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Human Rights in Asia-Pacific; Review of 2019 - Nepal

Legislation was used to limit freedom of expression and enable security forces to carry out arbitrary arrests while a series of draft laws were proposed which would introduce even more restrictions to this right. Onerous registration requirements were imposed on civil society organizations, and their work was subjected to unnecessary monitoring by government bodies. Efforts toward securing justice and reparations for thousands of victims of human rights violations committed during the conflict which ended in 2006 were inadequate. One protestor was killed as a result of excessive use of force by security forces. There were several allegations of extrajudicial executions. The use of torture and other ill-treatment was widespread. Dozens of families were forcibly evicted from their homes. Migrant workers were subjected to abusive and illegal recruitment practices. Sexual violence including rape and other gender-based violence continued with impunity. Discrimination based on gender continued in both law and practice.

Freedom of expression

Laws like the Electronic Transactions Act 2006 were used to arbitrarily arrest journalists for publishing stories which criticized the government, or individuals who posted their opinions online. In April, Arjun Giri, a Pokhara-based journalist, was charged under the Act for reporting on a financial fraud case. In June, comedian Pranesh Gautam was arrested for posting a satirical film review on Youtube. In October, singers Durgesh Thapa and Samir Ghising were arbitrarily arrested by police, solely for the content of their songs. During the year, several draft laws which included provisions that threatened to severely restrict freedom of expression were pending before Parliament. They included the Media Council Bill, the Mass Communication Bill and the Information Technology Bill.

Human rights defenders

In April, the government proposed amendments to the National Human Rights Commission Act, 2012, which would undermine the independence and autonomy of the National Human Rights Institution and limit its jurisdiction. Proposals included provisions which would allow the Attorney General's discretion to bypass the Commission's recommendations for prosecutions in cases concerned with human rights violations. The government failed to appoint commissioners to various commissions in time.

The cabinet also proposed legislation that, if enacted, would further restrict the work of civil society organizations, including by imposing additional barriers to registration or renewing registration, subjecting them to unnecessary scrutiny and monitoring of their work.

International justice

The government failed to deliver truth, justice and reparation for thousands of victims of crimes under international law and other serious violation of international human rights law committed during the decade-long armed conflict, 13 years after the state committed to do so as part of the Comprehensive Peace Agreement. The Truth and Reconciliation Commission (TRC) and the Commission of Investigation on Enforced Disappeared Persons (CIEDP) which had respectively collected over 60,000 and 3,000 complaints of human rights violations and abuses committed by state security forces and Maoists during the armed conflict failed to appoint new commissioners when incumbent commissioners' terms expired in April. The government did not amend the Investigation of the Disappeared Persons, Truth and Reconciliation Act 2014 as ordered by the Supreme Court in 2014 and 2015.

Right to housing

Thousands of survivors from the 2015 earthquake were still living in temporary shelters awaiting housing grants in order to be able to rebuild their homes.

While the enactment of the 2018 Right to Housing law is an important step towards fighting against homelessness, it was insufficient to adequately guarantee the right to housing. As it is based on the ownership driven approach. The Act fails to guarantee protection from forced eviction for those living in informal settlements. Definitions of key terms, such as homelessness and security of tenure are absent. Local authorities also increasingly carried out

evictions without due process or provision of alternative accommodation. The Butwal Sub-Metropolis and Nagarkot municipalities in the Rupandhi and Bhaktapur districts respectively forcibly evicted dozens of families from land they had inhabited for several years, rendering many of the families homeless.

Right to food

In an important step towards realizing its goal of “zero hunger” by 2025, the Nepal government enacted the Right to Food and Food Sovereignty Act in September 2018. The Act, however, fails to prohibit public authorities from interfering with people’s efforts to feed themselves since it did not prohibit the forced eviction of communities from their lands, which cut them off from food supplies obtained through fishing or foraging in local forests. The law also failed to impose a requirement to investigate starvation-related deaths.

Excessive use of force

Security forces continued to use unnecessary or excessive force to disperse peaceful protests. In June, police officers used excessive force and beat protesters in the capital, Kathmandu, as they demonstrated against the proposed “Guthi” bill. Also in June, Saroj Naryan Mahato was killed at a protest in the Sarlahi district. Witnesses said he was shot dead by police officers. Three other protestors were seriously injured. Allegations of excessive use of force and deaths that occurred during demonstrations were not investigated by the authorities by the end of the year.

Workers’ rights – migrant workers

The government failed to protect migrant workers from abusive recruitment practices. The four-year-old “Free Visa, Free Ticket” policy, which was intended to curtail exorbitant recruitment charges by agencies, remained largely unenforced. The lack of enforcement adversely affected migrant workers’ ability to claim compensation for overpayment of their recruitment fees.

Some recruiters were responsible for serious abuses against migrant workers, including trafficking and forced labour, which were rarely referred for prosecution under trafficking laws and the Foreign Employment Act.

Torture and other ill-treatment

There were frequent reports of torture and other ill-treatment in pre-trial detention to obtain “confessions” or other evidence. There were no credible investigations into deaths in custody suspected to have resulted from torture. Although the Criminal Code criminalized torture and other ill-treatment, penalties did not reflect the gravity of the crime.

Extrajudicial executions

There were several allegations of extrajudicial executions. Police officers reportedly shot dead Tirtha Raj Ghimire in the Bhojpur district and Kumar Poudel in the Sarlahi district, in May and June respectively. Witnesses said both men were killed as they were arrested. The authorities did not announce an investigation into the killings.

The authorities did not undertake credible investigations into dozens of extrajudicial executions carried out by security forces of the members of the Madheshi community in Terai in the south and elsewhere since the first Madhesh uprising in 2007. The report of the Inquiry Commission known as the Lal Commission established to investigate the killings has not been disclosed by the government.

Women's rights

Gender-based discrimination continued and the government did not address constitutional flaws which denied women equal citizenship rights. The provisions for statutory limitations relating to rape in the Criminal Code continued to allow impunity for perpetrators. Reports of rape, particularly against children, increased.

Despite legislation criminalizing Chhaupadi (the practice of banishing menstruating women and girls to huts), it continued to be widespread, especially in the mid-western and far-western regions. Numerous women and girls died or were subjected to sexual violence while in Chhaupadi huts. In January, a woman and her two children died from suffocation when a fire broke out as they slept. In February, a woman died due to suffocation in her hut in Doti district. In December, another woman suffered the same fate in Achham district. In December, the authorities arrested a family member in relation to the death of Parbati Budha Raut, the first arrest since the practice was outlawed through criminal code in 2017.

Discrimination – caste system

Despite provisions in law and policy to address discrimination based on caste, Dalits continued to face discrimination, the stigma of “untouchability”, ostracization and violence. Dalit women were especially vulnerable to discrimination and violence based on both gender and caste.

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Austrian Red Cross

Austrian Centre for Country of Origin and Asylum
Research and Documentation (ACCORD)

Wiedner Hauptstraße 32, 1041 Wien

T (Telephone) +43 1 589 00 583

F (Fax) +43 1 589 00 589

info@ecoi.net

Contact

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