

# NEPAL 2017 HUMAN RIGHTS REPORT

## EXECUTIVE SUMMARY

Nepal is a federal democratic republic. The political system is based on the constitution, which was promulgated in 2015, replacing the Interim Constitution of Nepal 2063 (2007). The constitution establishes a framework for a prime minister as the chief executive, a bicameral parliament, and seven provinces. In November the country held national elections for the lower house of parliament, the House of Representatives, as well as members for the newly-created provincial assemblies. Domestic and international observers characterized the national elections as “generally well-conducted,” although some observers noted a lack of transparency in the work of the Election Commission of Nepal (ECN).

Civilian authorities maintained effective control of security forces.

The most significant human rights issues included the use of excessive force by security personnel in controlling protests; government delays in implementing, providing adequate resources for, and granting full independence to the country’s two transitional justice mechanisms; and media harassment, self-censorship, and restrictions on online content. The government limited freedoms for refugees, particularly for resident Tibetans; corruption remained a problem at all levels of government; and citizenship laws and regulations that discriminate by gender contributed to statelessness. A lack of prosecution and accountability for cases related to discrimination against women and girls, early and forced marriage, and rape and violence against women; and violence against children continued.

The government routinely investigated and held accountable those officials and security forces accused of committing ongoing violations of the law. Security personnel accused of using excessive force in controlling protests in recent years did not face notable accountability, nor did most conflict-era human rights violators.

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

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

There were several reports that the government or its agents committed arbitrary or unlawful killings. On March 6, five individuals were killed and dozens injured

when the Armed Police Force (APF) intervened in a protest in Saptari district that became violent. The protesters, who had staged a rally to protest election-related campaigning by an opposition party, reportedly burned tires, threw Molotov cocktails, blocked road traffic, and vandalized vehicles outside the political program. According to human rights organizations, including Human Rights Watch (HRW) and Amnesty International (AI), the APF used indiscriminate and excessive force in attempting to subdue protestors. Reports also alleged that the APF failed to follow the Local Administration Act, which requires security forces to aim below the knee unless there is an imminent threat to human life, and other guidelines on escalating the use of force. In March the government appointed a three-member committee to investigate the killings and approved Nepali rupees (NRs) 1 million (\$10,000) payments to the families of each of the victims, which the government declared as martyrs. As of October the committee, which had 15 days to complete its investigation, had not produced a report, nor had the government taken any action against those responsible. The government, however, had distributed the compensation to the victims' families.

Human rights groups demanded the establishment of an independent commission to investigate allegations of excessive use of force by the Nepal Police and APF against civilians during months of unrest related to the promulgation of the constitution in 2015. In response the government formed the High Level Enquiry Commission (HLEC) in August 2016. Between December 2016, when the HLEC began accepting complaints, and August, the HLEC received 3,031 complaints.

There were developments in a few emblematic conflict-era cases. As an illustrative example, in April the Kavre District Court convicted in their absence three of the four Nepal Army (NA) officers accused of killing 15-year-old Maina Sunuwar in 2004 and sentenced them to life in prison (in the country, a "life sentence" is considered 20 years). Lieutenant Colonel Niranjana Basnet, the only convicted officer still serving with the NA, was acquitted. Although human rights groups praised the court's decision, which they stated was a partial victory for conflict victims and justice, they also said the district attorney's decision not to appeal Basnet's acquittal represented a failure to pursue criminal accountability. They also questioned the willingness or ability of the government to implement the court's decision, particularly because some of those convicted may no longer reside in the country. As of August the government did not take action to pursue the return of the three convicted persons from their presumed location abroad.

The government did not enforce a 2016 Supreme Court ruling that overturned the 2011 pardon of Bal Krishna Dhungel, a Maoist politician convicted of killing Ujjan

Kumar Shrestha in 1998. Despite the Supreme Court decision and order for his apprehension, Dhungel had remained free and was observed attending social functions and publicly criticizing Supreme Court justices. In response to a contempt of court case filed against Dhungel, on April 13, the Supreme Court had ordered the Inspector General of Police to arrest Dhungel within one week. Dhungel was arrested on October 31.

## **b. Disappearance**

There were no reports of disappearances by or on behalf of government authorities during the year. The new criminal code, which parliament passed in July but will not come into effect until 2018, criminalized disappearance. In 2016 the government faced accusations of involvement in the disappearance of Kumar Tamang, a laborer temporarily living in Tatopani. An investigation initiated by police in March 2016 had not reached a conclusion as of October.

The fate of most of those who disappeared during the 1996-2006 civil conflict remained unknown. According to the National Human Rights Commission, approximately 840 unresolved cases of disappearances remain unresolved, 594 of which may have involved state actors. As of August the government did not prosecute any government officials, current or former, for involvement in conflict-era disappearances, nor had it released information on the whereabouts of the 606 persons the National Human Rights Commission (NHRC) identified as having been disappeared by state actors. The NHRC reported that Maoists were believed to be involved in 149 unresolved disappearances during the conflict. As of August the government had not prosecuted any Maoists for involvement in disappearances.

In June the CIEDP formed five teams to begin investigating complaints of disappearances filed by conflict-era victims. The commission has before it 2,769 registered cases. By contrast the International Committee of the Red Cross listed 1,335 names of missing persons in August.

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

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

Contrary to requirements in the 2015 constitution, torture is not explicitly criminalized, and the law does not have clear guidelines for punishing offenders. The Torture Compensation Act provides for compensation for victims of torture. The victim must file a complaint and pursue the case through the courts.

According to human rights activists and legal experts, police resorted to severe abuse, primarily beatings, to force confessions. Local human rights nongovernmental organization (NGO) Advocacy Forum (AF) reported no evidence of major changes in police abuse trends across the country, but AF stated that police increasingly complied with the courts' demand for preliminary medical checks of detainees, in part because the courts refused to extend the period of legal police custody without such medical checks.

The Terai Human Rights Defenders Alliance (THRDA), another local NGO, stated that torture victims often were hesitant to file complaints due to police or other official intimidation and fear of retribution. In some cases victims settled out of court under pressure from the perpetrators. According to THRDA the courts ultimately dismissed many cases of alleged torture due to a lack of credible supporting evidence, especially medical documentation. In cases where courts awarded compensation or ordered disciplinary action against police, the decisions were rarely implemented according to THRDA and other NGOs. In one noteworthy case in Banke district in March, however, the Chief District Officer compensated two torture victims in line with a district court award in 2013.

According to AF's latest report on torture published in 2016, 17.2 percent of the 1,212 detainees AF interviewed in 2015 were subjected to some form of physical abuse compared with 16.2 percent in 2014. The same study indicated a slightly higher rate of reported torture among detainees identified as "indigenous." In a separate study, THRDA reported that 24 percent of detainees in police detention centers in 19 districts in the country's southern Terai belt had been subjected to some form of physical and/or mental abuse. According to the Nepal Police Human Rights Commission, the vast majority of alleged incidents were not formally reported or investigated.

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

In February 2016 the UN reported one allegation of sexual exploitation and abuse against a Nepali peacekeeper in South Sudan for an incident that reportedly involved three adult victims. The complainants accused the peacekeeper of sexual assault and transactional sex. The government continues to investigate the allegation.

### **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. During the year a monitoring report by the Office of the Attorney General (OAG) indicated that in 51 of the 75 districts, 47 prisons designed to hold 5,594 inmates held 9,592 convicted prisoners. THRDA stated that overcrowding also remained a serious problem in detention centers. According to the OAG report, most prisons and detention centers had sufficient windows, daylight, and air, with a few exceptions.

Authorities generally held pretrial detainees separately from convicted prisoners. Due to a lack of adequate juvenile detention facilities, authorities sometimes incarcerated pretrial detainee children with adults or allowed children to remain in jails with their incarcerated parents.

The OAG report indicated that of 76 detention centers the OAG monitored, 14 lacked separate facilities for women. According to THRDA most prisons lacked separate facilities for women, children, and persons with disabilities.

According to AF and THRDA, medical examinations for detainees generally were perfunctory. AF also reported medical care was poor for detainees with serious conditions. According to the OAG, the government did not implement a 2016 Supreme Court decision ordering it to provide more than 700 grams of rice and 45 NRs (45 cents) per day to each prisoner. According to AF some detainees slept on the floor due to lack of beds and had access only to unfiltered and dirty water and inadequate food, and many detention centers had poor ventilation, lighting, heating, and bedding.

