

NEPAL 2020 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.

The Nepal Police are responsible for enforcing law and order across the country. The Armed Police Force 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 Armed Police Force report to the Ministry of Home Affairs. The Nepali Army 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 Nepali Army reports to the Ministry of Defense. Civilian authorities maintained effective authority over the Nepal Police, Armed Police Force, and Army. Human rights organizations documented some abuses by members of the security forces.

Significant reported human rights issues included: unlawful or arbitrary killings, including extrajudicial killings by the government; torture and cases of cruel, inhuman or degrading treatment by the government; arbitrary detention; serious restrictions on free expression, the press and the internet, including site blocking and criminal defamation laws; interference with the rights of peaceful assembly and freedom of association, including overly restrictive nongovernmental organization laws; restrictions on freedom of movement for refugees, notably resident Tibetans; and significant acts of corruption.

The government investigated but did not routinely hold accountable those officials and security forces accused of committing violations of the law. Security

NEPAL

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. The National Human Rights Commission (NHRC) and Ministry of Home Affairs are authorized to examine and investigate whether security force killings were justified. NHRC has the authority to recommend action and to record the name and agency of those who do not comply with its recommendations. The Attorney General has the authority to pursue prosecutions. According to a report by the human rights group Terai Human Rights Defenders Alliance (THRDA), 12 of 18 custodial deaths they reported from 2015-20 occurred among members of the Dalit, Madhesi, or other marginalized communities.

On June 10, Shambhu Sada, a member of the Dalit community, died in police custody in Dhanusha District. Sada, a truck driver, turned himself in to police after a traffic accident where he hit and killed a woman. Police reported the cause of death as suicide; however, Sada's family and community believe police killed Sada or drove him to suicide through physical and emotional torture. Sada's mother-in-law visited three days before his death and stated that Sada looked scared and told her that he feared for his life.

On July 16, the Nepali Army detained 24-year-old Raj Kumar Chepang and six friends for foraging in Chitwan National Park. They were released later in the day, but Chepang complained of physical discomfort when he arrived home. His health deteriorated and he died on July 22 from injuries that his family and the community stated were sustained while in custody. The army was investigating the incident and an autopsy was conducted.

NEPAL

In June 2019 police in Sarlahi killed a local leader of the Maoist splinter party Biplav. Police reported that they shot Kumar Paudel after he fired at them. The human rights nongovernmental organization (NGO) Advocacy Forum-Nepal (AF) reported the encounter was likely staged and the NHRC recommended the government suspend the three police officers involved in the incident and conduct a fresh and impartial investigation. In February, Paudel's family tried to file a report with the Sarlahi police and then the District Attorney's office. Both offices refused to register the case. A human rights NGO helped the family submit the report by mail. As of September, the NHRC's recommendation to suspend the three officials involved had not been implemented.

b. Disappearance

The law 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, 802 cases of disappearances remain unresolved, most of which the NHRC says may have involved state actors. One new conflict-era case was registered in 2020. As of September, the government did not prosecute any government officials, sitting 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 150 unresolved disappearances during the conflict. As of early September, 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 under its first commissioner, whose tenure expired in 2019. A new commissioner was appointed in January. As of August, the CIEDP reported 2,503 cases completed.

Human rights organizations continued to express concern over flaws related to the CIEDP. According to the International Commission of Jurists, CIEDP

NEPAL

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 provide confidentiality and security of victims and witnesses.

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

The constitution prohibits torture, and the law criminalizes torture, enumerates punishment for torture, and 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. The Nepal human rights group AF also reported that law enforcement personnel subjected violators of the COVID-19 lockdown to inhuman and degrading treatment. Violators were detained for hours in the sun, forced to do sit-ups, frog jumps, and crawl on the road. AF and THRDA reported annual decreases of torture and mistreatment, although THRDA noted that this trend did not hold in the southern portion of the country. AF stated that police increasingly complied with the courts' demand for preliminary medical checks of detainees.

AF reported that 19 percent of the 1,005 detainees interviewed in 2019 reported some form of torture or ill treatment. These numbers were even higher among women (26.3 percent) and juvenile detainees (24.5 percent).

