during the year to reduce the number of registered manpower agencies and more closely scrutinize their activities. 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 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. Migrant workers heading abroad often continued to face exploitive conditions.

According to the International Labor Organization, more than 70 percent of the economically active population was 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. The number of labor inspectors is insufficient for the size of the country's workforce.