According to the NGO Child Workers in Nepal, minors housed in adult facilities often faced bullying from adult detainees and received poor treatment by police. Hygiene was poor, and police and adult detainees often made minors clean the toilets.

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

Independent Monitoring: There was no official institutional mechanism to monitor prisons or detention centers. The government generally allowed prison and pretrial detention center visits by the OAG, NHRC, the National Women's Commission, and the National Dalit Commission as well as by lawyers of the accused. THRDA and AF reported that while they and some other NGOs were often prevented from meeting with detainees or accessing detention facilities, 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.

Improvements: In May the Department of Prison Management launched the Prison Management Information System software. The new system aimed to better track prisoner biodata, sentencing details, and other records. According to the NHRC, however, implementation of the new system was ineffective during the year.

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

The law prohibits arbitrary arrest and detention, but security forces reportedly conducted arbitrary arrests during the year. The law gives chief district officers wide latitude to make arrests, and human rights groups contended that police abused their 24-hour detention authority by holding persons unlawfully, in some cases without proper access to counsel, food, and medicine, or in inadequate facilities.

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

The Nepal Police is responsible for enforcing law and order across the country while the APF is responsible for combating terrorism, providing security during riots and public disturbances, assisting in natural disasters, and protecting vital infrastructure, public officials, and the borders. In 2015 the government gave the APF the authority to issue warrants to suspects they detain before turning them over to the Nepal Police. Generally, the Nepal Police and the APF executed search and arrest warrants without any prosecutorial or judicial review.

The Nepal Police and APF have human rights commissions (HRCs) and the NA has a human rights directorate (HRD). The NAHRD and Nepal Police HRC have independent investigative powers. The NA's investigations were not fully transparent according to human rights NGOs. NA HRD representatives stated that nearly all of its cases derived from the Maoist insurgency, and that full transparency could come only in the context of a functioning TRC. The Nepal Police also proposed that conflict-era allegations of abuse should be handled in the context of a functioning TRC.

In contrast with prior years, the Nepal Police did not provide statistics on how many complaints of human rights violations it received. The Nepal Army HRC stated it received no complaints of human rights violations during the year. All security forces received human rights training prior to deployments on UN peacekeeping operations. The NA incorporated human rights training into professional military education, and conducted ongoing training in all units. Each brigade has a designated human rights officer, and divisions have larger human rights staff. At the Army headquarters, a brigadier general, who reports directly to the Chief of Staff, heads the HRD. Similarly, the Nepal Police and APF incorporated training on human rights into their overall training curricula for security forces. The APF and Nepal Police HRCs issued booklets outlining human rights best practices to most police officers.

Police corruption and lack of punishment or accountability for police abuses remained problems.

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

The law stipulates that, except in cases involving suspected security and narcotics violations, or when the crime's punishment would be more than three years' imprisonment, authorities must obtain an arrest warrant and present the suspect to a court within 24 hours of arrest (not including travel time). THRDA reported that illegal and arbitrary arrests were prevalent, with police failing to bring 14 percent of detainees to court within 24 hours. According to AF, however, there was significant progress in courts demanding to see an initial medical examination before extending the period of remand.

If the court upholds a detention, the law generally authorizes police to hold the suspect for up to 25 days to complete an investigation. In special cases (such as for suspected acts of corruption), a suspect can be held for up to six months. The constitution provides for access to a state-appointed lawyer or one of the detainee's

choice, even if charges have not been filed. Few detainees could afford their own lawyer, and the justice system does not receive sufficient funding to provide free and competent counsel to indigent defendants.

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

Arbitrary Arrest: Leaders of the Rastriya Janata Party-Nepal (RJP-N) claimed that security personnel arrested hundreds of their party cadres in various districts--including Nawalparasi, Dhanusha, Kailali, Kanchanpur, Bardiya, Banke, Kapilvastu, Sunsari, Siraha, and Morang--for participating in public protests before the second round of local elections in June. According to THRDA police released all the protesters within a few days of arrest. THRDA also reported that four individuals associated with the RJP-N were seriously injured in Nawalparasi district when police fired rubber bullets into a crowd of protestors on June 17. In response to both reports, the NHRC issued a public statement urging the government to exercise restraint and refrain from arresting individuals without cause.

Pretrial Detention: Time served is credited to a prisoner's sentence, but pretrial detention occasionally exceeded the length of the ultimate sentence following trial and conviction.

Under the Public Security Act, security forces may detain persons who allegedly threaten domestic security and tranquility, amicable relations with other countries, or relations between citizens of different castes or religious groups. The government may detain persons in preventive detention for as long as 12 months without charging them with a crime as long as the detention complies with the act's requirements. The court does not have any substantive legal role in preventive detentions under the act.

Other laws, including the Public Offenses Act, permit detention without charge for as long as 25 days with extensions. This act covers crimes such as disturbing the

peace, vandalism, rioting, and fighting. Human rights monitors expressed concern that the act vests too much discretionary power in the chief district officer.

According to human rights groups, in some cases detainees appeared before judicial authorities well after the legally mandated 24-hour limit, allegedly to allow injuries from police mistreatment to heal. AF estimated in a 2015 report that 41 percent of detainees did not appear before judicial authorities within 24 hours of their arrests. THRDA stated police frequently circumvented the 24-hour requirement by registering the detainee's name only when they were ready to produce the detainee before the court.

Detainee's Ability to Challenge Lawfulness of Detention before a Court: Those arrested or detained are entitled to challenge in court the legal basis or arbitrary nature of their detention through habeas corpus. According to human rights lawyers, however, no individuals received compensation for an illegal or arbitrary arrest or detention.

#### **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. The Supreme Court has the right to review the constitutionality of laws.

Authorities did not consistently respect and implement court orders, including Supreme Court decisions, particularly decisions referring to conflict-era cases as discussed above.

In April the two ruling parties, the Nepali Congress and the Communist Party of Nepal (Maoist Center), filed an impeachment motion against Supreme Court Chief Justice Sushila Karki soon after the court overturned the government's choice for Inspector General of Police, the country's top police officer. According to HRW the move violated the principle that an independent judiciary should be free from political interference. The UN High Commissioner for Human Rights stated the attempt to remove Karki raised concerns about the government's commitment to the rule of law. The parties withdrew the impeachment case on May 29, just as Karki was due to retire upon reaching the age limit for the position.

#### **Trial Procedures**

The law provides for the right to counsel, equal protection under the law, protection from double jeopardy, protection from retroactive application of the law, public trials, and the right to be present at one's own trial, but these rights were not always applied. Defendants enjoy the presumption of innocence, except in some cases, such as human trafficking and drug trafficking, where the burden of proof is on the defendant. The law provides detainees the right to legal representation and a court-appointed lawyer, a government lawyer, or access to private attorneys. The government provided legal counsel to indigent detainees only upon request. Persons who are unaware of their rights, in particular lower-caste individuals and members of some ethnic groups, are thus at risk of being deprived of legal representation. Defense lawyers reported having insufficient time to prepare their defense. A 2016 Supreme Court directive ordered that the courts must provide free interpretation services to those who do not speak Nepali (the 2011 national census lists 123 languages spoken as a mother tongue). Defense lawyers may cross-examine accusers. All lower-court decisions, including acquittals, are subject to appeal. The Supreme Court is the court of last resort.

Military courts adjudicate cases concerning military personnel under the military code, which provides military personnel the same basic rights as civilians. The Army Act requires that soldiers accused of rape or homicide be transferred to civilian authorities for prosecution. Under normal circumstances the army prosecutes all other criminal cases raised against soldiers under the military justice system. Nevertheless, the NA has told the government it is willing to cooperate with the TRC and CIEDP and will not "hide" behind the Army Act. Military courts cannot try civilians for crimes, even if the crimes involve the military services; civilian courts handle these cases.

### **Political Prisoners and Detainees**

THRDA reported that 25 civilians charged in connection with the killing of eight security personnel and a child during protests in Tikapur, Kailali district in 2015 remained in detention. According to THRDA and some political parties, several of the 25 were targeted because they were political leaders and activists of the ethnic Tharu community. On May 19, the government announced its plan to withdraw cases filed against a number of the detained individuals. The government did not specify the number of individuals it planned to release, but it stated it would withdraw "false cases" against those who did not have a connection to the Tikapur incident while continuing to pursue criminal action against those responsible. Indigenous rights groups welcomed the decision to withdraw cases against activists promoting indigenous rights. Legal and human rights experts, however,

questioned the government's decision to circumvent the judicial process. The NHRC stated the government's decision promoted impunity and politicized a criminal incident. It urged the government to investigate, take legal action against the culprits, and provide compensation to the victims. Separately, in response to a writ petition filed at the Supreme Court against the decision, the court ordered the government to explain its decision. As of August the government had taken no action to implement its plan to withdraw cases.

