

# NEPAL 2022 HUMAN RIGHTS REPORT

## EXECUTIVE SUMMARY

Nepal is a federal democratic republic. The 2015 constitution established the political system, including the framework for a prime minister as the chief executive, a bicameral parliament, and seven provinces. On November 20, Nepal held national elections that domestic and international observers reported were overall well managed, free, and fair. Despite record voter registration, there was lower overall voter turnout than in previous elections. After a new coalition was formed in parliament, on December 26, Pushpa Kamal Dahal (Prachanda) was sworn in as Prime Minister.

The Police are responsible for enforcing law and order across the country. The Armed Police Force is responsible for combating terrorism, providing security during riots and public disturbances, assisting in natural disasters, and protecting vital infrastructure, public officials, and the borders. The Police and Armed Police Force report to the Ministry of Home Affairs. The Army also has some domestic security responsibilities such as disaster relief operations and nature conservation efforts. The Army reports to the Ministry of Defense. Civilian authorities maintained effective authority over the Police, Armed Police Force, and Army. Human rights organizations documented some credible abuses by members of the security forces.

Significant human rights issues included credible reports of: unlawful or arbitrary killings, including extrajudicial killings by the government; torture and cases of cruel, inhuman, or degrading treatment by the government; arbitrary detention; serious restrictions on freedom of expression and media, including violence or threats of violence against journalists and unjustified arrests of journalists; substantial interference with the freedom of peaceful assembly and freedom of association, including overly restrictive laws on the organization, funding, and operation of nongovernmental organizations and civil society organizations; restrictions on freedom of movement for refugees, notably resident Tibetans; serious government corruption; lack of investigation of and accountability for human rights abuses and gender-based violence, including domestic and intimate

partner violence, sexual violence, child, early and forced marriage and other harmful practices; crimes involving violence or threats of violence targeting lesbian, gay, bisexual, transgender, queer, and intersex persons.

The government investigated but did not widely hold accountable those officials and security forces accused of committing violations of the law. Security personnel accused of using excessive force in controlling protests in recent years did not face notable accountability nor did nearly any conflict-era human rights violators. The government made attempts to investigate and hold officials accountable for corruption.

## **Section 1. Respect for the Integrity of the Person**

### **a. Arbitrary Deprivation of Life and Other Unlawful or Politically Motivated Killings**

There were several reports that the government or its agents committed arbitrary or unlawful killings, particularly among members of marginalized communities. The National Human Rights Commission (NHRC) and Ministry of Home Affairs are authorized to examine and investigate whether killings by security forces were justified. NHRC has the authority to recommend action and to record the name and agency of those who do not comply with its recommendations. The attorney general has the authority to pursue prosecutions. Between 2015 and 2020, 52 complaints of unlawful killings were registered with the NHRC. Data does not exist for 2021, and two additional unlawful killings were registered with the NHRC as of November. There has been no information released regarding NHRC recommendations for any of these cases. According to the Advocacy Forum's report "Custodial Deaths in Nepal," 39 custodial deaths were documented between August 2018 to June 2022, including 16 in police custody, 21 in prison, one at the hands of an Army officer, and one at the Child Correction Home. Two additional extrajudicial killings were reported to the NHRC at the end of August. The report noted that at least 11 of 21 deaths in prison occurred among members of economically or caste-based marginalized communities.

In June police killed Nabina Chaudhary, age 20, from the Tharu indigenous community in the Bardiya district during an anti-encroachment protest in support

of a local woman who was injured in a tiger attack. The Home Ministry investigated the killings and recommended that the government provide two million rupees (\$15,000) to the victim's family as compensation and build a memorial statue of the victim.

A committee from the Ministry of Home Affairs was constituted in February to investigate the January 2021 arrest of Padam Buda, age 13, for allegedly stealing a mobile phone, but the report has not been made public. According to NGO and media reports, he was allegedly beaten with a pipe, after which he was taken to the Karnali Academy of Health Sciences, where he died in February 2021. That same month, government authorities took departmental action against a police officer accused of the killing and imposed a six-month suspension from duty, but the officer was not prosecuted for the killing.

As of November, the writ of mandamus had not been decided by the High Court regarding the June 2020 death of Shambhu Sada, a member of the Dalit community, who died in police custody in Dhanusha district.

## **b. Disappearance**

The law formally criminalizes enforced disappearance; however, it is not retroactive and has a statutory limitation of six months. There were no reports of disappearances by or on behalf of government authorities.

The fate of most of those who disappeared during the 1996-2006 civil conflict remained unknown. According to the NHRC, 746 cases of disappearances remain unresolved, most of which the NHRC says may have involved state actors. No new conflict-era cases were registered. Additionally, the NHRC completed investigation and recommended action to the government for 56 cases (45 by government forces and 11 by Maoist operatives). As of November, the government had not prosecuted any Maoists or government officials, sitting or former, for involvement in conflict-era disappearances, nor had it released information on the whereabouts of persons the NHRC identified as having been disappeared by state actors. On July 15, the government extended the tenure of the commissioner of the Commission of Investigation on Enforced Disappeared Persons (CIEDP), who in 2017 formed five teams to investigate complaints of

disappearances filed by conflict-era victims. As of November, the commission had registered 2,551 cases and decided 2,498 warranted detailed investigation.

Human rights organizations continued to express concern over flaws in the proposed amendment of the Enforced Disappearances Enquiry, Truth and Reconciliation Commission Act, and the CIEDP, which was in parliament as of the end of August (see section 5). According to the International Commission of Jurists, CIEDP investigations were hampered by inadequate human and financial resources to handle the large number of cases, opaque appointment processes of investigators, and a lack of measures to provide confidentiality and protection of victims and witnesses. According to NGOs, the CIEDP has not been able to clarify the fate of a single case of enforced disappearance. In August 2021, the Nepal Human Rights Organization Advocacy Forum provided legal assistance to 13 families of victims that tried to file cases of enforced disappearance with police in different districts of the country. Police denied the registrations, saying they had been ordered not to register the cases.

### **c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment, and Other Related Abuses**

The constitution prohibits such practices, and there were credible reports that government officials employed them. The law criminalizes torture, enumerates punishment for torture, and provides for compensation for victims of torture; however, the statute of limitations for torture-related offenses is only six months.

According to human rights activists and legal experts, police resorted to severe abuse, primarily beatings, to force confessions from suspects. Advocacy Forum documented 34 cases of torture in police pretrial detention facilities since January. The detention monitoring report of Advocacy Forum indicated that there were 11 incidents of cruel, inhuman and degrading treatment or punishment by police in Kathmandu. Duri Advocacy Forum also reported, however, that police increasingly complied with the courts' demand for preliminary medical checks of detainees.

In June Advocacy Forum reported that 4 percent of the 1,024 detainees the NGO interviewed said they received some form of torture or ill treatment, a significant decrease from 19 percent in 2021.

According to the *Conduct in UN Field Missions* online portal, four allegations of rape by Nepalese peacekeepers deployed to the UN stabilization mission in the Democratic Republic of Congo were submitted during 2021. Each allegation involved rape of a child. Three concerned events alleged to have taken place between December 2018 and May 2019, and the fourth concerned an event alleged to have taken place in May 2021. As of November, the government was investigating the allegations.

Impunity was a significant problem in the security forces due to lack of prosecution of alleged perpetrators. In custodial torture and death cases, victims or their family members must file a report in the nearest police station, which is often the same police station that committed the abuse. Police are reluctant to register and initiate investigation against their colleagues or superiors, and victims are often hesitant to file complaints due to intimidation by police or other officials and fear of retribution. In some cases, victims settled out of court under pressure from the perpetrators. NGOs Advocacy Forum and the Terai Human Rights Defenders Alliance noted the courts ultimately dismissed many cases of alleged torture due to a lack of credible supporting evidence, especially medical documentation. In cases where courts awarded compensation or ordered disciplinary action against police, the decisions were rarely implemented. The Police Human Rights Unit reported that four officers were subject to departmental action for physical and mental abuse. According to Advocacy Forum's 2021 *Countering Impunity in Torture* report, however, no perpetrator of torture has been convicted since the endorsement of the 2017 Penal Code that criminalized torture.