According to the *Conduct in UN Field Missions* online portal, there was one allegation submitted in April 2018 of sexual exploitation and abuse by Nepalese peacekeepers deployed to a UN peacekeeping mission. The allegation is against one military contingent member deployed to the United Nations Mission in South Sudan, allegedly involving sexual assault and attempted sexual assault of two children in April 2018. As of September, the Nepalese government was still investigating the allegation and the case was still pending, including identification of the alleged perpetrator.

Impunity was a significant problem in the security forces. Both AF and THRDA stated that torture victims were often hesitant to file complaints due to intimidation by police or other officials and fear of retribution. In some cases, victims settled

NEPAL

out of court under pressure from the perpetrators. AF and THRDA noted 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. There have been no cases brought to the criminal justice system regarding 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 150 percent of the designed capacity of inmates. AF stated that overcrowding and poor sanitation 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 child detainees with adults or allowed children to remain in jails with their incarcerated parents.

The OAG reported that prisoners in the 31 prisons it monitored had a junior health official available to them, but none of the 42 detention centers or juvenile reform homes had designated health officials for medical treatment. Under the law children should be kept only in juvenile reform homes and not in prison. According to AF juveniles were sometimes observed with adult detainees. There were no separate facilities for persons with disabilities. Women were kept in separate facilities, but the facilities lacked the basic amenities.

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 that many detention centers had poor ventilation, lighting, heating, and bedding.

NEPAL

Human rights groups reported that many COVID-19 quarantine facilities did not meet Ministry of Health and Population guidelines. Human rights groups reported deaths due to poor sanitation, lack of medical care, transport, and fear of infection. An NGO that works with marginalized groups reported that a Dalit migrant worker returning from India developed diarrhea in a quarantine center. When his condition continued to deteriorate, he was taken to the Provincial Hospital, but he did not receive proper treatment until his COVID-19 test came back negative.

Administration: Authorities including the OAG conducted investigations of allegations of mistreatment. Detainees have the legal right to receive visits by family members, but family access to prisoners varied from prison to prison.

Independent Monitoring: The government generally allowed prison and pretrial detention center visits by the OAG, NHRC, 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. 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. The law provides for the right of any person to challenge the lawfulness of his or her arrest or detention in court.

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).

NEPAL

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 three months; for suspected acts of organized crime, 60 days; and 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 detainees' access to a state-appointed lawyer or one of the detainee's choice, even if charges have not been filed. Few detainees could afford their own lawyer, and the justice system did not receive sufficient funding to provide free and competent counsel to indigent defendants. There were, however, independent organizations providing free legal services to a limited number of detainees accused of criminal violations.

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 (INSEC) documented 119 incidents of arbitrary arrest (without timely warrant presentation) since January. INSEC noted that the decrease from the previous year's 234 incidents might be due to COVID-19.

Pretrial Detention: Time served is credited to a prisoner's sentence and no person may be held in detention for a period exceeding the term of imprisonment that could be imposed on him if he were found guilty of the offense.

Under the law 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.

NEPAL

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. These rights are largely honored, except for the right to counsel and the right to be present at one's own trial, which were sometimes ignored. 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 were unaware of their rights, in particular "lower-caste" individuals and members of some ethnic groups, were 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 law

NEPAL

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 Nepali Army has told the government it was willing to cooperate with the Truth and Reconciliation Commission (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 abuses in national courts.

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 were relatively few checks against police abuse of discretionary authority.

Section 2. Respect for Civil Liberties, Including

a. Freedom of Expression, Including for the Press

NEPAL

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 stated the government restricted media freedom by threatening journalists and news organizations that criticized the government. Human rights lawyers and some journalists stated that both the constitution and law 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 Speech: Citizens generally believed they could express their opinions freely and often expressed critical opinions in print and electronic media without restriction. The government continued to limit freedom of expression for members of Kathmandu’s Tibetan community through its attempts to stop Tibetans from celebrating culturally important events (see section 2.b.).

Freedom of Press and Media, Including Online Media: The independent media were active and expressed a wide variety of views without restriction, but the number of journalists arrested and charged with cybercrime, reportedly over news articles published online, has posed a new challenge. Under the law any person who makes harsh comments on social media or another online site against a senior government official can be charged with a “cybercrime.” 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.

