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Federal Democratic Republic of Nepal

Head of state: **Bidhya Devi Bhandari (replaced Ram Baran Yadav in October)**

Head of government: **Khadga Prasad Sharma Oli (replaced Sushil Koirala in October)**

A new Constitution was rushed through in the aftermath of the devastating earthquake of 25 April. Adopted in September, it was marked by human rights shortcomings and a federalist structure rejected by ethnic groups in the Terai. Violent clashes between protesters and police led to more than 50 deaths. Discriminatory relief distribution after the earthquake impacted marginalized groups, and reconstruction efforts were delayed in all affected areas. Discrimination, including on the basis of gender, caste, class, ethnic origin and religion, remained rife.

BACKGROUND

On 25 April, a magnitude 7.8 earthquake struck Nepal, followed by hundreds of aftershocks. By October, the Home Ministry had reported 8,856 deaths and 22,309 people injured in the original earthquake. A total of 602,257 homes were recorded as having been completely destroyed and a further 285,099 partially destroyed. Over 100,000 displaced people were forced to live in camps for months. Access to basic health services was challenging or non-existent for many and food security was fragile.

The Constituent Assembly failed to adopt a new Constitution by the 22 January deadline but, following the earthquakes, rushed to an agreement on a text that was adopted in September. Madhesi and Tharu groups organized often violent protests in response to the proposed federal structure, and security forces resorted to the use of force. Starting from the third week of September, obstructions at the various entry/exit points at the India-Nepal border prevented trucks carrying fuel, food and medicine from entering from India, causing severe shortages.

LEGAL, CONSTITUTIONAL OR INSTITUTIONAL DEVELOPMENTS

The draft Constitution presented for public consultation in July raised major human rights concerns, with the rights of women, and marginalized communities such as Dalits, inadequately protected.

There were serious concerns around the citizenship provisions which discriminated against single women and same-sex couples, and around provisions including freedoms of religion and expression, access to justice, preventative detention, sexual and reproductive rights and child rights. During the public consultation, approximately 40,000 recommendations from human rights organizations and the public were received by the Constituent Assembly, but it failed to make necessary changes and key concerns remained unaddressed in the final text, adopted on 20 September.

On 8 August, four major political parties brokered an agreement to define Nepal as a federal republic in the new Constitution and to split it into seven federally administered states. Ethnic groups in south and mid-west Nepal protested against the new structure which they saw as denying them political representation. This resulted in a surge of often violent protests in the Tarai region. Security forces resorted to excessive, disproportionate or unnecessary force in several clashes with protesters. By October, at least 47 civilians and 10 police had been killed in clashes.

IMPUNITY

On 26 February, the Supreme Court ruled against provisions that recommend amnesties for crimes under international law in the Truth and Reconciliation Commission (TRC) Act, passed by the Constituent Assembly in April 2014. The government rejected the Supreme Court's decision and filed a review petition. The TRC and a Commission on Enforced Disappearances, established under the Act, began operating despite the amnesty provisions, risking further impunity for perpetrators of international crimes committed during the armed conflict.

Accountability for human rights abuses continued to be seriously undermined by police failures to register First Information Reports, conduct investigations and follow court orders. These included cases of alleged extrajudicial executions, gender-based violence, torture and other ill-treatment, and trafficking of women and children.

MIGRANT WORKERS' RIGHTS

Just over 500,000 Nepalese migrated through official channels for work, largely in low-skilled sectors such as construction, manufacturing and domestic work. Many continued to be trafficked for exploitation and forced labour by recruitment agencies and brokers. Recruiters deceived migrant workers about their pay and conditions, and charged fees despite the government's "free visa" policy which allowed migrant workers to travel abroad without cost. Women aged under 30 were banned from migrating for work to Gulf States. While this was intended to protect women, it meant many were forced to use informal channels, thus increasing their risk of exploitation and abuse. Following the April earthquakes, migrant workers in the Gulf, Malaysia and other countries also encountered problems with returning to their families in Nepal.

TORTURE AND OTHER ILL-TREATMENT

Torture and other ill-treatment by police continued, particularly during pre-trial detention, to extract confessions and intimidate individuals. Following the Constitution-related violence in the Tarai, reports of pre-trial detention spiked.

By the end of 2015 the Constituent Assembly had failed to pass legislation defining and providing criminal penalties for torture, or to reform the Penal Code and Criminal Procedure Code in line with international law and standards. A bill criminalizing torture was before the Assembly. This did not meet international standards as it recognizes torture and other ill-treatment as taking place only in police custody, limits punishments for perpetrators and compensation for victims, and places a 90-day limitation for registering complaints.

HUMAN RIGHTS PROTECTION POST-EARTHQUAKE

There were serious concerns that relief efforts failed to ensure that the needs of all earthquake-affected populations were met, particularly those from marginalized groups. Reports from survivors indicated numerous incidents of discrimination based on caste, socioeconomic status and gender in relief distribution.

In June the government refused to waive costly and time-consuming customs duties and procedures for aid deliveries. These decisions worsened the already serious risk of leaving affected populations without access to desperately needed aid. By October, the government had not set up the National Reconstruction Authority or spent the US\$4.1 billion pledged at a donor conference on 25 June for earthquake reconstruction.

At the end of 2015, the rights of affected populations to basic needs such as adequate housing, recognition under law, food, water and sanitation, and to freedom of movement, including protection against forced relocation of displaced persons, remained at risk.

DISCRIMINATION

Discrimination, including on the basis of gender, caste, class, ethnic origin and religion, persisted. The Caste-based Discrimination and Untouchability Act of 2011 was applied in only a handful of criminal cases due to a lack of awareness about the Act and victims' fears of reporting attacks.

Women from marginalized groups, including Dalits and impoverished women, continued to face particular hardship because of discrimination. Laws criminalizing rape continued to be inadequate and to reflect discriminatory attitudes towards women. Gender-based discrimination also limited the ability of women and girls to control their sexuality and make choices related to reproduction, including use of contraception; to challenge early marriages; to ensure adequate antenatal and maternal health care; and to access sufficient nutritious food. It also put them at risk of domestic violence, including marital rape. One consequence was that women and girls continued to be at high risk of developing uterine prolapse, often at an early age.

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