### **Prison and Detention Center Conditions**

Prison conditions, especially those in pretrial detention centers, were poor and did not meet national or international standards due to overcrowding, inadequate infrastructure, and inadequate access to food, water, clothing, sanitation and medical care, according to human rights groups.

**Abusive Physical Conditions:** Prisons were overcrowded. The Office of the Attorney General (OAG) reported most of the prisons and pretrial detention centers observed had inadequate space, sanitation, medical care and infrastructure. Advocacy Forum stated that overcrowding and poor sanitation remained a serious

problem in detention centers. In its nationwide assessment of prisons, Advocacy Forum reported in June that facilities held 153.7 percent of the designed capacity of inmates. According to the OAG and Advocacy Forum, prisons and detention centers lacked basic infrastructure like water and electricity. Advocacy Forum reported that some detainees slept on the floor due to lack of beds and had access only to unfiltered and dirty water and inadequate food, and that many detention centers had poor ventilation, lighting, heating, and bedding. The OAG reported that while some prisons had health officials, other detention centers or juvenile reform homes had only weekly visits by medical practitioners. According to Advocacy Forum, medical examinations for detainees generally were perfunctory and medical care was poor for detainees with serious conditions. There were no reports of intentional prolonged confinement. According to Advocacy Forum, there were no reports of gang activity in prisons or detention centers.

Some facilities held pretrial detainees with convicted prisoners. Due to a lack of adequate juvenile detention facilities, authorities sometimes incarcerated pretrial child detainees with adults or allowed children to remain in jails with their incarcerated parents. Under the law, children should only be kept in juvenile reform homes and not in prison. According to Advocacy Forum, juveniles were sometimes observed with adult detainees. There were no separate facilities for persons with disabilities. Advocacy Forum reported that inmates of both genders were observed inside the same prison facility, although separated by different sections. The organization only observed separate gender designated facilities at the Central Jail in Kathmandu, the country's largest prison.

**Administration:** Government authorities, including the OAG, conducted investigations of allegations of mistreatment. Detainees have the legal right to receive visits by family members, but family access to prisoners varied from prison to prison.

**Independent Monitoring:** The government generally allowed prison and pretrial detention center visits by the OAG, NHRC, and NGOs, as well as by lawyers of the accused. Some NGOs reported that they were prevented from accessing detention facilities and can only meet detainees at the gate. Some independent human rights observers, including the United Nations and international organizations, were given such access. Although the OAG reported that media had

access to prison with permission from government, journalists reported that media had no access to prisons or detention centers.

#### **d. Arbitrary Arrest or Detention**

The law prohibits arbitrary arrest and detention and provides for the right of any person to challenge the lawfulness of his or her arrest or detention in court. The government generally did not observe these requirements. Security forces reportedly conducted arbitrary arrests. Human rights groups contended that police abused their 24-hour detention authority by holding persons unlawfully, in some cases without proper access to counsel, food, and medicine, or in inadequate facilities.

#### **Arrest Procedures and Treatment of Detainees**

The law stipulates that, except in cases involving suspected security and narcotics violations, or when the crime's punishment would be more than three years' imprisonment, authorities must obtain an arrest warrant and present the suspect to a court within 24 hours of arrest (not including travel time).

If the court upholds a detention, the law generally authorizes police to hold the suspect for up to 25 days to complete an investigation and file a criminal charge sheet. In special cases that timeframe is extended. For narcotics violations, a suspect can be held for up to three months; for suspected acts of organized crime, 60 days; and for suspected acts of corruption, six months. Human rights monitors expressed concern that the law vests too much discretionary power with police and court officials. The constitution provides for detainees' access to a state-appointed lawyer or one of the detainee's choice, even if charges have not been filed. Few detainees could afford their own lawyer, and the justice system did not provide free and competent counsel to indigent defendants. Independent organizations, however, provided free legal services to a limited number of detainees accused of criminal violations. Authorities routinely denied defense attorneys access to defendants in custody. A functioning bail system exists; the accused have the option of posting bail in cash or mortgaging their property to the court. Unless prisoners are released on recognizance (no bail), no alternatives to the bail system exist to assure a defendant's appearance in court.

**Arbitrary Arrest:** The human rights NGO Informal Sector Service Center (INSEC) documented 228 incidents of arbitrary arrest (without timely warrant presentation) from January to mid-August. According INSEC, police arrested Rani Vibas, the editor of Naya Bikalpa Daily on June 20 in Kanchanpur district for reporting on a coal tar tanker vehicle that caught fire. Vibas was allegedly detained for two hours under the public offense act and later released without any changes.

**Pretrial Detention:** Lengthy pretrial detention was a problem. Time served is credited to a prisoner's sentence and no persons may be held in detention for a period exceeding the term of imprisonment that could be imposed on them if they were found guilty of the offense.

Under the law security forces may detain persons who allegedly threaten domestic security and tranquility, amicable relations with other countries, or relations between citizens of different castes or religious groups. The government may detain persons in preventive detention for as long as 12 months without charging them with a crime if the detention complies with the law's requirements. The courts have no substantive legal role in preventive detentions under the law.

According to human rights groups, in some cases detainees appeared before judicial authorities well after the legally mandated 24-hour limit, allegedly to allow injuries from police mistreatment to heal. The Terai Human Rights Defenders Alliance stated police frequently circumvented the 24-hour requirement by registering the detainee's name only when they were ready to produce the detainee before the court.

### **e. Denial of Fair Public Trial**

The constitution and law provide for an independent judiciary, but courts remained vulnerable to political pressure, bribery, and intimidation.

### **Trial Procedures**

The law provides for the right to a fair and public trial, and the judiciary generally enforced this right. The law provides for the right to counsel, equal protection under the law, protection from double jeopardy, protection from retroactive



application of the law, public trials, and the right to be present at one's own trial. These rights are largely honored, except for the right to counsel and the right to be present at one's own trial, which were sometimes ignored. Defendants enjoy the presumption of innocence except in some cases, such as human trafficking and drug trafficking, where the burden of proof is on the defendant once the charge sheet establishes a prima facie criminal violation. The law provides detainees the right to legal representation and a court-appointed lawyer, a government lawyer, or access to private attorneys. The government provided legal counsel to indigent detainees only upon request. Persons who were unaware of their rights, including marginalized castes, such as Dalits and members of some ethnic groups, were thus at risk of being deprived of legal representation. Defense lawyers reported having insufficient time to prepare their defense. The courts must provide free interpretation services to those who do not speak or understand Nepali, and interpreters were made available to interpret a variety of languages. Defense lawyers may cross-examine accusers. All lower-court decisions, including acquittals, are subject to appeal.

Military courts adjudicate cases concerning military personnel under the military code, which provides military personnel the same basic rights as civilians. The law requires that soldiers accused of rape or homicide be transferred to civilian authorities for prosecution. Under normal circumstances, the army prosecutes all other criminal cases raised against soldiers under the military justice system. Nevertheless, the army has told the government it was willing to cooperate with the Truth and Reconciliation Commission (TRC) and CIEDP. Military courts cannot try civilians for crimes, even if the crimes involve the military services; civilian courts handle these cases.

### **Political Prisoners and Detainees**

There were no reports of political prisoners or detainees.