### **Civil Judicial Procedures and Remedies**

Individuals or organizations could seek remedies for human rights violations in national courts.

### **Property Restitution**

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

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

The law prohibits arbitrary interference with privacy, family, home, and correspondence. The government generally respected these prohibitions.

The law allows police to conduct searches and seizures without a warrant if there is probable cause to believe that a crime has been committed, in which case a search may be conducted as long as two or more persons of "good character" are present. If a police officer has reasonable cause to believe that a suspect may possess material evidence, the officer must submit a written request to another officer to conduct a search, and there must be another official present who holds at least the rank of assistant subinspector. Some legal experts claimed that by excluding prosecutors and judges from the warrant procedure, there are relatively few checks against police discretion.

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

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

The constitution and the law provide for freedom of speech and press, and the government generally respected these rights. In some cases the government failed to enforce the law effectively. Human rights lawyers and some journalists stated that the 2015 constitution enables the government to restrict freedom of speech and press in ways they considered vague and open to abuse. For example, the constitution lists a number of circumstances under which laws curtailing freedom of speech and press may be formulated. These include acts that “jeopardize harmonious relations between federal units” and acts that assist a foreign state or organization to jeopardize national security. The constitution prohibits any acts “contrary to public health, decency, and morality” or that “disturb the public law and order situation.” The same provision of the constitution also prohibits persons from converting other persons from one religion to another or “disturbing the religion” of others.

Freedom of Expression: Citizens generally believed they could voice their opinions freely and often expressed critical opinions in print and electronic media without restriction. In July the government limited freedom of expression for the members of Kathmandu’s Tibetan community by rejecting requests from the Tibetan Buddhist community to celebrate the Dalai Lama’s birthday publicly. Although Tibetan Buddhists were allowed to hold small private events in homes or monasteries, police asked celebrants at one site to remove photos of the Dalai Lama and printed banners from public view.

Press and Media Freedom: The independent media were active and expressed a wide variety of views without restriction, with a few exceptions. Several editors and journalists reported they faced intimidation by police and the Election Commission of Nepal in their coverage of the first two phases of local elections in May and June.

Journalists also stated they increasingly received vague threats and retribution from officials in response to their investigative reporting on corruption. For example, on August 17, the managing director of the Nepal Oil Corporation (NOC) Gopal Khadka filed a defamation case against *Nagarik*, a leading Nepali daily, for its reporting on allegations of corruption by the NOC in its procurement of land for storage depots.

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

journalists. The FNJ also stated that some members of the security forces and the Election Commission of Nepal attempted to prevent the press from freely covering the local elections.

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

Media professionals expressed concern regarding an additional provision in the constitution that allows the government to formulate laws to regulate media. They argued that such laws could be used to close media houses or cancel their registration. The constitution also includes publication and dissemination of false materials as grounds for imposing legal restrictions on press freedom. Media experts reported, however, that these provisions have not been enforced against any media houses.

Although by law all media outlets, including government-owned stations, operate independently from direct government control, indirect political influence sometimes led to self-censorship. This was particularly true of stories that could be considered politically provocative.

### **Internet Freedom**

The government did not restrict or disrupt access to the internet or censor online content, and there were no credible reports that the government monitored private online communications without appropriate legal authority. The 2008 Electronic Transaction Act 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 the harmonious relations subsisting among the peoples of various castes, tribes and communities.” There were several incidents in which authorities took action under the Electronic Transaction Act in response to material posted on social media. According to press reports, on August 2, police arrested Nirab Gyawali for allegedly posting defamatory remarks on Facebook

against Renu Dahal, the daughter of former Prime Minister Pushpa Kamal Dahal. Gyawali, whose father was running against Dahal in the Bharatpur municipality mayoral election, was charged under the Electronic Transactions Act for an insulting Facebook posting about Dahal. On August 3, the Kathmandu District Court released Gyawali on bail of NRs 25,000 (\$250) pending further judicial proceedings.

On March 20, the government issued an amended Online Media Operation Directive, which requires all country-based online news and opinion websites to be registered. The directive gives the government the authority to block websites based on content if it lacks an “authoritative source,” creates “a misconception,” or negatively affects international relationships. The government also has the authority to block content that threatens the country’s sovereignty, territorial integrity, nationality, or harmonious relations. Online sedition, defamation, contempt of court, or indecent and immoral content may also be blocked. The new version makes the registration, license renewal, and content production provisions for online platforms more complicated, including by requiring a copy of a site’s Value Added Tax or Permanent Account Number registration certificate. Renewals now require online platforms to provide updated human resource and payroll records annually. The FNJ expressed concern that the directive’s vague language gives the government power to censor online content. On March 26, Prabesh Subedi, a journalist, filed a writ petition against the directive at the Supreme Court requesting its repeal for its violation of the right to freedom of expression. As of August the Supreme Court had not heard the case.

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

The law provides for the freedom to hold cultural events. Government permits are required to hold large public events. During the year the Tibetan community did not request permission for a number of small events confined to their settlements or within monasteries; they did not face repercussions although they faced restrictions (see section 2.b.). Authorities granted approval to the Tibetan community to organize a ceremony for the third day of the Tibetan New Year on February 11, but in July government officials rejected requests from the Tibetan Buddhist community to celebrate the Dalai Lama’s birthday publicly. With the exception of the Dalai Lama’s birthday, Tibetans attended such events with minimal reports of restrictions on movement.

### **b. Freedoms of Peaceful Assembly and Association**

The law provides for the freedoms of assembly and association; however, the government sometimes restricted freedom of assembly.

### **Freedom of Peaceful Assembly**

Freedom of assembly generally was respected for citizens and legal residents, but there were some restrictions. The law authorizes chief district officers to impose curfews when there is a possibility that demonstrations or riots could disturb the peace.

In March security forces opened fire on a crowd of protestors in Saptari district, killing five and injuring dozens (see section 1.a.). Human rights organizations also reported that in June police arbitrarily arrested and detained and, in some cases, used excessive force against those who were protesting against the second round of elections in the Terai (see section 1.d.).

### **Freedom of Association**

The law provides for freedom of association, and the government generally respected this right. NGOs, however, stated the existing legal framework does not adequately recognize the independence of civil society and opens the door to the exercise of excessive discretion by the government. They added that the registration process for civil society organizations (CSOs) is restrictive and cumbersome, the government has wide discretion to deny registration, and requirements vary among various registration authorities, with some entities requiring documents not mentioned in existing laws on an ad hoc basis. Additionally, the Association Registration Act empowers the government to give directions to associations and to terminate associations if they refuse to follow directions. To receive foreign or government resources, CSOs must seek separate and additional approval from the Social Welfare Council (SWC), the government entity responsible for overseeing CSOs. The SWC requires that CSOs allocate at least 80 percent of their budgets for hardware or tangible development outputs by placing undue restrictions on CSOs that focus on advocacy issues.

### **c. Freedom of Religion**

See the Department of State's *International Religious Freedom Report* at [www.state.gov/religiousfreedomreport/](http://www.state.gov/religiousfreedomreport/).

### **d. Freedom of Movement**

The law provides for freedom of internal movement, foreign travel, emigration, and repatriation, except for most refugees, whose freedom of movement within the country is legally limited. Constraints on refugee movements were enforced unevenly. The government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing protection and assistance to refugees and asylum seekers.

Some political groups attempted to restrict freedom of movement, including through forced general strikes known locally as “bandhs,” to pressure the government and civil society. Terai-based Madhesi political parties in particular used strikes throughout the year to draw attention to, and gain support for, their political demands. For example, in June the Rastriya Janata Party-Nepal launched a multiday strike to protest the second round of local elections. Although the protests were largely peaceful, protesters reportedly threw rocks at vehicles to enforce a ban on movement. The protests resulted in the closure of schools, businesses, and roads in some areas.

Abuse of Migrants, Refugees, and Stateless Persons: Police reportedly conducted checks of identity documents of Tibetans, including monks and nuns, at checkpoints.

