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Nepal: Political situation; treatment and situation of supporters and members of political parties, including the Nepali Congress (NC), the Nepal Tarun Dal [youth wing of NC], and the National Democratic Party (Rastriya Prajantra Party, RPP); the Youth Communist League (YCL) and incidents of extortion against their political opponents; state protection (2020–April 2022)

1. Overview of the Political Situation

According to the *Political Handbook of the World 2018-2019*, in the 2017 House of Representatives and 2018 National Assembly elections there were 88 political parties registered and 13 parties elected (*Political Handbook of the World 2019*, 13). The same source further notes that in the 2017 House election, the Communist Party of Nepal (CPN) (Unified Marxist–Leninist (UML)) received 33.3 percent of the vote and 121 seats and the CPN Maoist Centre (MC) received 13.7 percent of the vote and 53 seats (*Political Handbook of the World 2019*, 14, 16). The *Handbook* indicates that in February 2018 the leader of the CPN (UML), Khadga Prasad Sharma Oli, was appointed prime minister after the CPN (UML) and the CPN (MC) agreed to a coalition agreement (*Political Handbook of the World 2019*, 9). Sources note that in 2018 the CPN (UML) and CPN (MC) merged to form the Nepal Communist Party (NCP) (*The Kathmandu Post* 17 May 2018; *The Indian Express* 8 Mar. 2021; *Political Handbook of the World 2019*, 9). The *Handbook* states that the merger established a legislative majority (*Political Handbook of the World 2019*, 16, 9). The same source also notes that the Federal Socialist Forum, Nepal (FSFN) won 4.9 percent of the vote and 16 seats in the House election, as well as 2 seats in the 2018 Assembly election, and then joined the NCP government in June 2018 with the FSFN party leader becoming deputy prime minister (*Political Handbook of the World 2019*, 16). The *Handbook* states that in the 2017 House election the NC received 32.8 percent of the vote and 63 seats and the RPP won one seat with 2.1 percent of the vote (*Political Handbook of the World 2019*, 18, 19). According to *Europa World Online*, a reference publication which covers political and economic information in "over" 250 countries and territories (*Europa World Online* n.d.), in April 2020 the Socialist Party Nepal (Samajwadi Party Nepal, SPN) merged with the Rastriya Janata Party Nepal (RJP-N) to form the People's Socialist Party, Nepal (Janata

Samajwadi Party, Nepal, JSPN) which became the third largest party in the House of Representatives, after the NCP and NC, with 34 seats (*Europa World Online* [2021]).

According to sources, in December 2020 Prime Minister Oli dissolved parliament (*Europa World Online* [2021]; Bertelsmann Stiftung 2022, 3). Sources report that the dissolution was approved by President Bidya Devi Bhandari (*Europa World* [2021]; Al Jazeera 26 May 2021). Sources also indicate that Oli called for elections to take place in April or May 2021 (Bertelsmann Stiftung 2022, 3; *The Indian Express* 8 Mar. 2021; *Europa World Online* [2021]). Sources state that there were factions within the NCP (*The Kathmandu Post* 7 Mar. 2021; *The Indian Express* 8 Mar. 2021) with one side led by Oli and the other by Pushpa Kamal Dahal and [Madhav Kumar] Nepal (*The Kathmandu Post* 7 Mar. 2021). According to *Europa World Online*, following the parliamentary dissolution, there were nationwide protests in December 2020 and January 2021 organized by both the NC and the Dahal-Nepal faction of the NCP (*Europa World Online* [2021]). The same source further notes that the Dahal-Nepal faction expelled Oli from the NCP co-leadership and from the party in January 2021 (*Europa World Online* [2021]).

Sources state that in February 2021, the Supreme Court overturned the dissolution and reinstated parliament (*Europa World Online* [2021]; Reuters 21 May 2021; Al Jazeera 26 May 2021). Sources further note that in March 2021, the Supreme Court ruled that the NCP must return to their pre-merger parties of the CPN (UML) and CPN (MC) (*The Kathmandu Post* 7 Mar. 2021; Al Jazeera 26 May 2021), since the Election Commission cannot register a new party that has a similar name to an existing party (*The Kathmandu Post* 7 Mar. 2021). *Europa World Online* indicates that in March 2021 the Electoral Commission "revoked" the NCP merger, dividing the party back into the CPN (UML) and the CPN (MC) (*Europa World Online* [2021]). The same source notes that the Electoral Commission gave the CPN (UML) and CPN (MC) 15 days

to present a new merger under a new party name, but this was not adopted (*Europa World Online* [2021]). According to an article from the *Kathmandu Post*, a daily English language newspaper in Nepal, following the invalidation of the merger, the CPN (MC) aligned with the NC (*The Kathmandu Post* 19 July 2021).