### **Civil Judicial Procedures and Remedies**

Individuals or organizations may seek remedies for human rights abuses in national courts. According to the INGO International Commission of Jurists, the government failed to fully comply with court decisions pertaining to human rights

and courts were not sufficiently independent to provide effective remedies for civilian for rights abuses. Adverse decisions can be appealed domestically to the High Court, and from there, to the Supreme Court.

### **f. Arbitrary or Unlawful Interference with Privacy, Family, Home, or Correspondence**

The law prohibits such actions and there were no reports that the government failed to respect these prohibitions.

The law allows police to conduct searches and seizures without a warrant if there is probable cause to believe that a crime has been committed, in which case a search may be conducted if two or more persons of “good character” are present. If a police officer has reasonable cause to believe that a suspect may possess material evidence, the officer must submit a written request to another officer to conduct a search, and another official, who holds at least the rank of assistant subinspector, must be present. Some legal experts claimed that by excluding prosecutors and judges from the warrant procedure, there were relatively few checks against police abuse of discretionary authority.

## **Section 2. Respect for Civil Liberties**

### **a. Freedom of Expression, Including for Members of the Press and Other Media**

The constitution and the law provide for freedom of expression, including for members of the press and other media, and the government tended to respect this right. Nonetheless, journalists, NGOs, and political activists stated the government restricted media freedom by threatening journalists and news organizations that criticized the government, leading to reports of self-censorship. Human rights lawyers and some journalists stated that both the constitution and law enable the government to restrict freedom of speech and press in ways they considered vague and open to abuse. For example, the constitution lists several circumstances under which laws curtailing freedom of speech and press may be formulated. These include acts that “jeopardize harmonious relations between federal units” and acts that assist a foreign state or organization to jeopardize national security. The

constitution prohibits any acts “contrary to public health, decency, and morality” or that “disturb the public law and order situation.”

**Freedom of Expression:** Citizens generally believed they could express their opinions freely and often expressed critical opinions in print and electronic media without restriction. The government continued to limit freedom of expression for members of the country’s Tibetan community through its attempts to stop Tibetans from celebrating culturally important events (see section 2.b.).

The independent media were active and expressed a wide variety of views, generally without restriction. Under the law any person who makes harsh comments on social media or another online site against a senior government official can be charged with a crime. Umakanta Pandey, a Nepali journalist based in the United Arab Emirates (UAE), was arrested by UAE police on January 8 allegedly at the request of the Nepali Embassy in the UAE. The Nepali Embassy charged Pandey for his social media posts that criticized the Embassy's involvement in visa fraud cases. The lower court in the UAE sentenced Pandey to a fine of 6.5 million rupees (\$50,000), confiscation of assets, and deportation. Pandey was released upon appeal, but as of November, the case has not been cleared by the UAE courts.

**Violence and Harassment:** There were several press freedom abuses including threats and attacks on journalists who reported on corruption, and the government did not make sufficient efforts to preserve the safety and independence of media. On February 23, the Police Cyber Bureau harassed blogger Umesh Shrestha, then summoned him and charged him with the dissemination of “fake news” over a report he published regarding the Millennium Challenge Corporation’s Nepal Compact fund.

**Censorship or Content Restrictions for Members of the Press and Other Media, Including Online Media:** The constitution prohibits prior censorship of material for printing, publication, or broadcasting, including electronically. The constitution also provides that the government cannot revoke media licenses, close media houses, or seize material based on the content of what is printed, published, or broadcast. The constitution, however, also provides for “reasonable restrictions” of these rights for acts or incitement that “may undermine the

sovereignty, territorial integrity, nationality of Nepal, or harmonious relations between the federal units or harmonious relations between the various castes, tribes, religions, or communities.” Speech amounting to treason, defamation, or contempt of court is also prohibited.

Journalists and NGOs stated that constitutional provisions and laws criminalize normal media activity, such as reporting on public figures, sometimes resulted in self-censorship by media. Although by law all media outlets, including government-owned stations, operate independently from direct government control, indirect political influence sometimes led to self-censorship.

**Libel/Slander Laws:** The penal code defines defamation as a criminal offense.

### **Internet Freedom**

The government has the authority to restrict or disrupt access to the internet or censor online content. There were no credible reports that the government monitored private online communications without appropriate legal authority. There were several incidents in which authorities acted under the law in response to material posted on social media. The law prohibits publication in electronic form of material that may be “contrary to the public morality or decent behavior,” may “spread hate or jealousy,” or may “jeopardize harmonious relations.” The online media operation directive requires all domestically based online news and opinion websites to be registered. The directive gives the government the authority to block websites based on content if it lacks an “authoritative source,” creates “a misconception,” or negatively affects international relationships. The government also has the authority to block content that threatens the country’s sovereignty, territorial integrity, nationality, or harmonious relations. Online sedition, defamation, contempt of court, or indecent and immoral content may also be blocked. The registration, license renewal, and content production provisions for online platforms is complex. The FNJ expressed concern that this regulatory complexity gives the government power to censor online content.

According to the Freedom Forum NGO, the Nepal Election Commission ordered the removal of social media posts that contained references to the No, Not Again anti-vote social media campaign against national-level legacy politicians that have

all served as Prime Minister multiple times. The Election Commission claimed the social media campaign violated the election code of conduct. NGOs have characterized the removal as censorship and a violation of citizens' rights to not vote and rights to rejection of the dominant political party system.

### **Restrictions on Academic Freedom and Cultural Events**

The law provides for the freedom to hold cultural events. There were no government restrictions on academic freedom or cultural events, except for events in the Tibetan community, which faced restrictions (see section 2.b.).

### **b. Freedoms of Peaceful Assembly and Association**

The law provides for the freedoms of assembly and association; however, the government sometimes restricted these rights.

#### **Freedom of Peaceful Assembly**

Freedom of assembly generally was respected for citizens and legal residents, but there were some restrictions, especially for minority and marginalized communities. Government permits are required to hold large public events. The law authorizes chief district officers to impose curfews when there is a possibility that demonstrations or riots could disturb the peace.

The government continued to limit freedom of association and peaceful assembly for members of the Tibetan community. The government relaxed this posture on certain culturally important events, such as the Dalai Lama's birthday, and Tibetan Losar (New Year). The government continued deploying police to Tibetan settlements to monitor politically important events, including Tibetan Uprising Day and Tibetan Democracy Day.

#### **Freedom of Association**

The law provides for freedom of association, and the government generally respected this right. NGOs, however, stated the existing legal framework does not adequately recognize the independence of civil society and opens the door to the exercise of excessive discretion by the government. They added that the registration process for NGOs was restrictive and cumbersome, the government

had wide discretion to deny registration, and requirements varied among various registration authorities, with some entities requiring documents not mentioned in existing laws on an ad hoc basis.

Additionally, the law empowers the government to give directions to associations and to terminate associations if they refuse to follow these directions. To receive foreign or government resources, NGOs must seek separate and additional approval from the Social Welfare Council, the government entity responsible for overseeing NGOs. NGOs expressed concern that the approval process was not transparent and that low level officials have the power to stall the approval process almost indefinitely.

### **c. Freedom of Religion**

See the Department of State's *International Religious Freedom Report* at <https://www.state.gov/religiousfreedomreport/>

### **d. Freedom of Movement and the Right to Leave the Country**

The law provides for freedom of internal movement, foreign travel, emigration, and repatriation and generally respected these rights, except for most refugees, whose freedom of movement within the country is limited by law. Constraints on refugee movements were unevenly enforced.

**In-country Movement:** The government has not issued personal identification documents to Tibetan refugees in more than 25 years, leaving most of this refugee population without the required documents to present at police checkpoints or during police stops. Lack of documentation also inhibited Tibetans' ability to travel abroad. Some refugees reported being harassed or turned back by police at checkpoints. The government also restricted the movement of urban refugees of various nationalities whom the government considered irregular migrants (see section 2.f.).