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

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

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

The 2015 earthquake and its aftershocks caused widespread devastation and displaced millions of individuals, particularly in the 14 most-affected districts. According to Oxfam International, as of May 31, 83 active sites were hosting

13,594 individuals (3,063 households) in eight districts, including 1,463 children under age five.

It is not known what proportion of this population is unable or unwilling to return to their homes. Many 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. In May the government approved a policy to provide approximately NRs 200,000 (\$2,000) for the purchase of new land for landless households and those that required relocation due to natural hazards. As a medium-term solution, the government began building community shelters to house multiple families of earthquake-displaced populations. As of August the Ministry of Urban Development and the NA had constructed 82 such structures. Humanitarian agencies expressed concern that housing multiple families in the same unit could exacerbate many challenges faced by IDPs, particularly a lack of privacy and security for women and girls; insufficient access to toilets and bathing and changing areas; complicated family sleeping arrangements; and difficulties dealing with menstruation and pregnancy. Other common challenges faced by IDPs included insufficient protection from the weather, limited access to water and food, emotional stress, and elevated vulnerability to trafficking.

In a report published in April, AI stated the government's reconstruction policies, which require persons to provide land ownership documents to qualify for assistance, have reinforced the marginalization of women, the disadvantaged, and landless groups.

Although the government and the Maoists agreed to support the voluntary return in safety and dignity of conflict-displaced IDPs to their homes following the 10-year civil war, the agreement has not been fully implemented. The Ministry of Peace and Reconstruction estimated that 78,700 persons were displaced from 1996 to 2006, but an estimated 50 thousand were unwilling or unable to return home. The reasons included unresolved land and property issues, lack of citizenship or ownership documentation, and security concerns since the land taken from IDPs by Maoists during the conflict was often sold or given to landless or tenant farmers.

The government provided relief packages for the rehabilitation and voluntary return of conflict-era IDPs. Many of those still displaced preferred to integrate locally and live in urban areas, mostly as illegal occupants of government land along riversides or together with the landless population. The absence of public services and lack of livelihood assistance also impeded the return of IDPs.

## Protection of Refugees

Access to Asylum: The law does not provide for the determination of individual refugee or asylum claims or a comprehensive legal framework for refugee protection. The government recognized large numbers of Tibetans as refugees and supported resettlement to foreign countries of certain refugees claiming Bhutanese citizenship. The government does not provide for local integration as a durable solution.

The government officially restricted freedom of movement and work for the approximately 10,000 refugees asserting claims to Bhutanese citizenship residing in the two remaining refugee camps in the eastern part of the country, but those restrictions were largely unenforced for this population. The government officially does not allow these refugees to work or have access to public education or public health clinics, but it allows UNHCR to provide parallel free education and health services to refugees in the camps. In 2007 the government agreed to permit third-country resettlement for these refugees. Since resettlement began more than 109,000 refugees claiming Bhutanese citizenship have been resettled in foreign countries.

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 more than half of the 15,000 to 20,000 resident Tibetan refugees remained undocumented. After China heightened security in 2008 along its border and increased restrictions on internal freedom of movement for ethnic Tibetans, the number of Tibetans who transited through the country dropped significantly. UNHCR reported that 120 Tibetans transited the country in 2016, and 23 from January through July. The government issued UNHCR-facilitated exit permits for recent arrivals from Tibet who were transiting while traveling to India.

Access to Basic Services: Most Tibetan refugees who lived in the country, particularly those who arrived after 1990 or turned 16 after 1995, did not have documentation, nor did their locally born children. Even those with acknowledged refugee status had no legal rights beyond the ability to remain in the country. The Nepal-born children of Tibetans with legal status often lacked documentation. The government allowed NGOs to provide primary- and secondary-level schooling to Tibetans living in the country. Tibetan refugees had no entitlement to higher

education in public or private institutions and were denied the right to work officially. They were unable legally to obtain business licenses, driver's licenses, bank accounts, or to own property, or consistently document births, marriages, and deaths. Some in the Tibetan community resorted to bribery to obtain these services. While Nepal-based Tibetans with refugee certificates were eligible to apply for travel documents to leave the country, the legal process was often arduous, expensive, and opaque. 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.

More than 500 refugees and asylum seekers from other countries, including Pakistan, Burma, Afghanistan, Sri Lanka, Bangladesh, Somalia, Iran, Iraq, and Democratic Republic of the Congo, lived in the country. The government continued to deny these groups recognition as refugees, even when recognized as such by UNHCR, and levied prohibitive fines \$5 per day out of status--and a discretionary penalty of up to NRs 50,000 (approximately \$500) to obtain an exit permit. The government waived the fines for 41 individuals in July, but it did not change its policy to enable other registered refugees destined for resettlement or repatriation to obtain exit permits without paying these fines. The government allowed UNHCR to provide some education, health, and livelihood services to these refugees, but the refugees lacked legal access to public education and the right to work.

### **Stateless Persons**

An estimated 5.4 million individuals (24 percent of the population age 16 and over) lacked citizenship documentation. Citizenship documents, which are issued at age 16, are required to register to vote, register marriages or births, buy or sell land, appear for professional exams, open bank accounts, or gain access to credit and receive state social benefits. Prior to the 2013 constituent assembly election, the government deployed citizenship/voter registration mobile teams to remote areas to issue citizenship cards and register new voters. The Home Ministry reported issuing more than 600,000 new citizenship cards during the exercise.

Constitutional provisions, laws, and regulations governing citizenship discriminated by gender, which contributed to statelessness. The constitution states that citizenship is derived from one Nepali parent, but it also stipulates that a child born to a Nepali mother and a non-Nepali father may obtain citizenship only through naturalization. Mothers faced extreme difficulties in securing citizenship papers for children of Nepali parents, even when they possessed Nepali citizenship

documents, except in cases in which the child's father supported the application. These difficulties persisted despite a 2011 Supreme Court decision granting a child Nepali citizenship through the mother if the father was unknown or absent.

The constitution states that the children of unidentified fathers may obtain citizenship through their mothers, but if it is later determined that the father is a foreign citizen, the child will lose citizenship by descent and be eligible for naturalization. In practice many single women face difficulties registering their children as citizens by descent. The Supreme Court ruled in May that government authorities must not deny the registration of birth and citizenship of children of Nepali mothers and fathers who cannot be traced. According to human rights lawyers, although this provision applies to the children of single mothers, including rape and trafficking victims, it does not address situations in which the father is known but refuses to acknowledge paternity. The legal and practical restrictions on transferring citizenship imposed particular hardships on children whose fathers were deceased, had abandoned the family, or (as was increasingly common) departed the country to work abroad.

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

For women and girls to obtain citizenship by descent for themselves, regulations require a married woman to submit a formal attestation from her husband, father, or husband's family (if widowed) that she qualifies for citizenship and has his or their permission to receive it. This requirement makes a woman's right to citizenship contingent on her father's or husband's cooperation. In many cases husbands refused to provide their wives this attestation. Preventing women from obtaining citizenship documentation precludes their access to the courts and thus their ability to make legal claims to land and other property, which permits the husband or male relatives free to stake their own claims.

While stateless persons did not experience violence, they experienced discrimination in employment, education, housing, health services, marriage, birth registration, identity documentation, access to courts and judicial procedures, migration opportunities, land and property ownership, and access to earthquake relief and reconstruction programs.

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

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

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

Recent Elections: The government held parliamentary and provincial elections in two phases--November 26 and December 7--based on geography. Completion of these elections completed the required three tiers of elections necessary to bring the new federal system of government into force in advance of the January 21, 2018, constitutional deadline. Preliminary statements from international observers, for example, the Carter Center, indicated that these parliamentary and provincial assembly elections were generally “well-conducted,” despite some violent incidents, “political tensions, logistical, and operational challenges, and tight timelines for executing the elections.” The Carter Center “expressed concern about the lack of representation for women and minorities and noted that voter education efforts were insufficient.” The EU stated that the elections, “...demonstrated that political freedoms, such as association, assembly, and expression, prevailed over the violent attacks of the election campaign period,” but noted that “while the ECN successfully organized in a very short timeframe the logistical aspects of the election in two phases, there was a notable lack of transparency in the work of the ECN, which affected the electoral process.”