Journalists claimed to have been targeted by the former minister for communication and information technology, Gokul Prasad Baskota, who resigned in February amid reports of soliciting bribes from a foreign company, and who frequently criticized journalists and supported legislation that would restrict freedom of speech.

NEPAL

Violence and Harassment: According to the Federation of Nepali Journalists (FNJ), despite the government's commitment for better policy and legal restrictions, there were a number of press freedom abuses, and the government did not make sufficient efforts to preserve the safety and independence of media. On April 27, journalists Binod Babu Rijyal from *Kayakairan Media* and Arjun Adhikari from Radio Triveni were detained by Traffic Police while capturing pictures for the news during the COVID-19 lockdown. Police confiscated the journalists' mobile phones and both were detained in quarantine facilities for one hour.

The government attempted to stifle news reports that revealed financial irregularities. Journalists stated that they continued to receive vague threats from officials in response to their investigative reporting on corruption. There were also incidents of attacks on journalists. In February, Ajayababu Shiwakoti, editor in chief of Hamrakura.com, who broke the news of Minister Baskota's involvement in corruption (see section 4), was threatened and his residence surveilled by unidentified individuals.

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.

Journalists and NGOs stated the law criminalizes normal media activity, such as reporting on public figures, and triggered a significant increase in self-censorship by media. Media professionals expressed concern regarding an additional provision in the constitution that allows the government to formulate laws to regulate media. The law, 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

NEPAL

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: On April 22, Nepal Police arrested former government secretary Bhim Upadhyay and accused him of defaming the government and its ministers through his social media posts; he was later released on bail. On April 30, Dipak Pathak, a journalist and board member of Radio Nepal, was arrested for reportedly criticizing former prime minister and chairman of the Communist Party of Nepal Pushpa Kamal Dahal on social media. Pathak was jailed for defamation and later released on bail.

Internet Freedom

There were several incidents in which authorities took action under the law in response to material posted on social media. The law 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 directive 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 require online platforms to provide updated

NEPAL

human resource and payroll records annually. The FNJ expressed concern that the directive's vague language gives the government power to censor online content.

In April the Press Council Nepal, an autonomous and independent media regulatory body, asked for clarification from 37 online media outlets regarding the spread of disinformation on the coronavirus, which reportedly created public panic.

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 and association.

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 law authorizes chief district officers to impose curfews when there is a possibility that demonstrations or riots could disturb the peace.

The government continued to limit freedom of association and peaceful assembly for members of Kathmandu's Tibetan community, including by denying requests to celebrate publicly certain culturally important events, such as the Dalai Lama's birthday, and deploying large numbers of police officers to Tibetan settlements to monitor private celebrations of this and other culturally important events, including Tibetan Uprising Day and Tibetan Democracy Day. The government cited pandemic-related restrictions on mass gatherings in justifying these actions.

During June and July, an independent youth group staged a series of protests in Kathmandu against the government's response to the COVID-19 pandemic. Named the 'Enough is Enough' campaign, protesters demonstrated through physically distanced sit-ins and hunger strikes, demanding effective management

NEPAL

of the pandemic. Police used force, including batons and water cannons, to disperse protesters and arrested several of them.

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) was restrictive and cumbersome, the government had wide discretion to deny registration, and requirements varied among various registration authorities, with some entities requiring documents not mentioned in existing laws on an ad hoc basis.

Additionally, the law empowers the government to give directions to associations and to terminate associations if they refuse to follow these directions. To receive foreign or government resources, CSOs must seek separate and additional approval from the Social Welfare Council, the government entity responsible for overseeing CSOs. The Council 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 matters.

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.

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 required documents to present at police checkpoints or

NEPAL

during police stops. Some refugees reported being harassed or turned back by police at checkpoints. The government also restricted the movement of urban refugees of various nationalities whom the government considered irregular migrants (see section 2.f.).

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. Status and Treatment of Internally Displaced Persons

The 2015 earthquake and its aftershocks displaced millions of individuals. According to the Internal Displacement Monitoring Center, natural disasters in 2019 led to 29,000 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 had 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 matters, 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

NEPAL

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

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, returning refugees, asylum seekers, stateless persons, and other persons of concern, except as noted.

