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Freedom in the World 2011 - Nepal

Capital: Kathmandu

Population: 27,504,000

Political Rights Score: 4 *

Civil Liberties Score: 4 *

Status: Partly Free

Overview

After prolonged Maoist opposition and political infighting among rival parties in the Constituent Assembly over the need for new leadership, Prime Minister Madhav Kumar Nepal resigned at the end of June 2010. The assembly had yet to replace him at year's end, as continued partisan disagreement prevented the only candidate, Ram Chandra Poudel, from securing a majority vote. Meanwhile, the deadline for introducing a new constitution was pushed back to May 2011.

King Prithvi Narayan Shah unified the Himalayan state of Nepal in 1769. Following two centuries of palace rule, the left-leaning Nepali Congress (NC) party won the country's first elections in 1959. King Mahendra abruptly dissolved Parliament and banned political parties in 1960, and in 1962 he began ruling through a repressive *panchayat* (village council) system. Many parties went underground until early 1990, when the Jan Andolan (Peoples' Movement) organized prodemocracy rallies that led King Birendra to establish parliamentary democracy. An interim government introduced a constitution that vested executive power in a prime minister and cabinet responsible to Parliament, but retained the monarch as head of state.

In Nepal's first multiparty elections in 32 years, Girija Prasad Koirala, a veteran dissident, led the NC to victory and formed a government in 1991. Torn by intraparty conflicts, the NC was forced in 1994 to call early elections, which it lost to the Communist Party of Nepal/United Marxist-Leninist, or CPN-UML. The Communists, however, failed to secure a majority in Parliament. Separately, the more militant Communist Party of Nepal (Maoist) launched a guerrilla insurgency in 1996, leading to a decade-long civil conflict that ultimately claimed some 12,800 lives. Hopes for a more stable government rose after the NC won a majority in 1999 elections.

In June 2001, King Birendra's brother Gyanendra took the throne after a bizarre palace incident in which the crown prince apparently shot and killed Birendra and nine other members of the royal family before killing himself. Gyanendra declared a state of emergency in November, and for the next several years he ruled without Parliament, appointing governments unilaterally. Moreover, he presided over a sharp escalation in the civil conflict, using the army to fight the Maoist rebels. The fighting, combined with periodic strikes and blockades, crippled the economy.

By 2005, Gyanendra's government was cracking down on political dissent and shutting down numerous media outlets and other means of communication, such as telephone and internet services. Realizing that their attempts to engage the king were unlikely to bear fruit, a seven-party alliance (SPA) of mainstream political factions entered into talks with the Maoists, yielding an agreement that called for the restoration of democracy.

In April 2006, hundreds of thousands of people took part in demonstrations across the country, with the general public – led by professionals, civil society and human rights activists, and the civil service – forming the core of most marches. Gyanendra relented that month, agreeing to the provisions of the SPA-Maoist pact. The restored Parliament quickly removed most of the king's powers, and the SPA announced plans to elect a Constituent Assembly (CA) that would write a new constitution.

The SPA and Maoists concluded a Comprehensive Peace Agreement (CPA) in November 2006, stipulating that the Maoists would place their weapons under UN monitoring, confine their fighters to camps, disband their parallel government, and join a new interim government alongside members of the existing Parliament. In January 2007, Maoists joined Parliament, weapons decommissioning was completed, and an interim constitution was promulgated. However, ethnic violence broke out in the Terai plains region along the border with India. Combined with the lack of finalized election laws and ongoing disagreement over the monarchy, this led to a series of postponements of CA elections from their original date in June 2007.

The elections were finally held in April 2008, and international observers deemed them generally free and fair, with few incidents of violence on election day. However, the campaign period was marred by regular attacks on candidates and campaign workers. Two candidates were killed, and Maoists were responsible for the bulk of the violence. The Maoist party captured 220 of the 601 seats. Its nearest rival was the NC (110 seats), followed by the CPN-UML (103 seats), the Madhesi People's Rights Forum (52 seats), and a range of smaller parties and independents. The CA quickly voted to replace the monarchy with a republican system, and in July it chose the NC's Ram Baran Yadav as president. Maoist leader Prachanda was elected prime minister in August, and the Maoists formed a coalition government.

Faced with a hostile press, a vocal opposition, and deep suspicion from the upper echelons of the increasingly politicized military, the Maoists achieved little during their time in government. Antagonism between the Maoists and the army came to a head in May 2009, when Prachanda, frustrated by the military's resistance to integration with former Maoist fighters, ordered the firing of army chief Rookmangud Katawal. The order was legally dubious, since the president technically had control over such decisions, and it inspired widespread protest among coalition partners. Yadav ultimately rejected the dismissal. Prachanda resigned, and a new government led by the CPN-UML was formed. The Maoists maintained a physical blockade of the CA after leaving government, and Maoist protests were common throughout the country for the remainder of 2009. The siege was suspended for three days in late November to allow key budgetary legislation to pass.

Maoist opposition continued through the summer of 2010 and contributed to Prime Minister Madhav Kumar Nepal's decision to resign in June. Ram Chandra Poudel of the NC sought to replace him, but boycotts by a number of political parties prevented him from securing a majority vote in the CA despite well over a dozen attempts. The assembly had yet to install a new prime minister at year's end.

Political Rights and Civil Liberties

Nepal is not an electoral democracy. The CA elections held in April 2008 were found to be "generally organized in a professional and transparent manner" by a European Union observation team. However, the observers noted that the elections did not fully meet international standards due to restrictions on freedoms of assembly, movement, and expression.

The government is operating under a 2007 interim constitution. In addition to its task of writing a permanent constitution, the 601-seat CA serves as the interim legislature. Members were selected 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. In May 2010, the CA amended the constitution to extend its tenure for an additional year, meaning the new deadline for a permanent constitution was May 2011.