Sources state that in May 2021, Prime Minister Oli lost a vote of confidence (*Jane's Country Risk Daily Report* 14 May 2021; Al Jazeera 26 May 2021) with 124 of 271 members voting against his government in a vote that was required due to the departure of the CPN (MC) from the coalition (*Jane's Country Risk Daily Report* 14 May 2021). According to *Jane's Country Risk Daily Report*, following the vote, the President invoked Article 76 (2) of the Constitution "asking the main opposition Nepali Congress party to prove it has the required numbers to form a new government" (*Jane's Country Risk Daily Report* 14 May 2021). Article 76 of Nepal's Constitution provides the following:

Constitution of Council of Ministers:

1. The President shall appoint the leader of a parliamentary party that commands majority in the House of Representatives as the Prime Minister, and the Council of Ministers shall be constituted under his or her chairpersonship.
2. In cases where no party has a clear majority in the House of Representatives under clause (1), the President shall appoint as the Prime Minister a member of the House of Representatives who can command majority with the support of two or more parties representing to the House of Representatives.
3. In cases where Prime Minister cannot be appointed under clause (2) no later than thirty days after the date of declaration of the final results of election to the House of Representatives or the Prime Minister so appointed fails to secure a vote of confidence under clause (4), the President shall appoint as the Prime Minister the parliamentary party leader of the party which has the highest number of members in the House of Representatives.

4. The Prime Minister appointed under clause (2) or (3) shall obtain a vote of confidence from the House of Representatives no later than thirty days after the date of such appointment.
5. In cases where the Prime Minister appointed under clause (3) fails to obtain a vote of confidence under clause (4) and any member under clause (2) presents a ground on which he or she can obtain a vote of confidence in the House of Representatives, the President shall appoint such member as the Prime Minister.
6. The Prime Minister appointed under clause (5) must obtain a vote of confidence under clause (4).
7. In cases where the Prime Minister appointed under clause (5) fails to obtain a vote of confidence or the Prime Minister cannot be appointed, the President shall, on recommendation of the Prime Minister, dissolve the House of Representatives and appoint a date of election so that the election to another House of Representatives is completed within six months.
8. Procedures on the appointment of the Prime Minister under this Article must be completed no later than thirty five days after the date of declaration of the final results of election to the House of Representatives held under this Constitution or the date on which the office of the Prime Minister has fallen vacant.

... (Nepal 2015)

Sources note that following the loss of confidence vote, President Bhandari gave a deadline for party leaders to demonstrate support from the majority of the House to form a government with Sher Bahadur Deuba, the leader of the NC (*The Economic Times* 22 May 2021; Al Jazeera 26 May 2021). The same sources report that Deuba indicated that he had support from 149 members (*The Economic Times* 22 May 2021; Al Jazeera 26 May 2021), while Oli indicated that he had support from 153 members, with the number of supporters "claimed" by both totalling to more than the number of representatives in parliament (Al Jazeera 26 May 2021). Sources note that in May 2021 President

Bhandari dissolved the House of Representatives "after determining" (*The Economic Times* 22 May 2021) or stating (Al Jazeera 26 May 2021) that neither Oli or Deuba had been able to form a government and called for elections in November (*The Economic Times* 22 May 2021; Al Jazeera 26 May 2021). An article from the Press Trust of India (PTI), an Indian news agency, notes that following the dissolution, "[a]s many as 30" petitions were filed with the Supreme Court against the dissolution and "[a]s many as 146 members" filed a petition to the Supreme Court "demanding restoration" of the House and "passing an order" to appoint Deuba as prime minister (PTI 18 June 2021).

According to sources, in July 2021 the Supreme Court reinstated the House and ordered the appointment of Deuba as Prime Minister (*The Kathmandu Post* 19 July 2021; *Jane's Country Risk Daily Report* 13 July 2021) under article 76(5) of the Constitution (*The Kathmandu Post* 19 July 2021). An article from the *Kathmandu Post* notes that Deuba won a vote of confidence with support from the CPN (MC), a faction of the CPN (UML), the JSP party and Rastriya Janamorchha (*The Kathmandu Post* 1 Sept. 2021).