The government held local elections for the first time since 1997, with voting conducted in three phases based on geography in May, June, and September. 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 improvised explosive devices and hoax bombs. Observers also stated that insufficient voter education, discrepancies between identification documents and voter rolls, and other procedural challenges stemming from the short period between the government’s announcement of elections and election day resulted in a significant number of void ballots and persons reportedly being denied the right to vote. Election officials and security personnel supporting the conduct of elections were also often unable to vote, resulting in at least half a million individuals who could not participate in the elections.

In November 2013 citizens participated in the country’s second Constituent Assembly elections, which international and domestic observers deemed

essentially credible, free, and fair. In an effort to obstruct the 2013 elections, a breakaway Maoist faction, the Communist Party of Nepal-Maoist, committed acts of political violence and intimidation and attempted to enforce a 10-day transportation ban. Despite such efforts the Election Commission reported that more than 74 percent of registered voters participated, the highest figure in the country's history. According to domestic and international observers, including the Carter Center and the EU, authorities conducted elections that generally were free of major irregularities.

Participation of Women and Minorities: No laws limit participation of women or minorities in the political process, and they did participate in local, provincial, and national elections. The constitution mandates that at least one third of all members of the lower house of the federal parliament must be women and requires inclusion of various minority groups in the list of candidates in the 40 percent of seats chosen through a proportional representation system. The constitution also stipulates representation requirements for the upper house of the federal parliament. For the 56 members chosen by an electoral college, the eight members from each of the seven provinces must include at least three women, one member of the Dalit caste, and one person with a disability or member of a minority group. Additionally, of the remaining three members of the upper house chosen by the president, at least one must be a woman.

Tradition and relative socioeconomic disadvantage limited the participation of women, some castes, and some ethnic groups in the political process, including as elected officials. The larger political parties had associated women's wings, youth wings, trade unions, and social organizations. Women, youth, and minorities complained that party leaders, mostly upper-caste men from the central hills, prohibited meaningful political participation despite the existence of certain quotas for participation.

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

Although the law provides criminal penalties for corruption by officials, there continued to be reports that officials engaged in corrupt practices with impunity.

Corruption: In one of several high-profile corruption cases, in January the Supreme Court disqualified Lokman Singh Karki as the Chief of the Commission for Investigation of Abuse of Authority (CIAA), the country's lead anticorruption body, because he did not meet the minimum qualifications or hold the "high moral character" required for the position. Karki, who also was facing an impeachment

motion in parliament, had been under public scrutiny for pursuing investigations beyond the jurisdiction of the CIAA, selectively prosecuting political enemies, and misusing public funds and facilities.

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

Financial Disclosure: Public officials are subject to financial disclosure laws. According to the National Vigilance Center, the body mandated to monitor financial disclosures and make them available to the public, in fiscal year 2014-15, 22,860 civil servants did not submit annual financial statements as required by law according to the latest data available. Public officials may face a fine of up to NRs 5,000 (\$50). The CIAA publicly demanded that officials be more diligent in submitting financial disclosure reports. Ministers are required to submit their property details within two months of assuming office. During the period covered by the latest National Vigilance Center report, July 2014 to July 2015, 22 of the 23 ministers in office did so.

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

While domestic and international human rights groups generally were free to operate, investigate, and publish their findings on human rights cases, the government placed administrative burdens on some international NGOs by complicating procedures for obtaining visas and compelling them to sign asset control documents.

Government Human Rights Bodies: The NHRC investigated allegations of abuses, but resource constraints, insufficient staff (95 out of 309 positions were vacant as of August, a decrease from 232 vacant positions in August 2016), and limitations on its mandate led some activists to view the body as ineffective and insufficiently independent. The NHRC claimed the government helped promote impunity by failing to implement its recommendations fully. The NHRC stated that from its establishment in 2000 through the current year, it had made recommendations for prosecution and reparations in 818 cases (as of July). More than three-quarters of these involved conflict-era incidents. The NHRC noted the government had fully implemented 14 percent of these recommendations by carrying out prosecution and awarding reparations and partially implemented 48 percent through reparations

alone. In the remaining cases, the government did not implement the NHRC's recommendations for prosecution or reparations.

The government and judiciary have not significantly addressed conflict-era human rights and humanitarian law violations committed by the NA, Nepal Police, APF, and Maoist parties. Human rights advocates continue to express concern that several sub judice cases of conflict-era abuses by such actors before criminal courts would be removed from judicial jurisdiction and inappropriately "transferred" to the TRC or CIEDP despite a Supreme Court ruling that this would be improper. In this scenario the TRC or CIEDP would review the cases as it would with any other registered complaint and decide whether to recommend prosecution.

The TRC and CIEDP began their initial two-year terms in February 2015. Shortly before their original tenure was set to expire, the government extended their tenures by one year. In June the TRC established branch offices in each of the country's seven provinces to decentralize and simplify for victims the process of investigating nearly 60 thousand complaints. Similarly, the CIEDP formed five teams in June to begin investigating 2,769 complaints of conflict-era disappearance. As of September human rights experts reported that neither the TRC nor the CIEDP had made significant progress on investigations.

Local human rights advocates cite a number of legal shortcomings that pose obstacles to a comprehensive and credible transitional justice process in the country. For example, the law does not criminalize torture or enforced disappearance, and the statute of limitations for rape is only 180 days.

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

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

## Women

Rape and Domestic Violence: In July parliament passed the new criminal code that will not come into effect until 2018. In the meantime the existing law requires prison sentences for rape that vary between five and 15 years depending on the victim's age. The law also mandates five years' additional imprisonment in the case of gang rape, rape of pregnant women, or rape of a woman with disabilities. The victim's compensation depends on the degree of mental and physical abuse. Under the 2015 Act to Amend Some Nepal Acts to Maintain Gender Equality and End Gender-Based Violence, the sentence for marital rape is three to five years' imprisonment and the statute of limitations for filing rape charges is 180 days.

For rape cases that were reported, police and the courts were responsive in most cases. Human rights activists outside of Kathmandu, however, expressed concern that police frequently refuse to register cases of gender-based violence (GBV), including occasionally rape cases. These groups report that police often prefer to use mediation rather than criminal investigation to resolve conflicts. According to NGOs police frequently prioritized cases of sexual violence, and the District Court Regulations stipulates that judges should expedite cases of rape, human trafficking, and other violent crimes.

Domestic violence against women and girls remained a serious problem. Violence against women and girls, including early and forced marriage, was believed to be one of the major factors responsible for women's relative poor health, livelihood insecurity, and inadequate social mobilization. Additionally, the practice of early and forced marriage, which remained prevalent, limited girls' access to education and increased their susceptibility to domestic violence and sexual abuse. The 2009 Domestic Violence (Crime and Punishment) Act allows for settling complaints of domestic violence through mediation with an emphasis on reconciliation. Authorities usually pursued prosecution under the act only when mediation failed. The Nepal Police had women's cells staffed by female officers in each of the country's 75 districts to make it easier for women and girls to report crimes to police. According to the Women and Children Service Directorate, many women's cells were not fully operational, but the Nepal Police, with outside assistance, endeavored to build and improve their infrastructure and capacity. NGOs stated that despite improvements, resources and training to deal with victims of domestic violence and trafficking were insufficient. Although police guidelines call on officers to treat domestic violence as a criminal offense, this guidance was difficult to implement outside of the women's cells due to entrenched discriminatory attitudes.

The Office of the Prime Minister and Council of Ministers' 2011 standard operating procedure for prevention of and response to GBV has led to the establishment of 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 GBV. Gender experts say the standard operating procedure has led to improved coordination among police, NHRC, National Women's Commission, chief district officers, local authorities, community mediation centers, and NGOs working to address violence against women and girls.

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

Traditional beliefs about witchcraft negatively affected rural women, especially widows, the elderly, persons of low economic status, or members of the Dalit caste. Shamans or family members publicly beat and otherwise physically abused alleged witches as part of exorcism ceremonies. Media and NGOs reported numerous cases of such violence, and civil society organizations raised public awareness of the problem. Women, and in some instances men, accused of witchcraft were severely traumatized and suffered physical and mental abuse. In recent years those accused of witchcraft have faced various punishments, including being fed human excreta, being hit with hot spoons in different parts of the body, being forced to touch hot irons or breathe in chili smoke, having their genitals perforated, or being banished from their community.

The 2015 Anti-Witchcraft (Crime and Punishment) Act, the first legal mechanism to address directly such abuse, imposes prison sentences of five to 10 years and

fines of up to NRs 100,000 (\$1,000) for those who physically or mentally abuse women accused of being witches or men accused of sorcery. It also imposes prison sentences of up to five years for those who evict supposed witches or banish them from their communities. INSEC stated that authorities prosecuted no individuals under the act during the year.