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 only Tibetans and Bhutanese as refugees, and regarded the approximately 700 refugees and asylum seekers of other nationalities as irregular migrants. The government continued to support the resettlement to foreign countries of certain Bhutanese refugees, while requiring other refugees accepted for third country resettlement to pay substantial penalties for illegal stay before granting exit permits. 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 then. Government opposition to registration has prevented revisions to these estimates. UNHCR reported 578 refugees and 60 asylum seekers from other countries, including Pakistan, Burma, Afghanistan, Sri Lanka, Bangladesh, Somalia, Iran, and Iraq, 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

NEPAL

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, 37 in 2018, 23 in 2019, and 5 as of September. During the year border closures due to COVID-19 prevented transit between the country and India. While Tibetans based in the country 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 for each day out of status and a substantial discretionary penalty 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.

Employment: Tibetan refugees were denied the right to work officially.

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 children born in the country 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. They were unable legally to obtain business licenses, driver's licenses, bank accounts, or to own property. 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 urban refugees, but these refugees lacked legal access to public education and the right to work. In particular, the government officially does not allow the approximately 6,500 refugees with claims to Bhutanese

NEPAL

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 some new local authorities allowed Bhutanese children access to public schools on an ad hoc basis.

Durable Solutions: The government does not provide for local integration as a durable solution. Since 2007 the government has permitted third-country resettlement for more than 113,000 Bhutanese refugees.

g. Stateless Persons

An estimated 6.3 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 limited women's ability to convey citizenship to their children (see section 6, Women, Discrimination), which contributed to statelessness. NGOs assisting individuals lacking citizenship documentation stated that local authorities maintained patriarchal requirements, such as attestations from a woman's male relatives that she qualified for citizenship, a measure that impeded attempts by some individuals to obtain citizenship certificates.

Stateless persons experienced discrimination in employment, education, housing, health services, marriage and 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

NEPAL

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 Election Commission of Nepal, 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 Members of Minority Groups: No laws explicitly limit participation of women or members of minority groups 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; lesbian, gay, bisexual, transgender and intersex (LGBTI) activists noted that this mandate excluded 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. Media reported many procurement irregularities and alleged instances of corruption in the government's COVID-19 response.

Corruption: The Commission for the Investigations of Abuse of Authority (CIAA) was investigating Communications Minister Gokul Baskota after media leaked a telephone conversation of him demanding a 700-million-rupee bribe (\$5.9 million) from an agent of a Swiss company for the procurement of secure printing presses in February. Baskota resigned to allow for the investigation, but he also filed a case at the Supreme Court and the CIAA against the Swiss firm's agent,

NEPAL

Bijay Prakash Mishra, with whom he was discussing the bribe. As of September the investigation was continuing.

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 59 sting operations which facilitated the arrest of 88 civil servants.

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 Armed Police Force.

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 make individual government employee names and financial disclosures public. Government officials are subjected to financial disclosure if anyone files a case under the Right to Information Act.

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 (85 out of 309 positions were vacant as of August), and limitations on its mandate led some activists to view the body as ineffective

NEPAL

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, it had made recommendations for prosecution and reparations in 1,197 cases (as of August). More than three-quarters of these involved conflict-era incidents. On October 15, the NHRC published a report listing 286 human rights abusers. It identified former top government and security officials, including former Chief of Army Staff Pyar Jung Thapa, former home secretary Narayan Gopal Malego, and former chief of Nepal Police Kuber Singh Rana, who have been implicated in serious human rights abuses over the last two decades.

The Nepal Police and Armed Police Force each have a Human Rights Cell (HRC) and the Nepali Army has a human rights directorate (HRD). The Nepali Army HRD and Nepal Police HRC have independent investigative powers. The Nepali Army's investigations were not fully transparent according to human rights NGOs.

During the year the government and judiciary did not significantly address conflict-era human rights and humanitarian law abuses committed by the Nepali Army, Nepal Police, Armed Police Force, 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 continued to report that neither of the mechanisms had made significant progress on investigations or reporting. In January the government appointed commissioners for TRC and CIEDP with the mandate to complete the remaining tasks on transitional justice within two years.