According to sources, in August 2021 the CPN (UML) split with a faction led by Madhav Kumar Nepal registering as a new party (PTI 19 Aug. 2021; *The Kathmandu Post* 24 Sept. 2021) under the name the CPN (Unified Socialist) (*The Kathmandu Post* 24 Sept. 2021). A *Kathmandu Post* article further notes a split in the JSP with a faction registering as the new Loktantrik Samajbadi Party (LSP) (*The Kathmandu Post* 21 Aug. 2021).

2. Treatment of Political Opponents by the Authorities

In an interview with the Research Directorate, an associate professor at the University of British Columbia (UBC) who has conducted long-term research in South Asia, including Nepal, noted that they are not aware of specific acts used to limit the ability of opposition parties to

gather and function (Associate Professor 22 Mar. 2022). The same source further noted that during the COVID-19 restrictions, there was sentiment expressed at the local level in the Dolahka district in Bagmati province that lockdowns were used as a "convenient cover" to limit the capacity for political actors to function, but this was never formerly legislated (Associate Professor 22 Mar. 2022). According to an article from Online Khabar, a Nepal-based news portal, following Oli's dissolution of the House in December 2020, the NC organized demonstrations across all 165 constituencies in the country (Online Khabar 28 Dec. 2020). A report from the Informal Sector Service Centre (INSEC), an organization which aims to promote human rights in Nepal through "research and documentation, community mobilization, public education and awareness, and lobbying and advocacy" (INSEC n.d.), notes that in February 2021 the NCP Dahal-Nepal faction protested against the dissolution of the House of Representatives, resulting in 69 people, including members of the NCP, being arrested and then released in the same evening (INSEC 16 Sept. 2021, 9-10). According to sources, the Nepal Student Union, a student wing of the NC (Online Khabar 23 May 2021), protested following the second dissolution of the House of Representatives in May 2021, with the police dispersing (*The Kathmandu Post* 23 May 2021) or detaining demonstrators (Online Khabar 23 May 2021). Information on the treatment of Nepal Tarun Dal members could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

According to sources, in June 2019 a local leader of the Communist Party of Nepal [a "Maoist splinter party" (US 30 Mar. 2021, 3)] was killed by police in Sarlahi district in Madhesh province (AF 20 June 2020; US 30 Mar. 2021, 3). The US Department of State's *Country Reports on Human Rights Practices for 2020* on Nepal states that police reported the individual fired at them first (US 30 Mar. 2021, 3). However, Advocacy Forum-Nepal (AF), an NGO "working to promote the rule of law and uphold international human rights standards in Nepal" (AF n.d.),

states that the incident was "a pre-medi[t]ated extrajudicial execution" (AF 20 June 2020). The US *Country Reports on Human Rights Practices* notes that the victim's family attempted to file a report with the Sarlahi police and the District Attorney and both offices refused to register the case (US 30 Mar. 2021, 3).

According to the 2021 annual report of Freedom House, "[t]he legal framework for elections is sound and facilitates the conduct of credible polls" (Freedom House 3 Mar. 2021, Sec. A3). The same report further states that political parties are "generally free to form and operate" and that there is a "realistic chance" for opposition parties to obtain power through elections (Freedom House 3 Mar. 2021, Sec. B1, B2). However, the Freedom House report also notes that opposition figures "sometimes" face arrest, referencing the arrest of the leader of the Alliance for Independent Madhesh (AIM) in 2018 "on charges of disturbing law and order and voicing views against the state and nationality"; the AIM leader was released in 2019 when he agreed to stop supporting an independent Madhesi state (Freedom House 3 Mar. 2021, Sec. B1).

The Associate Professor stated that the need to take precautions when organizing political engagement depends on the location and the political party in power in the local context, noting that they have observed members of the same family that support different political parties attend the same events (Associate Professor 22 Mar. 2022). The same source also noted that while the CPN (MC) has more lived experience in needing to be careful, "lately" the CPN (MC) has been "very vocal" on social media, particularly regarding the Millennium Challenge Corporation (MCC) compact [1], which is facing "stron[g] protests" from Maoist and communist parties (Associate Professor 22 Mar. 2022). The Associate Professor further stated that while there is no "active political violence," the political situation continues to be "very unstable" with "a great deal of corruption," particularly regarding the budget for infrastructure (Associate Professor 22 Mar. 2022). The same

source noted that there is "[s]trong discourse" around the corruption involving the infrastructure fund, stemming from "personal reasons and the lack of protection for those cases," which can place people "at risk" (Associate Professor 22 Mar. 2022).