Although acid attacks were not common, in May the Supreme Court ordered the government to amend the law to assure that victims of acid attacks and burning receive immediate compensation and critical care. Human rights NGOs stated they welcomed the decision but were still waiting for the government to implement the order.

The practice of “chhaupadi” (expelling women and girls from their homes during menstruation and sometimes following childbirth, including forcing women and girls to reside in cattle sheds) continued to be a serious problem. Chhaupadi persists despite a 2005 Supreme Court decision outlawing the practice and guidelines on eliminating it issued in 2008 by the Ministry of Women, Children, and Social Welfare. The new criminal code adopted in August formally criminalizes the practice by stipulating a punishment of up to three months’ imprisonment, a maximum fine of NRs 3,000 (\$30), or both.

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

Coercion in Population Control: There were no reports of coerced abortion, involuntary sterilization, or other coercive population control methods. Estimates on maternal mortality and contraceptive prevalence are available at: [www.who.int/reproductivehealth/publications/monitoring/maternal-mortality-2015/en/](http://www.who.int/reproductivehealth/publications/monitoring/maternal-mortality-2015/en/).

Discrimination: Although the law provides protection, women faced systemic discrimination, including in employment (see section 7.d.). Discrimination was most common in rural areas where religious and cultural traditions, lack of education, and ignorance of the law remained severe impediments to the exercise of basic rights, such as the right to vote or to hold property in a woman’s name.

Dalit women in particular faced discrimination by virtue of their gender and caste status. The law grants women equal shares of their parents' inheritance and the right to keep their property after marriage, but many women were not aware of their rights, and others were afraid to challenge existing practice. The law also grants widows complete access and authority to the estate of their deceased husbands; however, traditional attitudes stigmatizing and shunning widows persisted, and communities often ignored the law, while the government did not take sufficient measures to enforce it.

The Gender Equality Act adopted in 2006--along with more than 60 other laws--contain discriminatory provisions. For example, the law on property rights favors men in land tenancy and the division of family property. The law encourages bigamy by allowing men to remarry without divorcing if the first wife is incapacitated or infertile. The constitution, however, confers rights for women that had not previously received legal protection, including rights equal to those of their spouses in property and family affairs, and special opportunities in education, health, and social security.

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

## **Children**

Birth Registration: According to the constitution, citizenship is derived from one Nepali parent, but a child born to a Nepali woman and a foreign citizen father may obtain citizenship only through naturalization. The constitution also states that children of unknown fathers may obtain citizenship through their mothers. Despite a 2011 Supreme Court decision that permits applicants to seek citizenship through either their father or mother, in practice many have been denied citizenship due to lack of access to local authorities, lack of awareness of the law by applicants or government officials, or failure by some government officials to process such applications. For more information, see [data.unicef.org](http://data.unicef.org).

Education: The constitution makes basic primary education free and compulsory nationwide. The 2016 Education Act divides the education system into Basic Education (Early Childhood Development and grades one to eight), which is free and compulsory, and Secondary Education (grades nine to 12), which is free but not compulsory. The government reported that during the 2015-16 school year 96.6 percent of school-age children attended primary schools with gender parity.

A gender gap in secondary education, however, persisted, with two-thirds of adolescent girls in rural areas reportedly not attending school. The literacy rate for women was approximately 57 percent, compared to 75 percent for men, according to the 2011 census.

Government officials stated they continued to be concerned about the effect of the 2015 earthquakes on the education sector. According to the Ministry of Education, approximately 34,500 classrooms in both public and private schools were destroyed or damaged beyond use. The earthquake interrupted the education of an estimated two million children and youth immediately following the disaster. According to the government's Central Level Program Implementation Unit for education sector recovery, only approximately half of the 8,200 earthquake-affected schools have funded commitments for permanent reconstruction. Nevertheless, the Ministry of Education stated that the majority of children in earthquake-affected areas have been able to access education.

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

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

Early and Forced Marriage: The law prohibits marriage for both boys and girls before the age of 20. Families in many areas sometimes forced their young children to marry

Social, economic, and cultural values promoted the practice of early and forced marriages, which was especially common in the Dalit and Madhesi communities. The law sets penalties for violations according to the age of the girls involved in child marriage. The penalty includes both a prison sentence and fine, with the fees collected going to the girl involved. The civil code provides that the government must take action whenever a case of child marriage is filed with authorities.

The government worked with local child rights groups and international donors on the problem of early and forced marriage, although cases often went unreported

and law enforcement rarely enforced legislation to prevent it. A number of government child protection and welfare programs, such as scholarship programs targeting girls, attempted to encourage girls to stay in school. Despite the government's announcement in 2016 of a new national strategy against child marriage that aims to improve education, economically empower girls, engage men and boys, improve services, and implement existing laws and policies, NGOs stated child marriage rates had not significantly changed.

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 working in prostitution and of underage girls employed in dance bars, massage parlors, and cabin restaurants (a type of brothel). The minimum age for consensual sex is 16. The penalties for rape vary according to the age of the victim and the relationship. Conviction for rape under existing law can result in 10 to 15 years' imprisonment if the victim is under 10 years of age, eight to 12 years' if the victim is between 10 and 14 years of age, six to 10 years' if the victim is between 14 and 16 years of age, five to eight years' if the victim is between 16 and 20 years of age, and five to seven years if the victim is over 20 years of age. Conviction for attempted rape may be punished by half the penalty provided for rape.

There is no specific law against child pornography, but the Children Act stipulates that no person can involve or use a child for an immoral profession, and photographs cannot be taken or distributed for the purpose of engaging a child in an immoral profession. Additionally, photographs that tarnish the character of the child may not be published, exhibited, or distributed. Violators of these sections of the act are subject to fines of up to NRs 10,000 (\$100), up to one year in prison, or both. According to the NGO Change Nepal, child pornography cases may also be tried under the new criminal code as "intent to rape," for which the punishment is a fine of up to NRs 30,000 (\$300), up to three years in prison, or both. If the pornographic materials are posted online or transferred by phone, violators may also be charged under the Electronic Transactions Act, which carries a punishment of up to five years' imprisonment, a NRs 100,000 (\$1,000) fine, or both. Other legal experts stated that if a minor has been sexually assaulted in the production of pornography, the perpetrator can be charged with rape, for which the punishment is up to 20 years in jail depending on the age of the victim.

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

including the original number of internally displaced and the number who remained displaced.

Institutionalized Children: Abuse and mistreatment in orphanages and children's homes reportedly was common. An NGO working in this field estimated that approximately 10 percent of registered children's homes met the minimum legal standards of operation. The NGO also reported no significant change in the level or degree of abuse of children compared to previous years. A 2013 study by CWISH showed that few such homes in the Kathmandu Valley met CCWB standards, although they provided some basic services.

International Child Abductions: The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. See the Department of State's *Annual Report on International Parental Child Abduction* at [travel.state.gov/content/childabduction/en/legal/compliance.html](http://travel.state.gov/content/childabduction/en/legal/compliance.html).

### **Anti-Semitism**

There was a small Jewish community in the country, and there were no reports of anti-Semitic acts.

### **Trafficking in Persons**

See the Department of State's *Trafficking in Persons Report* at [www.state.gov/j/tip/rls/tiprpt/](http://www.state.gov/j/tip/rls/tiprpt/).

### **Persons with Disabilities**

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

In 2012 the Supreme Court ordered the government to do more for persons with physical and mental disabilities, including providing a monthly stipend, building shelters, and appointing one social welfare worker in each district. In August parliament passed the Disability Rights Act, which provides that persons with disabilities have equal access to education, health, employment, public physical infrastructure, transportation, and information and communication services. The

act also prohibits discrimination based on disability. Although government efforts to enforce laws and regulations to improve rights and benefits for persons with disabilities have gradually improved, they still are not fully effective. For example, books printed in Braille are not available for students at all grade levels, and free higher education is not uniformly available to all interested persons with disability.

