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Freedom in the World 2014 - Nepal

Overview:

After the Constituent Assembly (CA) elected in 2008 failed to adopt a permanent constitution despite multiple extensions of its original two-year mandate, Nepal finally held elections for a new CA in November 2013. International monitors deemed the voting generally free and fair, and two centrist parties—the Nepali Congress (NC) and the Communist Party of Nepal/United Marxist-Leninist (CPN-UML)—won a strong majority, sidelining the Communist Party of Nepal (Maoist), whose long-running insurgency had ended with a 2006 peace agreement. Negotiations on the formation of a new cabinet were ongoing at year's end. The Maoists' defeat suggested that previous elections that brought them to power may have been fraudulent. Parties hoping to restore Nepal's monarchy also did poorly in the November elections. Prior to the elections, the country had suffered from political paralysis and rising instability. Many observers in Nepal expect the renewed constitutional drafting process to take as long as three more years.

The human rights climate, meanwhile, continued to deteriorate in the run-up to the election. The National Human Rights Commission effectively disintegrated in September after the caretaker government in place before the elections allowed the terms of all of the commissioners to expire. It

was reconstituted but it remained an extremely weak organization. This, along with a proposed amnesty law for perpetrators of violence during the civil war, which killed at least 17,000 people in the 1990s and early 2000s, made it highly unlikely that anyone would face justice for wartime abuses. In 2013, one case of a killing during the conflict was initiated at the behest of the rights commission before it was effectively disbanded.

China remained a major donor of military and nonmilitary aid to Nepal during 2013, and its influence was set to grow after the completion of a new road from the Chinese border through Mustang, one of the most remote parts of Nepal, expected in 2014 or 2015. Nongovernmental organizations (NGOs) working on Tibetan issues reported increasing harassment from Nepali security forces and repatriations of Tibetan refugees.

Political Rights and Civil Liberties:

Political Rights: 23 / 40 (+ 3) [Key]

A. Electoral Process: 8 / 12 (+ 3)

The Nepali state is operating under a 2007 interim constitution. In addition to its task of writing a permanent constitution, the CA serves as the interim legislature. Members are elected through a mixed system of first-past-the-post constituency races (240 seats), proportional representation (335 seats), and appointments by the cabinet (26 seats). Both the president and the prime minister are elected by a majority of the CA. The current president, Ram Baran Yadav of the NC, was elected in July 2008 and is expected to remain in office until a new constitution is in place.

The CA repeatedly extended its initial two-year mandate after May 2010, but by May 2012 it had still not passed a permanent constitution. It was forced to dissolve that month, leaving government in the hands of a caretaker administration until elections could be held.

The CA elections held in November 2013, after years of politicking between the major parties over how and when the vote should be conducted, were found by international monitors to be generally free and fair, despite violent incidents in the preelection period. The government deployed nearly 150,000 security personnel to keep order for the vote, but the campaign was still marred by multiple attacks on party supporters and campaign workers. Still, on voting day the vote was conducted relatively peacefully. Turnout reached record numbers for Nepal. Some Maoist leaders alleged that fraud had been committed during the election, a contention disputed by all international monitors of the election. The NC and CPN-UML dominated the results, with 196 and 175 seats, respectively. The Maoists placed a distant third with 80 seats, followed by over two dozen smaller parties and two independents with the remainder of the 575 elected seats. A new cabinet had yet to be formed at year's end, meaning the 26 appointed seats remained vacant.

B. Political Pluralism and Participation: 11 / 16

A diverse and competitive array of political parties operates in Nepal, though the system has featured considerable instability in recent years. Moreover, prior to the 2013 elections, the political environment suffered from growing extremism, including attacks by armed gangs linked to the main Maoist party on members of other parties, and on people who allegedly informed on the Maoists during the civil war. Gangs linked to the other leading parties were also accused of attacking supporters of the Maoists during 2013.

Unlike the 1990 constitution, the interim constitution has no limitation on parties formed along ethnic lines. Roughly a third of the seats in the CA are reserved for women through quotas in the party-list voting, and substantial allocations are also made for Madhesis, Dalits, and other minority groups.

C. Functioning of Government: 4 / 12

Nepal's governing process had essentially ceased to function by late 2013, and it remained to be seen whether the November elections would improve the situation. Prior to the elections, the caretaker government made little progress on critical tasks including drafting a permanent constitution, addressing the legacy of the civil war, and integrating former combatants into the national military.

Corruption is endemic in Nepali politics and government. While the Commission for the Investigation of Abuse of Authority is active, high-level officials are rarely prosecuted. Many lawmakers have been accused or convicted of corruption in the past. Graft is particularly prevalent in the judiciary, with frequent payoffs to judges for favorable rulings, and in the police force, which has been accused of extensive involvement in organized crime.

[Civil Liberties: 27 / 60](#)

D. Freedom of Expression and Belief: 9 / 16

The interim constitution provides for press freedom and specifically prohibits censorship, although these rules can be suspended during an emergency. In practice, media workers frequently face physical attacks, death threats, and harassment by armed groups, security personnel, and political cadres, and the perpetrators typically go unpunished. Throughout 2013, supporters of political parties attacked journalists who wrote critical pieces about their organizations and leaders. There is a variety of independent radio and print outlets. Some have come to show a strong bias toward the Maoists, partly due to intimidation, but other outlets are critical of the party.