**Foreign Travel:** The government maintained strict criteria for women traveling overseas for domestic employment, stating it was to protect women from trafficking or other abuse in overseas employment. NGOs and human rights activists viewed these restrictions and prior bans on women under certain ages

from traveling to Gulf countries for work as discriminatory and counterproductive because they impelled some women to migrate through informal channels across the Indian border, rendering them more vulnerable to exploitation (see section 7.d.).

### **e. Protection of Refugees**

The government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing protection and assistance to refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern, except as noted. The National Unit for Coordination of Refugee Affairs – under the Home Ministry – improved access to identification documents for Bhutanese refugees and their children born in the country, enabled them to conduct general business and trade with approval from the local level government, and facilitated their ability to open bank accounts with the recommendation of local administration authorities.

**Access to Asylum:** The law does not provide for the determination of individual refugee or asylum claims or a comprehensive legal framework for refugee protection. The government recognized only Tibetans and Bhutanese as refugees and regarded the approximately 723 refugees and asylum seekers of other nationalities as irregular migrants. The government continued to support the resettlement to foreign countries of certain Bhutanese refugees, while requiring other refugees accepted for third country resettlement to pay substantial penalties for illegal stay before granting exit permits. The government does not recognize as refugees Tibetans who arrived in the country after 1990. Most Tibetans who arrived since then transited to India, although an unknown number remained in the country. The government has not issued refugee cards to Tibetan refugees since 1995. UNHCR estimated three-quarters of the approximately 12,000 resident Tibetan refugees remain undocumented, including all those who were younger than the age of 16 in 1995, or who have been born since then. UNHCR reported 663 refugees and 60 asylum seekers from other countries, including Pakistan, Burma, Afghanistan, Sri Lanka, Bangladesh, Somalia, Iran, and Iraq, lived in the country. The government continued to deny these groups recognition as refugees, even when recognized as such by UNHCR.

**Freedom of Movement:** The government officially restricted freedom of movement for the approximately 6,365 refugees with claims to Bhutanese residency or citizenship residing in the two remaining refugee camps in the eastern part of the country, but those restrictions were largely unenforced for this population. After China heightened security in 2008 along its border and increased restrictions on internal freedom of movement for ethnic Tibetans, the number of Tibetans who transited through the country dropped significantly. UNHCR reported that 23 Tibetans transited the country in 2019, nine in 2020, three in 2021, and five in 2022 as of November. The government does not issue exit permits to Tibetan new arrivals. While Tibetans based in the country with refugee certificates were eligible to apply for travel documents to leave the country, the legal process was often arduous, expensive, and opaque, and travel documents were typically valid for up to three years and a single trip. A government directive authorizes chief district officers to skip the verification step, which requires witnesses and a police letter, for Tibetans who had previously been issued a travel document. For individuals whom the government did not recognize as refugees, even when recognized by UNHCR, the government levied fines for each day out of status and a substantial discretionary penalty to obtain an exit permit. The government maintained its policy enabling government-registered refugees destined for resettlement or repatriation to obtain exit permits without paying these fines.

**Employment:** Tibetan refugees were officially denied the right to work.

**Access to Basic Services:** Most Tibetan refugees who lived in the country, particularly those who arrived after 1990 or turned 16 after 1995, did not have documentation, nor did their locally born children. Even those with acknowledged refugee status had no legal rights beyond the ability to remain in the country. The children born in the country to Tibetans with legal status often lacked documentation. The government allowed NGOs to provide primary- and secondary-level schooling and other basic services to Tibetans living in the country. The government also provided COVID vaccinations to virtually all refugees living in the country by July, specifically including them in the administration of vaccines donated by a foreign government. Tibetan refugees had no entitlement to higher education in public or private institutions, nor were they eligible for professional licensing in fields such as medicine, nursing, and



engineering. They were also unable to legally obtain business licenses, driver's licenses, bank accounts, or own property. Some refugees continued to experience difficulties documenting births, marriages, and deaths. Some in the Tibetan community resorted to bribery to obtain these services.

The government allowed UNHCR to provide some education, health, and livelihood services to urban refugees, but these refugees lacked legal access to public education and the right to work. Following UNHCR's December 2020 cessation of direct service provision to Bhutanese refugees, local government authorities allowed Bhutanese refugees access to public schools and hospitals.

**Durable Solutions:** The government does not provide for local integration as a durable solution. Since 2007, the government has permitted third-country resettlement for more than 113,000 Bhutanese refugees.

## **f. Status and Treatment of Internally Displaced Persons**

According to the Internal Displacement Monitoring Center, natural disasters and conflict in 2021 led to 32,000 displacements. Many internally displaced persons (IDP) from the 2015 earthquake remained in camps or informal settlements because they did not hold a title to land and were occupying it illegally when the earthquake occurred. Others stayed because their homes remained vulnerable to or were destroyed by subsequent landslides. The government promoted their safe, voluntary return and had policies in place to help them.

Although the government and the Maoists agreed to support the voluntary, safe, and dignified return of conflict-displaced IDPs to their homes following the 10-year civil war (1996-2006), the agreement has not been fully implemented. The Ministry of Law, Justice, and Parliamentary Affairs estimated that 78,700 persons were displaced from 1996 to 2006, but an estimated 50,000 remained unwilling or unable to return home. The reasons included unresolved land and property matters, lack of citizenship or ownership documentation, and security concerns, since the land taken from IDPs by Maoists during the conflict was often sold or given to landless or tenant farmers.

The government provided relief packages for the rehabilitation and voluntary return of conflict-era IDPs. Many of those still displaced preferred to integrate

locally and live in urban areas, mostly as illegal occupants of government land along riversides or together with the landless population. The absence of public services and lack of livelihood assistance also impeded the return of IDPs.

### **g. Stateless Persons**

An estimated 6.7 million individuals lacked citizenship documentation, although the majority of these would be eligible for citizenship under local law. Citizenship documents, which are issued at age 16, are required to register to vote; register marriages or births; buy, transfer, or sell land and immovable property; access higher education appear for professional examinations; work in the civil service; open bank accounts; or gain access to credit; and receive state social benefits.

Constitutional provisions, laws, and regulations governing citizenship limited women's ability to convey citizenship to their children (see section 6, Women, Discrimination), which contributed to statelessness. Legal provisions also make it more difficult for marginalized groups including landless individuals, former bonded laborers, and members of the lesbian, gay, bisexual, transgender, queer, and intersex (LGBTQI+) community to obtain citizenship as do lack of knowledge and corruption. NGOs assisting individuals lacking citizenship documentation stated that local authorities maintained patriarchal requirements, such as attestations from a woman's male relatives that she qualified for citizenship, a measure that impeded attempts by some individuals to obtain citizenship certificates.

Stateless persons experienced discrimination in employment, education, housing, health services, marriage and birth registration, identity documentation, access to courts and judicial procedures, migration opportunities, land and property ownership, and access to earthquake relief and reconstruction programs.

The government provided access to COVID vaccines and pandemic relief services to stateless persons. The Supreme Court ordered the government to include individuals without citizenship documents in all government COVID relief programs without discrimination.

## **Section 3. Freedom to Participate in the Political Process**

The law provides citizens the ability to choose their government in free and fair periodic elections held by secret ballot and based on universal and equal suffrage.