2.1 Treatment of Protestors

According to the *Bertelsmann Stiftung's Transformation Index (BTI) 2022*, which "assesses the transformation toward democracy and a market economy as well as the quality of governance in 137 countries," the police "sometimes" use "disproportionate force" in response to political protests but "the government response" has "better protected civil rights" than during protests in 2015 and 2017 (Bertelsmann Stiftung 2022, 2, 12). Freedom House states that security forces have "been known" to use violence against demonstrations, particularly in the southern region with a large Madhesi population (Freedom House 3 Mar. 2021, Sec. E1). The same source notes that in June 2020 police responded "forcefully" to nationwide COVID-19 restriction protests with the arrest of ten people in the area of the Prime Minister's residence and the use of water cannons, batons and tear gas on protests in other locations (Freedom House 3 Mar. 2021, Sec. E1). Amnesty International's 2020/2021 human rights report notes that security forces detained activists and "frequently resorted to excessive force" when responding to peaceful protests (Amnesty International 7 April 2021, 261). The Associate Professor stated that "anyone protesting publicly risks retaliation from state forces" (Associate Professor 22 Mar. 2022). A report from the Asian Human Rights Commission (AHRC), an independent NGO which promotes human rights in the Asian region (AHRC n.d.), states that at a protest in January 2021 against the dissolution of parliament, police used bamboo batons and a water cannon and injured "at least dozens" of protestors (AHRC 26 Jan. 2021). Sources report that in February 2022 police used tear gas, a water cannon [and rubber bullets (BBC 20 Feb. 2022)] on protestors

demonstrating outside parliament against the MCC pact (BBC 20 Feb. 2022; *Jane's Country Risk Daily Report* 28 Feb. 2022), with "[s]everal people injured" (BBC 20 Feb. 2022).

3. Treatment of Political Opponents by Society

An article by Amish Raj Mulmi, a Kathmandu-based write and editor who is also a columnist for the *Kathmandu Post* (Mulmi n.d.), which was published by the Carnegie Endowment for International Peace [2], states that in January 2021, a group of citizens formed the Greater Citizens' Movement (Brihat Nagarik Andolan, BNA) in response to the "deteriorating political climate" and called for "structural changes to address the historical inequities in Nepali society and establish more inclusive, transparent, and representative governing institutions" (Mulmi 27 Jan. 2022). The same source notes that the BNA released a white paper in February 2021 outlining its goals which included "the creation of accountable institutions, the promotion of more equitable political representation of the marginalized, the safeguarding of private rights, protections against discrimination, the preservation of freedoms of Indigenous peoples, and sustainable economic development policies" (Mulmi 27 Jan. 2022). According to an article from the *Himalayan Times*, an English-language newspaper in Nepal, following Oli's first dissolution of parliament, a citizens group formed in protest and "announced" the launch of the "'Third People's Movement'" (*The Himalayan Times* 25 Jan. 2021). According to the Associate Professor, the treatment of members of political parties depends on the party and locality but being a member of a political party is not stigmatized or viewed negatively in a "general sense" (Associate Professor 22 Mar. 2022). However, the Associate Professor further noted that supporters of the RPP, which is a Hindu nationalist party, can be "treated negatively" by supporters of secular democracy due to ideological differences (Associate Professor 22 Mar. 2022). The same source stated that members of the RPP may "fear"

revealing their party membership depending on the region, for example RPP members in the CPN (ULM)-controlled Dolahka district have "more" concerns (Associate Professor 22 Mar. 2022).

4. Freedom of Association and Expression

The US *Country Reports on Human Rights Practices* indicates that the government is selected under "free and fair" elections (US 30 Mar. 2021, 18). The same source further notes that the 2017 parliamentary and provincial assembly elections were "generally well conducted" but there was a "lack of transparency and adequate voter education" by the Election Commission of Nepal and "some violent incidents, and logistical and operational challenges" including three reports "of individuals being killed by police and sporadic reports of interparty clashes or assaults, vandalism, and small explosive devices and hoax bombs" (US 30 Mar. 2021, 19). A country information report on Nepal by the Australia Department of Foreign Affairs and Trade (DFAT) states that "diverse political parties and views, and an individual's membership of a political party, along with their ability to be identified as a member and to be politically active, is generally respected" (Australia 1 Mar. 2019, para. 3.41). Freedom House notes that political choices are "occasionally limited" by political violence and security forces "crack[ing] down on" political demonstrations (Freedom House 3 Mar. 2021, Sec. B3). The Associate Professor stated that "civil society and day to day life are highly politicized" and that "most" people who are actively in their community, including through social work or NGOs, have a known political affiliation which they must use in order to accomplish things at the local or village level (Associate Professor 22 Mar. 2022).