Local human rights advocates cited 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 cited instances in which parliament failed to implement Supreme Court decisions. For example, in a 2015 ruling, the court nullified

NEPAL

provisions of the law 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. On April 26, the Supreme Court rejected the government's petition seeking review of the 2015 decision. As of August the federal parliament had not amended the act in line with the Supreme Court verdict and international standards.

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 women with disabilities. The victim's compensation depends on the degree of mental and physical abuse. Nepal's definition of rape does not include male victims. Male victims may file a complaint under the 'unnatural' sexual offense penal code; the highest punishment is up to 3 years imprisonment and a fine.

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 May, Angira Pasi, a 13-year-old Dalit girl, was raped by Birenda Bhar, a 25-year-old non-Dalit man in Rupandehi District, Devdaha Municipality. Villagers, including the ward chair, decided the girl should marry Bhar, because she would otherwise be considered unsuitable for marriage due to the rape. After the marriage, Bhar's mother refused to let Pasi enter the house and beat her. Bhar took Pasi to a nearby stream and hours later her body was found hanging in a manner that her relatives said would have been impossible for her to carry out herself. Bhar's family offered 200,000 rupees (\$1,690) to keep the incident quiet, and police initially refused to register the case. After the NHRC and national attention focused on the case, police detained Bhar, his mother, and his aunt.

NEPAL

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 2019 the district court charged eight police personnel for tampering with evidence. On July 30, the Kanchanpur District Court acquitted these eight personnel, including former Superintendent of Police Dilliraj Bista, of torture and incriminating evidence. Human rights groups noted irregularities leading up to the trial including that the Kathmandu-based lawyers arguing for the victim's family requested the hearing be postponed due to COVID-19 restrictions on air travel. The court cited the end of the government lockdown and continued with the hearing.

Human rights activists outside of Kathmandu expressed concern that police frequently refused 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. In October 2019 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. On February 16, the Kathmandu District Court acquitted Mahara due to lack of evidence.

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 Women, Children and Senior Citizens Service Directors, all 233 women's cells across the country located in all 77 districts were in operation. 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

NEPAL

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, the 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 fines, 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 substantial fines, 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. 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. INSEC documented three acid attacks from January to September.

NEPAL

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 livestock sheds) continued to be a serious problem despite a 2005 Supreme Court decision outlawing the practice and 2008 guidelines from the Ministry of Women, Children, and Social Welfare against 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 token fine, 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. According to news reports, after *antichhaupadi* campaigns destroyed *chhaupadi* huts, family members, often mothers in law, still forced women and girls to remain isolated. In some cases, women and girls in rural areas resorted to sleeping in sheds, animal pens, or caves throughout both the winter and monsoon season.

Sexual Harassment: The law allows the top administrative official in a district to impose up to six months imprisonment, a fine, 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. AF reported an incident where three women were sexually harassed by police after being arrested for drinking and driving. According to the women, police called them prostitutes, used obscene language, and groped their breasts.

Reproductive Rights: Couples and individuals generally could decide the number, spacing, and timing of their children; manage their reproductive health; and access the information and means to do so, free from discrimination, coercion, or violence. Women who became pregnant outside of marriage, especially while working abroad, faced considerable social stigma. Although illegal, child marriage remained prevalent, especially in rural areas, and many girls faced social pressure to have children before being emotionally ready and before their bodies were able to bear children safely. Contraception was available to both men and women.

NEPAL

According to the latest UNICEF-sponsored Nepal Multiple Indicator Cluster Survey (NMICS) conducted in 2019, 44 percent of married women used a modern contraceptive method and 2.5 percent used a traditional method. The 2019 survey indicated that 24.7 percent of married women had an unmet need for family planning. In addition, awareness of contraception and family planning practices remained limited in remote areas.

The government provided access to sexual and reproductive health services for sexual violence survivors. Victims of sexual violence had access to sexual and reproductive health services in government hospitals and there were one-stop crisis management centers in each of the 17 districts. Hospitals in the Kathmandu Valley also provide sexual and reproductive health services for victims of physical and sexual violence.