### **Elections and Political Participation**

**Recent Elections:** On November 20, the government held national and provincial elections that domestic and international observers reported were overall well managed, free, and fair, with limited electoral code of conduct violations. Five hundred fifty seats of the country's seven provincial assemblies and 275 seats of the national parliament (house of representatives) were on the ballots. Exit polling projections from the Election Commission noted the elections saw lower voter turnout than nationwide local elections held in May. Civil society organizations and analysts noted the turnout could have reflected overall voter disenchantment and frustration with the slowness of change in the parties and not presenting fresh-faced candidates. Analysts noted independent candidates captured more attention among youth voters especially in urban areas. The Elections Commission noted close to 18 million voters were registered for the elections. Communist Party of Nepal-Maoist Center Chairman Pushpa Kamal Dahal (Prachanda) was sworn in as Prime Minister by President Bidya Devi Bhandari on December 26 as the head of a seven-party coalition comprised of 169 out of 275 parliamentary MPs. On December 22, the country's 275 newly-elected MPs took their oaths of office as the new parliament held its first session. As a reflection of the country's ethnic and linguistic diversity, 26 MPs took their oaths in at least 14 native languages, in addition to Nepali. In May, the government held nationwide local elections as part of the five-year election cycle, which national and international observers characterized as free, fair, and peaceful, with high voter turnout including among youth.

**Participation of Women and Members of Minority Groups:** No laws explicitly limit participation of women, members of minority groups, or members of historically marginalized groups including persons with disabilities, LGBTQI+, and indigenous persons in the political process, and they did participate in local, provincial, and national elections. The constitution mandates proportional inclusion of women in all state bodies and allocates one third of all federal and

provincial legislative seats to women. Community rights activists noted that this mandate excluded nonbinary candidates from running for office.

## **Section 4. Corruption and Lack of Transparency in Government**

The law provides criminal penalties for corruption by officials, but the government did not implement the law effectively. Officials sometimes engaged in corrupt practices with impunity, and there were reports of government corruption.

**Corruption:** During fiscal year July 2021-July 2022, the Commission for the Investigations of Abuse of Authority filed 114 cases of bribery against 443 individuals.

As in previous years, student and labor groups associated with political parties demanded contributions from schools and businesses. Corruption remained problematic within the Police, Armed Police Force, and local governments.

## **Section 5. Governmental Posture Towards International and Nongovernmental Investigation of Alleged Abuses of Human Rights**

A variety of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. While government officials were generally cooperative with NGO investigations, the government placed administrative burdens on some international NGOs by complicating procedures for obtaining visas and compelling them to sign asset control documents. Some NGOs, particularly those with a Christian religious element, reported increasing bureaucratic constraints after the devolution of power to local level officials.

**Government Human Rights Bodies:** The NHRC investigated allegations of abuses, but insufficient staff (90 out of 309 positions were vacant as of August), and limitations on its mandate led some activists to view the body as ineffective and insufficiently independent. The NHRC claimed the government helped promote impunity by failing to implement its recommendations fully. The Police

and Armed Police Force each have a Human Rights Cell (HRC) and the Army has a human rights directorate (HRD). The Army HRD and Police HRC have independent investigative powers. The Army's investigations were not fully transparent, according to human rights NGOs.

The government and judiciary did not significantly address most conflict-era human rights and humanitarian law abuses committed by the Army, Police, Armed Police Force, and Maoist parties.

The country's two transitional justice mechanisms, CIEDP and the TRC, are not fully independent. Human rights experts continued to report that neither had made significant progress on investigations or reporting. In October the government extended the tenure of the TRC and CIEDP commissioners an additional year, until July 2023.

Local human rights advocates stated that the legal framework (e.g. criminalizing torture, enforced disappearance, and lengthening the statute of limitations) must be strengthened before there can be a comprehensive and credible transitional justice process in the country. For example, the law does not retroactively criminalize torture or enforced disappearance, and the statute of limitations for rape is only 180 days, which provides de facto impunity for these crimes committed during the country's Conflict Era. Without a strengthened legal framework, there is no ability to prosecute perpetrators for these crimes under the law.

The law does not specifically recognize war crimes or crimes against humanity, although the constitution recognizes as law treaties to which the country is a party. Critics also cited instances in which parliament failed to implement Supreme Court decisions. For example, in a 2015 ruling, the court nullified provisions of the law that would have granted the commissions discretionary power to recommend amnesty for serious crimes, because amnesty would violate the then interim constitution and international obligations. In April 2020 the Supreme Court rejected the government's petition seeking review of the 2015 decision. As of August, the federal parliament had not amended the act in line with the Supreme Court verdict and international standards.

## Section 6. Discrimination and Societal Abuses

### Women

**Rape and Domestic Violence:** Rape, including marital rape, is illegal, with minimum prison sentences that vary between five and 15 years, depending on the victim's age. The law also mandates five years' additional imprisonment in the case of gang rape, rape of pregnant women, or rape of women with disabilities. The law prohibits interference with a victim's ability to file a complaint, including through coercion, threat, or force, and the law also prohibits mediation as an alternative to legal action, with a punishment of up to three year's imprisonment and a fine. If the perpetrator of such coercion or threats is someone holding a public position, he or she will be imprisoned for an additional six months. The law imposes a fine for rape, which should be provided to the survivor as compensation. It also mandates recording the testimony of the survivor when the initial charges are filed at the court to prevent the survivor from later refusing to testify due to coercion or social pressure. The country's definition of rape does not include male survivors. Male survivors may file a complaint under the 'unnatural' sexual offense penal code; the highest punishment is up to three years' imprisonment and a fine.

Police and the courts were responsive in most cases when rape was reported, although stigma and societal pressure make it difficult for rape victims to secure justice.

In May 2020, Birenda Bhar, a non-Dalit man, raped a Dalit girl, Angira Pasi, age 13. Village elders decided the girl should marry Bhar, because she would otherwise be considered unsuitable for marriage due to the rape. After the marriage, Bhar and his family reportedly abused Pasi, and she was later discovered hanged. The NHRC investigated and publicized the incident, and police detained Bhar, his mother, and his aunt as suspects in Pasi's death. On September 12, the Rupandehi District Court convicted Bhar of murder and sentenced him to 18 years' imprisonment.

Human rights activists expressed concern that police outside of Kathmandu frequently refused to register cases of gender-based violence, including

occasionally rape cases. These groups reported that police often preferred to use mediation rather than criminal investigation to resolve conflicts.

Domestic violence against women and girls remained a serious problem. NGOs reported that violence against women and girls, including early and forced marriage, was one of the major factors responsible for women's relatively poor health, livelihood insecurity, and inadequate social mobilization and contributed to intergenerational poverty. The law allows for settling complaints of domestic violence through mediation with an emphasis on reconciliation. Authorities usually pursued prosecution under the act only when mediation failed.

The Police had women's cells staffed by female officers in each of the country's 77 districts to make it easier for women and girls to report crimes to police. According to Women, Children and Senior Citizens Service Directors, all 233 women's cells across the country located in all 77 districts were in operation. NGOs stated that despite improvements, resources and training to deal with victims of domestic violence and trafficking were insufficient. Although police guidelines call on officers to treat domestic violence as a criminal offense, observers reported this guidance was difficult to implement outside of the women's cells due to entrenched discriminatory attitudes.

The government maintained service centers in 17 districts, rehabilitation centers in eight districts, and hospital-based one-stop crisis management centers in 17 districts to provide treatment, protection, and psychosocial and legal support for survivors of gender-based violence. Gender experts said the service centers have improved coordination among police, the NHRC, National Women's Commission, chief district officers, local authorities, community mediation centers, and NGOs working to address violence against women and girls.

**Other Forms of Gender-based Violence:** The constitution criminalizes violence against women or oppression of women based on religious, social, or cultural traditions and gives victims the right to compensation. The penal code makes the practice of paying dowries illegal and imposes fines, prison sentences of up to three years, or both. The law also criminalizes violence committed against one's spouse in connection to a dowry, imposing substantial fines, prison sentences of up to five years, or both. Additionally, the law stipulates that any psychological abuse

of women, including asking for dowry, humiliation, physical torture, and shunning women for not providing a dowry, is punishable. Nevertheless, according to NGOs, dowries remained common, especially in the Terai region. NGO INSEC documented seven domestic violence cases from dowry-related disputes as of the end of August. Government agencies documented incidents of dowry-related violence and forced marriage, recommended interventions, and occasionally rescued victims and offered them rehabilitation services.