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

The Ministry of Women, Children, and Social Welfare was responsible for the protection of persons with disabilities. Additionally, the Ministry of Education provided scholarships to help approximately 101,000 children with disabilities attend public or private schools at the primary and secondary levels. In recent years the Ministry of Education has established 380 classes at the primary school level and 34 special schools at the secondary level for children with special needs. An estimated 60 to 80 percent of children with disabilities, particularly those with intellectual or mental, vision, or hearing disabilities, did not attend school. Compared with primary school attendance, relatively few children with disabilities attended higher levels of education, largely due to accessibility problems, school locations, and financial burdens on parents. Although abuse of children with disabilities reportedly occurred in schools, no reports of such incidents were filed in the courts or with the relevant agencies during the year.

The Ministry of Federal Affairs and Local Development mandates that each district allocate 15 percent of its budget for minority and vulnerable groups, including persons with disabilities. Still, 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 Social Welfare, however, there were obstacles to exercising these rights, especially the lack of accessibility to public facilities.

### **National/Racial/Ethnic Minorities**

The law provides that each community shall have the right “to preserve and promote its language, script, and culture” and to operate schools at the primary level in its native language. The government generally upheld these provisions. More than 125 caste and ethnic groups, some of which are considered indigenous nationalities, speak more than 120 different languages.

Discrimination against lower castes and some ethnic groups, including in employment (see section 7.d.), was widespread and especially common in the Terai region and in rural areas.

Caste-based discrimination is illegal, and the government outlawed the public shunning of Dalits and made an effort to protect the rights of other disadvantaged castes. The constitution prohibits the practice of untouchability and stipulates special legal protections for Dalits in education, health care, and housing. It also established the National Dalit Commission as a constitutional body to strengthen protections for and promote the rights of Dalits.

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

The government recognized 59 ethnic/caste groups as indigenous nationalities, comprising approximately 36 percent of the population. Although some communities were comparatively privileged, many faced unequal access to government resources and political institutions and linguistic, religious, and cultural discrimination. Some NGOs stated that indigenous people, whose settlements were disproportionately damaged by the 2015 earthquakes, were discriminated against in the quality and quantity of reconstruction materials they received. Other NGOs, however, stated that discriminatory practices were not widespread, and local and international NGOs engaged in reconstruction made efforts to prevent discrimination in the distribution of reconstruction materials.

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

No laws criminalize same-sex sexual activity, and lesbian, gay, bisexual, transgender, and intersex (LGBTI) persons actively advocated for their rights. The constitution contains provisions outlining protections for LGBTI persons, but LGBTI activists continued to press for further legislation to increase protections for gender and sexual minorities.

In 2007 the Supreme Court directed the government to enact laws to protect LGBTI persons' fundamental rights, enable third-gender citizenship, and amend laws that were sexually discriminatory. Implementation of the 2007 decision was initially slow, but in 2013 the Home Ministry started issuing citizenship certificates with an "other" gender category for those applying for citizenship. In 2015 the Home Ministry started issuing passports with an "other" gender designation.

The Ministry of Women, Children, and Social Welfare decreased its budget for LGBTI-focused programs from NRs 1.5 million (\$15,000) to NRs 300,000 (\$3,000), including awareness programs, training in income generation, and other LGBTI community needs. It also allocated NRs 100,000 (\$1,000) for grants to NGOs serving the LGBTI community. The ministry attributed the decrease in funds allocated to LGBTI-focused spending to an inadequate budget and competing priorities. According to local LGBTI advocacy groups, the government did not provide equal opportunity to 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, LGBTI activists noted that election authorities prevented one person who self-identified as third gender from registering as a candidate for vice mayor because electoral quotas required the individual's party to register a "female" candidate for the position. Separately, LGBTI activists stated that some transgender persons refrained from voting out of fear of harassment or social scorn because transgender persons were forced to stand in lines reflecting the gender on their citizenship documents, regardless of whether they had changed gender in practice.

According to LGBTI rights NGOs, harassment and abuse of LGBTI persons by private citizens and government officials declined during the year, especially in urban areas, although such incidents still occurred. Several NGOs praised the government, specifically the Ministry of Women, Children, and Social Welfare, for

taking the initiative in organizing LGBTI-related trainings and sensitivity programs.

LGBTI rights groups reported that gender and sexual minorities faced harassment from police during the year. According to LGBTI advocacy group Blue Diamond Society, police continued to target transgender sex workers, subjecting them to up to 25 days' detention without charge under the Public Offense Act. Although the Nepal Police HRC did not document any allegations of harassment of LGBTI persons, the HRC confirmed that some low-level harassment occurred because many citizens held negative views of LGBTI persons. The HRC added that the Nepal Police were not immune to such social prejudices.

### **HIV and AIDS Social Stigma**

There was no official discrimination against persons who provided HIV-prevention services or against high-risk groups that could spread HIV/AIDS.

Societal discrimination and stigma against persons with HIV remained common, according to NGOs. NGOs stated LGBTI persons, persons who injected drugs, and women from disadvantaged groups faced higher levels of discrimination. In the 2016 NDHS, 40 percent of women and 33 percent of men reported discriminatory attitudes towards persons with HIV.

In December 2016 the government approved a national HIV/AIDS Strategic Plan, which focuses on increasing medical services to HIV-infected persons and reducing social discrimination. It also calls for a review of current health-related laws and regulations to remove provisions that are discriminatory or harmful to the health of key populations affected by HIV/AIDS.

## **Section 7. Worker Rights**

### **a. Freedom of Association and the Right to Collective Bargaining**

The law provides for the right of workers to form and join unions of their choice, except those organizations deemed by the government to be subversive or seditious. Freedom of association extends to workers in both the formal and informal sectors. Noncitizens cannot be elected as trade union officials. In the formal sector, noncitizens are allowed to work exclusively in managerial positions. Due to laws that prevent managers from forming unions, noncitizens in effect do not have the right to form unions. In the informal sector, unions are uncommon,

and noncitizens cannot gain membership. Local workers have the right to strike and bargain collectively, except for employees in 16 essential services, including public transportation, banking, security, and health care. Members of the armed forces, police, and government officials at the undersecretary level or higher also are prohibited from taking part in union activities. In the private sector, employees in managerial positions are not permitted to join unions.

The law stipulates that unions must represent at least 25 percent of workers in a given workplace to be considered representative. The minimum requirement does not prohibit the formation of unofficial union groups, which may call strikes and enter into direct negotiation with the government. Workers in the informal sector may also form unions, but many workers were not aware of these rights.

The law also protects union representatives from adverse legal action arising from their official union duties, including collective bargaining, and prohibits antiunion discrimination. Workers dismissed for engaging in union activities can seek reinstatement by filing a complaint in labor court or with the Department of Labor, which has semi-judicial and mediation authority. Most cases are settled through mediation. By law employers can fire workers only under limited conditions and only after three instances of misconduct. The law stipulates that participation in a strike that does not meet legal requirements constitutes misconduct, for which the consequences are suspension or termination of employment.

To conduct a legal strike, 51 percent of a union's membership must vote in favor in a secret ballot, and unions are required to give 30 days' notice before striking. If the union is unregistered, does not have majority support, or calls a strike prior to issuing 30 days' notice, the strike is considered illegal.

The government was unable to enforce applicable laws fully since resources, inspections, and remediation were inadequate and penalties for violations were insufficient to deter violations. Administrative and judicial procedures were subject to lengthy delays and appeals.

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.

The government did not interfere in the functioning of workers' organizations or threaten union leaders. Strikes in essential service sectors such as hospitals, despite being prohibited, continued to take place. Many doctors and medical professionals at the Tribhuvan University Teaching Hospital, the country's premier medical education institution, supported the 11th hunger strike in recent years by Govinda KC, who earlier demanded action against officials allegedly involved in improperly granting affiliation to private medical colleges and compromising the quality of medical education.

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

The law prohibits all forms of forced or compulsory labor and provides penalties ranging from one to 20 years in prison and fines of up to NRs 200,000 (\$2,000). The law does not criminalize the recruitment, transportation, harboring, or receipt of persons by force, fraud, or coercion for the purpose of forced labor. The government made significant efforts to comply with minimum standards for the elimination of trafficking despite limited resources, but the country continued to be a source, transit, and destination for men, women, and children who were subjected to forced labor.

Government enforcement of the laws against bonded labor was uneven, and social reintegration of victims remained difficult. Resources, inspections, and remediation were inadequate, and penalties for violations were insufficient to deter violations. The government has provided financial, material, and other social welfare benefits to more than 26,000 "Kamaiyas" (bonded agricultural laborers of Tharu ethnicity who were freed in 2000). This included NRs 55,000 (\$550) per family to purchase materials for the construction of homes. Many former Kamaiya families nevertheless continued to reside on riverbanks and barren plots of land under poor living conditions, with limited employment opportunities and little access to education.