Unlike the 1990 constitution, the interim constitution has no limitation on parties formed along ethnic lines. A third of the seats in the CA are reserved for women, and substantial allocations were also made for Madhesi, Dalits, and other minority groups. A 2007 civil service law reserves 45 percent of posts for women, minorities, and Dalits, but their representation in state institutions remains inadequate.

Corruption is endemic in Nepali politics and government. The political deadlock in the CA has contributed to weak enforcement of anticorruption regulations, while graft and cartels have undermined economic development and the efficacy of state spending. While the Commission for the Investigation of Abuse of Authority is active, high-level officials are rarely prosecuted. Many members of the CA 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. In 2010, disciplinary action was taken against 113 police officials for various abuses, and a Complaint Investigation Section (CIS) was set up to act on public complaints of police corruption. Nepal was ranked 146 out of 178 countries surveyed in Transparency International's 2010 Corruption Perceptions Index.

The interim constitution provides for press freedom and specifically prohibits censorship, although these rules can be suspended during an emergency. Many restrictions on the press were lifted after Parliament was restored in 2006. However, media workers frequently face physical attacks, death threats, and harassment by armed groups, security personnel, and political cadres, and the perpetrators typically go unpunished. During and after nationwide Maoist protests in May 2010, party supporters reportedly attacked and intimidated critical journalists. Also during the year, three media owners were murdered in separate crimes, none of which had been solved at year's end. The government maintains control of both the influential Radio Nepal, whose political coverage is supportive of official policies, and the country's main television station. However, there is a variety of independent radio and print outlets. Many mainstream media outlets showed a strong anti-Maoist bias during that party's short time in government.

The interim constitution identifies Nepal as a secular state, signaling a break with the Hindu monarchy. Religious tolerance is broadly practiced, but proselytizing is prohibited, and members of some religious minorities occasionally report official harassment. Tibetan groups have faced restrictions in organizing public events, and Christian groups have considerable difficulty registering as religious organizations, leaving them unable to own land. Hindu converts to Christianity or Islam have sometimes faced societal discrimination or pressure from Hindu extremist groups.

The government does not restrict academic freedom. However, Maoist strikes in 2009 disrupted the school system; a UN report estimated there were 120 instances of school closures and approximately 80 cumulative school days lost during the year. Maoists staged strikes again in May 2010, though their attempts to pressure the prime minister and the coalition government to step down were unsuccessful, and party leaders called off the strikes after six days.

Freedom of assembly is guaranteed under the interim constitution. While security forces allowed the large Maoist demonstrations – which included roadblocks and forced business closures – to proceed in May 2010, Tibetan protests have been violently suppressed in recent years. In certain cases, authorities have detained Tibetan and Nepali monks in an attempt to force them to sign a pledge not to participate in more protests.

Nongovernmental organizations (NGOs) played an active role in the movement to restore democracy in 2006, and restrictions on NGO activity imposed by the king in 2005 were lifted under the interim regime. Maoist cadres and the affiliated Young Communist League (YCL) have at times threatened or disrupted the activities of NGOs.

Labor laws provide for the freedom to bargain collectively, and unions generally operate without state interference. A draconian labor ordinance put in place by the king's government was repealed in 2006, and restrictions on civil service members forming unions were lifted. 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. Bonded labor is illegal but remains a problem. Similarly, the legal minimum age for employment is 14 years, but over 2 million children are believed to be engaged in various forms of labor, often under hazardous conditions.

The constitution provides for an independent judiciary, but most courts suffer from endemic corruption, and many Nepalese have only limited access to justice. In 2008, the chief justice of the Supreme Court acknowledged that it was often subject to political pressure. 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.

In ordinary criminal cases, police at times commit extrajudicial killings and cause the deaths of suspects in custody. They have tortured and beaten suspects to punish them or extract confessions. The government generally has refused to conduct thorough investigations or take serious disciplinary measures against officers accused of brutality.

The army and the Maoists have been accused of committing an array of human rights abuses during the civil conflict. A truth and reconciliation commission envisioned in the 2006 peace agreement had yet to be established at the end of 2010. Perpetrators of human rights abuses in the army consistently evade prosecution, and the army refuses to comply with police investigations.

Under the terms of the peace agreement, some 19,600 disarmed Maoist fighters are living in UN-monitored camps. The Maoist party insists that they be allowed to join the state security forces, but other parties and the military have resisted the process. Investigation and prosecution of Maoist human rights abuses during the civil conflict have been lacking, and the YCL has attacked political opponents and been accused of meting out vigilante justice in rural areas since the peace agreement.

Members of the Hindu upper castes dominate government and business, and low-caste Hindus, ethnic minorities, and Christians face discrimination in the civil service and courts. Despite constitutional provisions banning caste-based discrimination, Dalits continue to be subjected to exploitation, violence, and social exclusion. Separately, Nepal has provided asylum to more than 100,000 Bhutanese refugees since the early 1990s.

Madhesi, 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 recent years, the Madhesi People's Rights Forum has organized armed cadres and mounted general strikes and protests to bolster their demands for regional autonomy and other goals, especially in the context of the drafting of the formal constitution. Combined with attacks by more radical Madhesi groups, such activities have triggered curfews and increased violence from the state.

In 2007, the Supreme Court ordered the government to abolish all laws that discriminate against homosexuals, 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. Homosexuals reportedly face harassment by the authorities and other citizens, particularly in rural areas.

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. Trafficking of young women from Nepal for prostitution in Indian brothels is common, with the practice occurring in 26 districts across the country.

** Countries are ranked on a scale of 1-7, with 1 representing the highest level of freedom and 7 representing the lowest level of freedom.*

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