The interim constitution identifies Nepal as a secular state, signaling a break with the Hindu monarchy that was toppled as part of the resolution of the civil war in 2006 and formally abolished in 2008. Religious tolerance is broadly practiced, but proselytizing is prohibited, and members of some religious minorities occasionally report official harassment. Christian groups have considerable difficulty registering as religious organizations, leaving them unable to own land.

The government does not restrict academic freedom. However, Maoist strikes have repeatedly threatened the school system, and minorities, including Hindi- and Urdu-speaking Madhesi groups, have complained that Nepali is enforced as the language of education in government schools.

E. Associational and Organizational Rights: 6 / 12

Freedom of assembly is guaranteed under the interim constitution. While security forces have allowed large protests by Maoists and other political parties, Tibetan protests have been violently suppressed in recent years. In certain cases, authorities have detained Tibetan and Nepali monks and pressured them to sign pledges not to participate in future demonstrations.

NGOs played an active role in the movement to restore democracy in the mid-2000s, and restrictions on NGO activity imposed by the king toward the end of his rule have been lifted. However, groups working on Tibetan issues report increasing intimidation by security forces.

Labor laws provide for the freedom to bargain collectively, and unions generally operate without state interference. Workers in a broad range of “essential” industries cannot stage strikes, and 60 percent of a union’s membership must vote in favor of a strike for it to be legal. Several unions linked to the Maoists have been accused of using violence to threaten employers and government officials to comply with union demands during bargaining processes. In the past two years, there has been a series of attacks by assailants supposedly linked to Maoist-backed unions on employers in the hotel and telecommunications industries.

F. Rule of Law: 5 / 16

The constitution provides for an independent judiciary, but most courts suffer from endemic corruption, and many Nepalese have only limited access to justice. Because of heavy case backlogs and a slow appeals process, suspects are frequently kept in pretrial detention for periods longer than any sentences they would face if tried and convicted.

Prison conditions are poor, with overcrowding and inadequate sanitation and medical care. The government has generally refused to conduct thorough investigations or take serious disciplinary measures against police officers accused of brutality or torture. A leading Nepali monitoring group, the Centre for Victims of Torture, found that 74 percent of respondents in a 2011 survey said they had been tortured while in custody.

Human rights groups have argued that no one has been punished for abuses during the decade-long civil war, in part because of the weakness of the judiciary and a prevailing climate of impunity. In 2013, the caretaker government essentially allowed the National Human Rights Commission to disband by failing to replace its members when their terms expired. Human rights organizations harshly criticized this development, which—combined with a proposed amnesty for anyone who committed abuses during the war—could mean that the legacy of the brutal conflict will go almost totally unexamined.

In the summer of 2013, a very small group of former Maoist fighters completed their training and were inducted into the national army, but this was only a fraction of the fighters originally expected to join the military.

A 2007 civil service law reserves 45 percent of posts for women, minorities, and Dalits, but their representation in state institutions remains inadequate, particularly at the highest levels of government. Members of the Hindu upper castes continue to dominate government and business, and low-caste Hindus, ethnic minorities, and Christians face discrimination in the civil service and courts. Despite constitutional protections and the 2012 Caste-Based Discrimination and Untouchability (Offense and Punishment) Act, which prohibits discrimination against Dalits and increases punishments for public officials found responsible for discrimination, Dalits continue to be subjected to exploitation, violence, and social exclusion.

Madhesis, plains-dwelling people with close connections to groups across the border in India, comprise 35 to 50 percent of Nepal's population, but they are underrepresented in politics, receive comparatively little economic support from the government, and—until an amendment to the citizenship law in 2006—had difficulty acquiring formal citizenship due to Nepali language requirements.

In 2007, the Supreme Court ordered the government to abolish all laws that discriminate against LGBT (lesbian, gay, bisexual, and transgender) people, and in 2008 it gave its consent to same-sex marriage. The government has yet to implement these rulings, though citizens can now obtain third-gender identity documents. LGBT people reportedly face harassment by the authorities and other citizens, particularly in rural areas.

In 2013, NGOs working on Tibetan issues warned that they were coming under mounting pressure from the Nepali government, on behalf of Beijing, to repatriate Tibetan refugees to China before they could register with UN officials in Kathmandu or transit to India. Nepali forces have also increasingly monitored the northern border, stopped Tibetan refugees, and sent them immediately back to China.

G. Personal Autonomy and Individual Rights: 7 / 16

Women rarely receive the same educational and employment opportunities as men, and domestic violence against women continues to be a major problem. The 2009 Domestic Violence Act provides for monetary compensation and psychological treatment for victims, but authorities generally do not prosecute domestic violence cases. The commission charged with providing reparations to women subjected to gender-based violence has also been severely criticized for failure to implement its mandate and politicized distribution of resources. Trafficking of young women from Nepal for prostitution in India is common. According to Human Rights Watch, kidnapping gangs have become rampant in recent years, abducting children to obtain small ransoms. Police rarely intervene in the kidnappings. Underage marriage of girls is widespread, particularly among lower-status groups.

Bonded labor is illegal but remains a problem. Similarly, the legal minimum age for employment is 14 years, but over two million children are believed to be engaged in various forms of labor, often under hazardous conditions.

Scoring Key: X / Y (Z)

X = Score Received

Y = Best Possible Score

Z = Change from Previous Year

[Full Methodology](#)

2014 Scores

Status

Partly Free

Freedom Rating

(1 = best, 7 = worst)

4.0

Civil Liberties

(1 = best, 7 = worst)

4

Political Rights

(1 = best, 7 = worst)

4

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