In 2013 the government recommitted to abolishing the already illegal practice of "Kamlaris," girls of Tharu ethnicity in bonded domestic labor. The government allocated NRs 120 million (\$1.2 million) for the education of former Kamlaris, but authorities did not spend the full amount.

Also see the Department of State's *Trafficking in Persons Report* at [www.state.gov/j/tip/rls/tiprpt/](http://www.state.gov/j/tip/rls/tiprpt/).

### **c. Prohibition of Child Labor and Minimum Age for Employment**

The law establishes 14 as the minimum age for work and 16 as the minimum age for hazardous work, and it mandates acceptable working conditions for children. Employers must maintain separate records of laborers between the ages of 14 and 16. The law prohibits employment of children in factories, mines, and 60 other categories of hazardous work and limits children between the ages of 16 and 18 to a 36-hour workweek (six hours a day between 6 a.m. and 6 p.m., six days a week). The law, which was not fully implemented, also establishes penalties of up to two years in prison and a fine up to NRs 100,000 (\$1,000) for those who unlawfully employ children.

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

Child labor occurred in agriculture, domestic service, portering, recycling, and transportation; the worst abuses were reported in brick kilns, the stone-breaking industry, the carpet sector, embroidery factories, and the entertainment sector. In the informal sector, children worked long hours in unhealthy environments, carried heavy loads, were at risk of sexual exploitation, and at times suffered from numerous health problems (see section 6, Children). Government officials stated they were still concerned that the economic effect of the 2015 earthquakes increased the risk of child labor, but no official data was available as of August.

Also see the Department of Labor's *Findings on the Worst Forms of Child Labor* at [www.dol.gov/ilab/reports/child-labor/findings/](http://www.dol.gov/ilab/reports/child-labor/findings/).

#### **d. Discrimination with Respect to Employment and Occupation**

The constitution prohibits discrimination on the basis of religion, race, sex, caste, tribe, geographical or social origin, language, marital status, physical or health condition, disability, or ideological conviction. It also stipulates that the government may make special provisions for the protection, empowerment or advancement of women, Dalits, indigenous peoples, gender and sexual minorities, persons with disabilities, and those who belong to a class that is economically, socially or culturally “backward.” On employment the constitution gives women the right to special opportunities and gives ethnic minorities, persons with disabilities, Muslims, and gender and sexual minorities the right to serve in state bodies through the principle of inclusion. It also states that there will be special legal provisions for Dalits in employment, including in public service. Labor regulations prohibit discrimination in payment or remuneration based on gender.

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

Despite constitutional and legal protections, discrimination in employment and occupation occurred with respect to gender, caste, ethnicity, national origin, citizenship, disability, religion, sexual orientation and gender identity, and HIV-positive status. Such discrimination was most common in the informal sector, where monitoring by the government and human rights organizations was weak or absent and those in disadvantaged categories had little leverage or recourse. In the formal sector, labor discrimination generally took the form of upper-caste men without disabilities being favored in hiring, promotions, and transfers. In the public sector, such discrimination also was based on personal affiliation and reportedly occurred in many instances with the tacit understanding of political leaders.

Although the law requires equal pay for equal work for men and women, the government did not implement those provisions, particularly in many state industries. To be eligible for government jobs, Nepali national origin or citizenship is mandatory, and dual nationals are excluded. A fixed-term employment of a foreign national under contractual arrangements or as a consultant, however, is permitted. Labor laws limit hiring foreign nationals in fully owned or joint-venture foreign enterprises.

The government used a mandatory 5 percent public employment quota to hire persons with disabilities during the year, primarily as teachers. The government

also attempted to implement this quota system on a voluntary basis in the private sector and during the year began conducting free classes to help persons with disabilities prepare for public-service exams. Nevertheless, according to government officials and disability rights advocates, the overall rate of employment of persons with disabilities did not increase significantly. In the private sector, large numbers of persons with disabilities claimed they were denied work opportunities or dismissed due to their conditions. In all sectors employees with disabilities reported other forms of discriminatory treatment.

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

The government committed to take action for the economic empowerment of gender and sexual minorities and other marginalized groups in its fourth five-year National Plan of Action on Human Rights (2014-19). Local LGBTI advocacy organizations, however, stated there was a lack of implementation. 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. There were some reports of individuals losing their jobs when their employers or coworkers discovered their HIV-positive status. According to a development NGO working in the area of HIV/AIDS, a longstanding government policy to foster acceptance of persons with HIV and respect for their rights in the workplace had not been implemented effectively.

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

The government increased the minimum wage for unskilled laborers in February 2016 from NRs 8,000 to NRs 9,700 (\$80 to \$97) per month. For workers in the tea industry, the minimum wage was increased in July 2016 from NRs 6,375 (\$64) to NRs 7,075 (\$71) per month, with an additional allowance of NRs 30 (\$.30) per day. The minimum wage exceeded the official poverty line of NRs 52 (\$.53) per day, but it was barely sufficient to meet subsistence needs.

Minimum-wage laws apply to both the formal sector (which accounted for approximately 10 percent of the workforce) and the informal sector, but implementation was stronger in the formal sector. In accordance with an understanding reached between the Joint Trade Union Coordination Center (a

common forum of 11 trade unions), the Federation of Nepalese Chambers of Commerce and Industry, and the Ministry of Labor and Employment, the minimum wage should be revised every two years.

The law stipulates a 48-hour workweek, with one day off per week and one-half hour of rest per five hours worked. The law limits overtime to no more than four hours in a day and 20 hours per week, with a 50 percent overtime premium per hour. Excessive compulsory overtime is prohibited. Employees are also entitled to paid public holiday leave, sick leave, annual leave, maternity leave, bereavement leave, and other special leave. The law provides adequate occupational health and safety standards and establishes other benefits, such as a provident fund, housing facilities, day-care arrangements for establishments with more than 50 female workers, and maternity benefits.

The Ministry of Labor and Employment reported that most factories in the formal sector complied with laws on minimum wage and hours of work, but implementation varied in the informal sector, including in agriculture and domestic servitude. The ministry employed up to 12 factory inspectors for the country, who also acted as labor and occupational health and safety inspectors.

Implementation and enforcement of occupational health and safety standards were minimal, and the Ministry of Labor and Employment considered it the most neglected area of labor law enforcement. The ministry found violations across sectors, including in construction, mining, transportation, agriculture, and factory work.

The government has not created the necessary regulatory or administrative structures to enforce occupational safety and health provisions. The Ministry of Labor and Employment did not have a specific office dedicated to occupational safety and health, nor did it have inspectors specifically trained in this area. Penalties were insufficient to deter violations. Although the law authorizes factory inspectors to order employers to rectify unsafe conditions, enforcement of safety standards remained minimal, and monitoring was weak. Accurate data on workplace fatalities and accidents was not available. Labor law and regulations do not specify that workers can remove themselves from situations that endanger health or safety without jeopardizing their employment.

The government regulated labor contracting, or “manpower,” agencies recruiting workers for overseas jobs, and penalized fraudulent recruitment practices. The government said it remained committed to the free-visa, free-ticket scheme

introduced in 2015, but according to migrant rights NGOs, the government has failed to implement the policy effectively. Some government officials were complicit in falsifying travel documents and overlooking recruiting violations by labor contractors. The myriad unregistered and unregulated labor “brokers” and intermediaries, who were often trusted members of the community, complicated effective monitoring of recruitment practices. Workers were also encouraged to register and pay a fee to the Foreign Employment Promotion Board, which tracked migrant workers and provided some compensation for workers whose rights were violated.

The government required contracts for workers going abroad to be translated into Nepali and instituted provisions whereby workers must attend a predeparture orientation program. During the orientation workers are made aware of their rights and legal recourse, should their rights be violated. The effectiveness of the initiatives remained questionable since workers who went overseas often skipped the mandatory training, and many companies issued predeparture orientation certificates for a small fee and failed to deliver the training. Nepali migrant workers abroad often continued to face exploitive conditions.

Large numbers of persons worked in the informal sector although no data were available to confirm the size of the informal economy with precision. According to the Nepal Labor Force Survey, in 2008 an estimated 2.15 million persons ages 15 and over were employed in the nonagricultural informal sector (70 percent of total nonagricultural employment at that time).

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.