According to the World Health Organization, the maternal mortality rate in 2017 was 186 deaths per 100,000 live births, down from 236 deaths in 2015. Skilled birth attendants assisted in 77 percent of deliveries according to the NMICS compared with 56 percent in 2014. The NMICS reported 95 percent of women received antenatal care services and 89 percent were attended at least once by skilled health personnel. According to the 2015 Health Facility Survey, services for the management of sexually transmitted infections were available in 74 percent of facilities countrywide. Normal childbirth delivery services were available in about half of facilities countrywide, but in only 33 percent of facilities in the Terai region in the south of the country.

Coercion in Population Control: There were no reports of coerced abortion or involuntary sterilization on the part of government authorities.

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.

NEPAL

The law 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.g.). 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.

NEPAL

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. Many single women faced 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 lacked 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 2019-20 school year, 96.5 percent of school-age children attended primary schools with gender parity.

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, nearly a third 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 problems 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

NEPAL

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 quality and accessibility vary. 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.

Child, 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 and child bearing among girls. According to UNICEF, nearly a third of young women aged 20-24 reported they were married by the age of 18, and 7.9 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 law provides that the government must act whenever a case of child marriage is filed with authorities. Additionally, the practice of early and forced marriage limited girls' access to education and increased their susceptibility to domestic violence and sexual abuse, including sex trafficking.

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.

NEPAL

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.

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 was 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 population in the country and 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

NEPAL

The constitution and law prohibit 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 citizens with physical disabilities who are “financially poor” and the provision of accessible 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. The law provides that persons with disabilities have equal access to education, health, employment, public physical infrastructure, transportation, and information and communication services. On July 19, the government passed the Regulation on the Rights of Person with Disability (2020), which focused on the rights of individuals with “profound” disabilities. The government also formed a national level directorate for implementation of the act. 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 disabilities.

The government provided monthly social security allowances for persons with disabilities of 3,000 rupees (\$25) for those categorized as “profoundly” disabled. The 2020 Disability Rights Regulations removed the provision of providing a social allowance for those categorized as “severely disabled.” After criticism and lobbying, the government has been providing 1600 rupees (\$14) for “severely” disabled persons under a temporary provision. 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 deaf and hard-of-hearing persons in obtaining government services.

The Ministry of Women, Children, and Senior Citizens was responsible for the protection of persons with disabilities. The country has 380 resource classrooms for students with disabilities, 32 special education schools, and 23 integrated schools. The number of students enrolled was low compared to the number of children without disabilities. Compared with primary school attendance, relatively

NEPAL

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 in exercising these rights, especially the lack of accessibility to public facilities.

Members of National/Racial/Ethnic Minority Groups

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.

NEPAL

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

On May 23, six youth, including four Dalit, were killed in what activists characterized as the most violent attack on Dalits in the modern history of the country. Nawaraj Bishwokarma and a group of friends were attacked by a mob of villagers, including the local ward chair Dambar Malla, when he tried to elope with his Chhetri caste girlfriend. According to survivors of the attack and some local officials, villagers chased the young men to a nearby riverbank, beat them to death with stones, sharp weapons, and pieces of wood, and threw their bodies in the river. Local police investigated and arrested 27 suspects including the girl's parents and the local ward chair. The Ministry of Home Affairs and House of Representatives formed committees to investigate the incident and the NHRC sent a team to investigate.

Indigenous People

The government recognized 59 ethnic and 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.

On July 18, Media and NGOs reported that Chitwan National Park authority workers burned two houses and used an elephant to destroy eight others from a Chepang community within the park's buffer zone. The Ministry of Forests and Environment began an investigation after human rights groups and media criticized the evictions, which occurred during the COVID-19 lockdown and monsoon season. The NHRC was also investigating the incident.

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

No laws criminalize same-sex sexual activity, and LGBTI persons actively advocated for their rights. The constitution contains provisions outlining

NEPAL

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 due to 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 HRC confirmed that some low-level harassment occurred because many citizens held negative views of LGBTI persons.

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 and those at high risk of HIV remained common, according to NGOs.