Traditional beliefs about witchcraft negatively affected rural women, especially widows, the elderly, persons of low economic status, and members of the Dalit caste, despite a law specifically criminalizing discrimination and violence against those accused of witchcraft. In fiscal year 2020-21, the Police registered 61 cases of witchcraft accusations and subsequent torture, a 74 percent increase over the prior year. There were 10 witchcraft allegations reported to INSEC as of the end of August.

The law criminalizes acid attacks and imposes strong penalties against perpetrators; it also regulates the sale of acids to reduce the likelihood of use in criminal attacks.

The practice of *chhaupadi* (expelling women and girls from their homes during menstruation and sometimes following childbirth, including forcing women and girls to reside in livestock sheds) continued to be a serious problem. The law stipulates a punishment of up to three months' imprisonment, a token fine, or both. Some local officials implemented various efforts to eliminate *chhaupadi*, including education campaigns and physical destruction of sheds, but stigma and tradition maintained the practice, particularly in rural western districts, where women sometimes died from exposure to the elements. According to news reports, after anti-*chhaupadi* campaigns destroyed *chhaupadi* huts, family members, often mothers in law, still forced women and girls to remain isolated. Some women and girls in rural areas resorted to sleeping in sheds, animal pens, or caves throughout the winter and the monsoon season.

**Sexual Harassment:** The law allows the Chief District Officer (CDO), the top administrative official in a district, to impose up to six months imprisonment, a fine, or both, against a perpetrator, once a series of internal workplace processes to



address a complaint have been exhausted. According to women's rights activists, the law provides adequate protective measures and compensation for victims, but the penalties are inadequate, and the law does not cover the informal sector, where sexual harassment is most common.

**Reproductive Rights:** There were no reports of coerced abortion or involuntary sterilization on the part of government authorities. Women who became pregnant outside of marriage, especially while working abroad, faced considerable social stigma. Although illegal, child marriage remained prevalent, especially in rural areas, and according to NGO Campaign for Change, many girls faced social pressure to have children before being emotionally ready and before their bodies were able to bear children safely. Contraception was available to both men and women, although cultural norms impeded access for adolescents and single women, and some were denied services by individual health workers.

The government provided free access to sexual and reproductive health services for all persons, including sexual violence survivors. Survivors could access sexual and reproductive health services in government hospitals, including emergency contraception, psychosocial counseling, and there were one-stop crisis management centers in each of the 17 districts.

According to the World Health Organization, the maternal mortality rate in 2017 was 186 deaths per 100,000 live births, down from 236 deaths in 2015. Skilled birth attendants assisted in 79 percent of deliveries in 2019 according to the Nepal Multiple Indicator Cluster Survey (NMICS) compared with 56 percent in 2014. The 2019 NMICS reported 94 percent of women attended to at least once by skilled health personnel during pregnancy. According to preliminary results from the 2021 Health Facility Survey, services for the management of sexually transmitted infections were available in 86 percent of facilities countrywide. Normal childbirth delivery services were available in about half of facilities countrywide.

**Discrimination:** The law contains discriminatory provisions. For example, the law on property rights favors men in land tenancy and the division of family property. The constitution, however, confers rights for women that had not previously received legal protection, including rights equal to those of their

spouses in property and family affairs, and special opportunities in education, health, and social security.

The constitution does not allow women to convey citizenship to their children independent of the citizenship of the child's father and has no specific provision for naturalization of foreign husbands married to citizen wives.

For women and girls to obtain citizenship by descent for themselves, regulations require a married woman to submit a formal attestation from her husband, father, or husband's family (if widowed) that she qualifies for citizenship and has his or their permission to receive it. This requirement makes a woman's right to citizenship contingent on her father's or husband's cooperation. In many cases, husbands refused to provide their wives this attestation. Preventing women from obtaining citizenship documentation precludes their access to the courts and thus their ability to make legal claims to land and other property, which permits the husband or male relatives to stake their own claims.

Although the law provides protection, women faced systemic discrimination, including in employment (see section 7.d.) and especially in rural areas. Dalit women in particular faced gender and caste discrimination. The law grants women equal shares of their parents' inheritance and the right to keep their property after marriage, but many women were not aware of their rights, and others were afraid to challenge existing practice. The law also grants widows complete access to and authority over the estate of their deceased husbands; the government reportedly did not take sufficient measures to enforce these provisions.

## **Systemic Racial or Ethnic Violence and Discrimination**

Caste-based discrimination is illegal, and the government outlawed the public shunning of or violence against Dalits and tried to protect the rights of other disadvantaged castes. The constitution prohibits the practice of untouchability and stipulates special legal protections for Dalits in education, health care, and housing. It also establishes the National Dalit Commission as a constitutional body to strengthen protections for and promote the rights of Dalits. Dalit rights activists maintained that the laws against discrimination were too general and did not explicitly protect Dalits. They said most cases go unreported, and those that are

reported rarely result in official action.

The law provides that each community shall have the right “to preserve and promote its language, script, and culture” and to operate schools at the primary level in its native language. The government generally upheld these provisions. More than 125 caste and ethnic groups, some of which are considered indigenous nationalities, speak more than 120 different languages.

Discrimination against lower castes and some ethnic groups, including in employment (see section 7.d.), was widespread and especially common in the Terai region and in rural areas. According to the Nepal National Dalit Social Welfare Organization, government progress in reducing discrimination remained limited in rural areas.

In May 2020, six youth, including four Dalits, were killed in what activists characterized as the most violent attack on Dalits in the modern history of the country. A Dalit group of friends were attacked by a mob of villagers, including the local ward chair, who objected to a proposed marriage with a Chhetri caste partner. The Ministry of Home Affairs and House of Representatives formed committees to investigate the incident, and the NHRC sent a team to investigate, but no report from any of these bodies has been released. Thirty-four accused persons were arrested in the incident. Authorities have released 11 of these persons, and 23 of the accused remain in police custody awaiting trial.

## **Indigenous Peoples**

The government recognized 59 ethnic and caste groups as indigenous nationalities, comprising approximately 36 percent of the population. Although some communities were comparatively privileged, many individuals faced unequal access to government resources and political institutions and linguistic, religious, and cultural discrimination. Activists reported that indigenous groups lacked adequate protections and risked losing access to their lands and territories due to encroachment from mining, hydropower, and real estate companies. In September UN experts and Nepali indigenous people’s rights NGO Lawyers' Association for Human Rights of Indigenous Peoples, expressed concerns about government forces and local police threatening, intimidating, and criminalizing indigenous

communities and called for the respect of the rights to Free, Prior and Informed Consent in the development of Marsyangdi Corridor transmission line project.

## **Children**

**Birth Registration:** Constitutional provisions, laws, and regulations governing citizenship discriminated by the gender of the parent, which contributed to statelessness (see section 2.g.). There was no difference in birth registration policies and procedures based on the sex of the child.

The constitution states that citizenship derives from one citizen parent, but also stipulates that a child born to a citizen mother and a noncitizen father may obtain citizenship only through naturalization. In some cases, mothers faced extreme difficulties in securing citizenship papers for children of citizen parents, even when the mother possessed citizenship documents, except in cases in which the child's father supported the application.