Freedom House notes that while political stabilization has extended the ability for individuals to take part in private discussions on "sensitive topics," authorities have "occasionally cracked down on individuals who criticize the government on social media" (Freedom

House 3 Mar. 2021, Sec. D4). The Amnesty International report states that "[d]ozens of individuals, including journalists, were detained for 'spreading misinformation' or criticizing the government in the context of the COVID-19 pandemic" with the Nepal Press Council shutting down "more than 30" news websites (Amnesty International 7 April 2021, 261). Similarly, the US *Country Reports on Human Rights Practices* states that journalists, NGOs and activists reported the government restricting media freedom by threatening journalists and news organizations that are critical of the government (US 30 Mar. 2021, 10). The same source notes that under the law any individual can be charged with a "cybercrime" for "mak[ing] harsh comments on social medial or another online site against a senior government official" (US 30 Mar. 2021, 10). According to the same source, "[s]everal" editors and journalists stated they were intimidated by government officials and police use of vague laws resulted in "self-censorship" (US 30 Mar. 2021, 10).

5. The Youth Communist League

The *Himalayan Times* reports that following the merger of the CPN (UML) and CPN (MC) after the 2017 election, the youth wing of both parties also merged to form the National Youth Force (*The Himalayan Times* 3 Feb. 2021). However, the same source notes that with the split of the NCP, the former members of the Young Communist League (YCL), the youth wing of the CPN (MC), held a meeting in January 2021 to discuss the revival of the YCL; the youth leader, Biru Tamang, announced the revival of the YCL after the meeting (*The Himalayan Times* 3 Feb. 2021). Khabarhub, a digital media platform in Nepal focused on "defending and preserving the free press, liberal values, democratic norms and protecting people's rights" (Khabarhub n.d.), states that in August 2021 the YCL launched their official website which allows online application for membership (Khabarhub 28 Aug. 2021). *República*, a daily newspaper and online news website based in Kathmandu (*República* Apr. 2009), reports that a national gathering of

the YCL in August 2021 saw 231 members come together to form the central committee (*República* 31 Aug. 2021). The same source also notes that that CPN (UML) revived their youth wing, the Youth Force, and the newly formed CPN (Unified Socialist) formed a youth wing called Akhil Force (*República* 31 Aug. 2021). According to the *US Country Reports on Human Rights Practices*, student and labour groups linked with political parties "demand[ed] contributions" from schools and businesses (US 30 Mar. 2021, 20). Further information on activities of the YCL, Youth Force or Akhil Force could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

6. State Protection Available for Political Opponents

Information on state protection available for political opponents was scarce among the sources consulted by the Research Directorate within the time constraints of this Response.

According to the Associate Professor, they are not aware of formal protection programs; protection "might" come from an individual's personal network (Associate Professor 22 Mar. 2022). The same source further stated that people are "reserved" about seeking police assistance "in all types of situations," as the police are not trusted to be objective; people feel approaching the police could leave them susceptible to blackmail, resulting in a preference to resolve issues among "their own networks of protection" (Associate Professor 22 Mar. 2022).

This Response was prepared after researching publicly accessible information currently available to the Research Directorate within time constraints. This Response is not, and does not purport to be, conclusive as to the merit of any particular claim for refugee protection. Please find below the list of sources consulted in researching this Information Request.

Notes

[1] The Millennium Challenge Corporation (MCC) is an "independent" foreign assistance agency created by the US Congress (US n.d.a), which signed a compact with the Government of Nepal to "increase the availability of electricity and lower the cost of transportation in Nepal" with [US]\$500 million provided by the US and [US]\$130 million provided by Nepal (US n.d.b).

[2] The Carnegie Endowment for International Peace is an international organization aiming to advance peace "through independent analysis, strategic ideas, support for diplomacy, and training the next generation of international scholar-practitioners" (Carnegie Endowment for International Peace n.d.).

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Internet sites, including: The Asia Foundation; Asia-Pacific Women's Alliance for Peace and Security; Belgium – Commissariat général aux réfugiés et aux apatrides; Communist Party of Nepal (Unified Marxist–

Leninist); *The Diplomat*; ecoi.net; EU – EU Agency for Asylum; France – Office français de protection des réfugiés et apatrides; *The Guardian*; Human Rights Watch; National Democratic Institute; National Human Rights Commission – Nepal; Nepali Congress – Nepal Student Union, Nepal Tarun Dal; Nepal – House of Representatives, Office of the President of Nepal, Press Council Nepal; NepalNews; Transparency International; UK – Home Office; UN – Office of the High Commissioner for Human Rights; The Wire.

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