Section 7. Worker Rights

NEPAL

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 law prohibits workers from striking in any special economic zone. The government is planning 14 special economic zones. One special economic zone in Bhairahawa is operating and one in Simara is nearing completion, both are 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 government effectively enforced applicable laws and penalties were commensurate with those for other laws involving denials of civil rights such as discrimination. Implementation in the private and informal sectors, however, remains a challenge. On October 15, the government established a labor court to address violations of labor laws and other issues related to labor.

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.

NEPAL

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. 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.

Kamlari is one such form of slavery outlawed in 2013 in which girls as young as four years and women across all age groups are forced to work as bonded laborers in the houses of the rich landlords. Although it is illegal, the government did not provide support for these newly freed women to reintegrate them adequately into society, such as financial assistance or educational opportunities. A number of nonprofit organizations focused on the country's border with India, where human trafficking was still a problem, to help women and children who were at a higher risk of human trafficking and slavery.

Government enforcement of the laws against bonded labor was uneven, and social reintegration of victims remained difficult. Resources, inspections, and remediation were inadequate. 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

NEPAL

violations. The penalties for violating laws against bonded labor involve fines and compensation to victims, with no imprisonment, and therefore are not commensurate with those for other serious crimes, such as kidnapping. Labor trafficking is prosecuted as a criminal offense under the Trafficking in Persons law and the punishments are commensurate with other serious crimes.

Forced labor, including through debt-based bondage, of adults and children existed in agriculture, brick kilns, the stone-breaking industry, and domestic work. A government study documented more than 61,000 individuals--including approximately 10,000 children--in forced labor over the past five years, especially in agriculture, forestry, and construction. NGOs continued to report some children worked in brick kilns, including carrying loads, preparing bricks, and performing other tasks at kilns for extended periods.

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).

There was little progress in the devolution of power of the labor inspectorate. Labor law enforcement remained centralized and the number of labor inspectors at the provincial levels remained inadequate. 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

NEPAL

sector while nearly all child labor occurred in the informal sector. The Department had 14 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 were sufficient to deter violations and were commensurate with those for other analogous serious crimes, such as kidnapping.

COVID-19 had a serious impact on child poverty where children have been bearing the burden of poverty disproportionately. The number of children living in poverty rose from an estimated 1.3 million before the pandemic to approximately seven million in August. A lack of education and healthcare resources led to increases in child labor. Paternal disability or death, among the strongest observable predictors of engagement in the worst forms of child labor, increased during the pandemic.

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

NEPAL

discrimination in payment or remuneration based on gender. Penalties were commensurate to laws related to civil rights.

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. The 2017 ban on domestic work in Gulf countries for Nepali women under 30 was intended to protect them from exploitation and violence; however, the ban caused many young women to seek illegal routes, which placed them at higher risk of trafficking and violence.

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 to 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.

NEPAL

Structural barriers and discrimination forced Dalits to continue low-income and dehumanizing employment, such as manual scavenging, disposing of dead animals, digging graves, or making leather products.

For every 100 employed men, there were only 59 employed women, and the average monthly income for women was 5,834 rupees (\$49) less than what men earn. The unequal gender division of labor has long been identified as a factor causing inequality with direct links to lower income, education, and access to medical services for women. A heavy domestic workload aggravated by the COVID-19 crisis could leave women and girls further behind.

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, Employment, and Social Security reported that most factories in the formal sector complied with laws on minimum wage and hours of

NEPAL

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. Penalties for violations of minimum wage and overtime laws were commensurate with those for similar crimes, such as fraud.

Implementation and enforcement of occupational health and safety standards were minimal, and the Ministry of Labor, 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 had not created the necessary regulatory or administrative structures to enforce occupational safety and health provisions. The Ministry of Labor, 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. 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 declared it remained committed to the free-visa, free-ticket scheme introduced in 2015, but according to migrant rights NGOs, the government 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 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

NEPAL

workers and provided some compensation for workers whose rights were violated. The suspension of international flights and the economic impact of COVID-19 prevented workers from traveling for a significant portion of the year and made it difficult to evaluate the impact of any measures.

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 was insufficient for the size of the country's workforce.