The constitution states that the children of unidentified fathers may obtain citizenship through their mothers, but if it is later determined that the father is a foreign citizen, the child will lose citizenship by descent but be eligible for naturalization. Many single women faced difficulties registering their children as citizens by descent. The Supreme Court ruled in 2017 that government authorities must not deny the registration for birth and citizenship of children of citizen mothers and fathers who cannot be traced. According to human rights lawyers, although this provision applies to the children of single mothers, including rape and trafficking victims, it does not address situations in which the identity of a child's father is known but he refuses to acknowledge paternity. The legal and practical restrictions on transferring citizenship imposed hardships on children whose fathers were deceased, had abandoned the family, or (as was increasingly common) departed the country to work abroad.

Naturalization is subject to state discretion. Although they lacked specific data, human rights lawyers reported that the government has processed few applications for naturalization of children in recent years.

**Education:** The constitution makes basic primary education free and compulsory nationwide. The law divides the education system into basic education (early

childhood development and grades one to eight), which is free and compulsory, and secondary education (grades nine to 12), which is free but not compulsory. The government reported that during this school year, 95.11 percent of school-age children attended primary schools with gender parity.

Some children, particularly girls, face barriers to accessing education due to lack of sanitation facilities, child marriage, geographic distance, costs associated with schooling, household chores, and lack of parental support. Countrywide, nearly a third of schools lack separate toilet facilities for girls, which can deter them from attending school, especially when they are menstruating. Barriers for attending school for school-age boys include pressure to find employment, migration to work outside the country, and problems with drugs and alcohol. Children with disabilities face additional barriers to accessing education, including denial of school admission. Children are required to attend school only up to age 13; this standard makes children aged 13 and older vulnerable to child labor despite not being legally permitted to work.

**Medical Care:** The government provided basic health care without cost to children and adults, although quality and accessibility varied. Parental discrimination against girls often resulted in impoverished parents giving priority to their sons when seeking medical services.

**Child Abuse:** The law criminalizes child abuse. Violence against children, including sexual abuse, was reportedly widespread. NGOs stated that such reports have increased in part due to greater awareness, but no reliable estimates of its incidence exist. The government has established special hotlines and the National Child Rights Council to respond to child abuse and violence against children.

**Child, Early, and Forced Marriage:** The law prohibits marriage for both boys and girls before the age of 20, but the country has a high rate of child marriage and childbearing among girls.

Social, economic, and cultural values promoted the practice of early and forced marriages, which was especially common in the Dalit and Madhesi communities. The law sets penalties for violations according to the age of the girls involved in child marriage. The penalty includes both a prison sentence and fine, with the fees

collected going to the girl involved. The law provides that the government must act whenever a case of child marriage is filed with authorities. Additionally, the practice of early and forced marriage limited girls' access to education and increased their susceptibility to domestic violence and sexual abuse, including sex trafficking.

**Sexual Exploitation of Children:** Commercial sexual exploitation of children remained a serious problem, according to NGOs. There were reports of boys and girls living on the streets and exploited for child sex trafficking, including by tourists, and of underage girls employed in dance bars, massage parlors, and cabin restaurants (sometimes fronts for brothels). Enforcement was generally weak due to limited police capacity and investigative efforts, and police sometimes arrested girls in commercial sexual exploitation. The minimum age for consensual sex is 18 years.

There is no specific law against child pornography, but the law stipulates that no person can involve or use a child for an immoral profession, and photographs cannot be taken or distributed for the purpose of engaging a child in an immoral profession. Additionally, photographs that tarnish the character of the child may not be published, exhibited, or distributed.

**Displaced Children:** Many children remained displaced due to the 2015 earthquake and its aftershocks (see section 2.e.). The government did not have comprehensive data on children affected by the decade-long Maoist conflict, including the original number of internally displaced and the number who remained displaced.

**Institutionalized Children:** Abuse, including sexual abuse, and mistreatment in orphanages and children's homes reportedly was common. An NGO working in this field estimated that approximately one-third of registered children's homes met the minimum legal standards of operation, but there was no reliable data on the many unregistered homes. NGOs reported some children in these institutions were forced to beg. The NGO also reported no significant change in the level or degree of abuse of children compared to previous years. Specific information on the status and conditions of children with disabilities who were institutionalized was not available.

## **Antisemitism**

There was a small Jewish population in the country and no reports of antisemitic acts.

## **Trafficking in Persons**

See the Department of State's *Trafficking in Persons Report* at <https://www.state.gov/trafficking-in-persons-report/>.

## **Acts of Violence, Criminalization, and Other Abuses Based on Sexual Orientation, Gender Identity or Expression, or Sex Characteristics**

**Criminalization:** In 2007, LGBTQ+ status and conduct were decriminalized by the Supreme Court in *Sunil Babu Pant and Others v. Nepal Government* and affirmed that LGBTQI+ persons were protected under the constitution. In 2015, the country ratified a new constitution with provisions that enshrine rights for LGBTQI+ persons into law, including the right to obtain citizenship documents, equal protection under the law, and social justice. Local LGBTQI+ CSOs and advocates have continued to press for further legislation to increase protections for LGBTQI+ persons.

**Violence against LGBTQI+ Persons:** LGBTQI+ rights groups reported that LGBTQI+ persons faced harassment from police. NGOs reported that sexual and gender minorities faced discrimination, violence, and intimidation including sexual harassment from police and local authorities.

**Discrimination:** Constitutional and legal frameworks outline protections for LGBTQI+ persons, but according to LGBTQI+ NGOs like the country's Blue Diamond Society, there are gaps between those frameworks and implementation of existing laws. LGBTQI+ advocacy groups reported that the government has not yet provided equal opportunities for LGBTQI+ persons for education, health care, or employment (see section 7.d.). Additionally, LGBTQI+ advocates report difficulties for LGBTQI+ persons seeking citizenship documents that reflect gender marker or name changes. Throughout the COVID-19 pandemic, LGBTQI+

activists reported challenges obtaining vaccines and treatment because names or appearances of LGBTQI+ persons seeking care did not match their citizenship documents. Advocacy groups also stated that some LGBTQI+ persons faced difficulties registering for citizenship, particularly in rural areas.

In July the government supported the mandate of the independent expert on protection against violence and discrimination based on Sexual Orientation and Gender Identity in the Human Rights Council. High-level government officials including a cabinet member and member of the constitutional commission attended Gai Jatra Pride, a LGBTQI+ community parade held every year in August. According to NGOs, local governments allocated budgets for LGBTQI+ community focus programs. The Ministry of Women, Children and Senior Citizens also allocated a budget for sexual and gender minorities focus programs for the first time. In her speech in the parliament, President Bhandari urged the government to introduce policies and programs to create awareness of the sexual and gender minorities community.

During the May election, LGBTQI+ activists stated that they were allowed to queue in a priority voting line if they identified themselves as a member of LGBTQI+ community. Despite this special consideration, some transgender persons refrained from voting due to harassment or social stigma, and some reported that transgender persons were forced to stand in the voting line reflecting the gender on their citizenship documents, regardless of whether they had subsequently changed their gender identity.

According to LGBTQI+ rights NGOs, there were some instances of harassment and abuse of LGBTQI+ persons by private citizens and government officials, especially in rural areas.

**Availability of Legal Gender Recognition:** Authorities added a “third gender” category to government identity documents in 2013, making it the first country in South Asia to do so. In 2021, the government announced that it will count persons who identify as a third gender on its national census. Many districts require gender-affirming surgery or an application to the Nepal Medical Council, which requires surgical interventions and certification from the hospital that performed the procedure, to change gender markers on identity documents.



**Involuntary or Coercive Medical or Psychological Practices Specifically Targeting LGBTQI+ Individuals:** The government does not have coercive medical practices targeting LGBTQI+ individuals and there were no reports of practice of conversion therapy.

**Restrictions of Freedom of Expression, Association, or Peaceful Assembly:** Prominent LGBTQI+ community rights organizations and activists reported little or no restrictions on their ability to advocate, organize, convene meetings, or hold public gathering, and little or no interference from private parties. Some rallies and public gatherings outside Kathmandu had poor attendance due to existing social stigma.

## **Persons with Disabilities**

The constitution and law prohibit discrimination based on disability or physical condition and contain additional specific rights for persons with disabilities. These include the right to free higher education for all citizens with physical disabilities who are “financially poor” and the provision of accessible instructional materials and curricula for persons with vision disabilities. NGOs report that a few public buildings, roads, and schools had become accessible, but most are still inaccessible.

The government provides services for persons with physical and mental disabilities, including a monthly stipend, shelters, and appointing one social welfare worker in each of 753 local governments. The law provides that persons with disabilities have equal access to education, health, employment, public physical infrastructure, transportation, and information and communication services. The government implementation of laws and regulations to improve rights and benefits for persons with disabilities, although improved, still was not fully effective. For example, books printed in braille were not available for students at all grade levels, and free higher education was not uniformly available to all interested persons with disabilities.

The government provided monthly social security allowances for persons with disabilities of 3,990 rupees (\$34) for those categorized as “profoundly” disabled, and 2,128 rupees (\$18) for “severely” disabled persons. The law states that other

persons with disabilities should receive allowances based on the availability of funds and the degree of disability. Three provincial governments funded sign language interpreters in 20 districts to assist deaf and hard-of-hearing persons in obtaining government services.

There are no restrictions on the rights of persons with disabilities to vote and participate in civic affairs or to access the judicial system. According to the Ministry of Women, Children, and Senior Citizens, however, there were obstacles in exercising these rights, especially the lack of accessibility to public facilities.

## **Other Societal Violence or Discrimination**

Societal discrimination and stigma against persons with HIV and those at high risk of HIV remains common, according to NGOs. There was no official discrimination against persons in high-risk groups that could spread HIV or AIDS. Most health care facilities run by government and NGOs provide HIV services to HIV-infected and affected populations.

## **Section 7. Worker Rights**

### **a. Freedom of Association and the Right to Collective Bargaining**

The law provides for the right of most workers to form and join unions of their choice, except those organizations deemed by the government to be subversive or seditious. Freedom of association extends to workers in both the formal and informal sectors. Noncitizens cannot be elected as trade union officials or form unions.

Certain workers have the right to strike and bargain collectively, except for employees in what the government defines as essential services, including public transportation, banking, security, and health care. Members of the armed forces, police officers, and government officials at the undersecretary level or higher also are prohibited from forming or taking part in union activities.

The law prohibits workers from striking in any special economic zone. The country has two special economic zones, located in Bhairahawa and Simara, near the Indian border.

The law stipulates that unions must represent at least 25 percent of workers in a workplace to be considered representative. The minimum requirement does not prohibit the formation of unofficial union groups, which under certain conditions may call strikes and negotiate with the government. Workers in the informal sector may also form unions, but due to the strong political affiliation of many of these unions, nonaffiliated individuals often remain excluded or unaware of this right.

The government effectively enforced applicable labor laws in the public sector, and penalties were commensurate with those for other laws involving denials of civil rights such as discrimination. According to the International Labor Organization (ILO) and the General Federation of Nepalese Trade Unions (GEFONT), penalties were rarely applied against violators. Enforcement was not effective in the private and informal sectors. A labor court addresses violations of labor laws and other issues related to labor. Labor activists report that the court is not objective or effective, and that it has a backlog of cases.

The law protects union representatives from adverse legal action arising from their official union duties, including collective bargaining, and prohibits antiunion discrimination. Workers dismissed for engaging in union activities can seek reinstatement by filing a complaint in labor court or with the Department of Labor, which has semi-judicial and mediation authority. Most cases are settled through mediation. The law stipulates that participation in a strike that does not meet legal requirements constitutes misconduct, for which the consequences can be suspension or termination of employment.

To conduct a legal strike, 51 percent of a registered union's membership must vote in favor in a secret ballot, and unions are required to give 30 days' notice before striking. If the union is unregistered, does not have majority support, or calls a strike prior to issuing 30 days' notice, the strike is considered illegal.

Freedom of association and the right to collective bargaining were generally respected. Although the government restricted strikes in essential services, workers in hospitals, education services, and the transportation sector occasionally called strikes and did not face any legal penalties. Many unions had links to political parties and did not operate independently from them but worked

effectively to advance the rights of workers. The government did not interfere in the functioning of workers' organizations or threaten union leaders.

## **b. Prohibition of Forced or Compulsory Labor**

The law prohibits all forms of forced or compulsory labor, but does not criminalize the recruitment, transportation, harboring, or receipt of persons by force, fraud, or coercion for the purpose of forced labor. The 2007 Human Trafficking and Transportation (Control) Act (HTTCA) criminalized some forms of sex trafficking and labor trafficking. The HTTCA's definition of trafficking was inconsistent with the international definition of trafficking. It limited the definition of "human trafficking" to the purchase or selling of a person and to causing another person to go into prostitution; did not include a demonstration of force, fraud, or coercion as an essential element of the base offense; and did not explicitly address forced labor. The law separately defined "human transportation" as the taking of a person from their home or place of residence through force, fraud, or coercion for the purpose of prostitution or the keeping a person as a slave or bonded labor.

The government did not effectively enforce the law and the country continued to be a source, transit, and destination for men, women, and children who were subjected to forced labor. *Kamlari* is one such form of illegal slavery in which girls as young as four years and women across all age groups were forced to work as bonded laborers in the houses of rich landlords. The government did not provide support, such as financial assistance or educational opportunities, to adequately reintegrate newly freed women and girls into society. Several nonprofit organizations operated checkpoints along the country's border with India and played an important role in victim detection and awareness raising among women and children at high risk of being involved in forced labor.

Government enforcement of the laws against bonded labor was uneven, and social reintegration of victims remained difficult. Resources, inspections, and remediation were inadequate. The government did not effectively screen for labor trafficking among abused migrant workers and handled such cases administratively in lieu of criminal investigation. In addition, despite reports of worker exploitation, including trafficking, and illegal recruitment fees charged by recruitment agencies, the government did not sufficiently investigate agencies for

violations. The penalties for violating laws against bonded labor involve fines and compensation to victims, with no imprisonment, and are not sufficient to deter offenses.

Forced labor, including through debt-based bondage, of adults and children existed in agriculture, brick kilns, the stone-breaking industry, and domestic work. A government study documented more than 61,000 individuals – including approximately 10,000 children – in forced labor over the past five years, especially in agriculture, forestry, and construction. NGOs reported some children worked in brick kilns, including carrying loads, preparing bricks, and performing other tasks at kilns for extended periods.

Also see the Department of State's *Trafficking in Persons Report* at <https://www.state.gov/trafficking-in-persons-report/>.

### **c. Prohibition of Child Labor and Minimum Age for Employment**

See the Department of Labor's *Findings on the Worst Forms of Child Labor* at <https://www.dol.gov/agencies/ilab/resources/reports/child-labor/findings>

### **d. Discrimination with Respect to Employment and Occupation**

The constitution prohibits discrimination based on religion, race, sex, caste, tribe, geographical or social origin, language, marital status, physical or health condition, disability, or ideological conviction. Labor regulations prohibit discrimination in payment or remuneration based on gender. Penalties were commensurate to laws related to civil rights.

There are no provisions in the constitution, law, or regulations prohibiting discrimination, including labor discrimination, based on color, age, sexual orientation or gender identity, refugee status, stateless status, national origin or citizenship, HIV or AIDS-positive status, or other communicable diseases. To be eligible for government jobs, Nepali national origin or citizenship is mandatory. Certain groups, such as lower-class women, minority groups, persons with disability, marginalized groups, Muslims, gender and sexual minority groups, youths, peasants, laborers, and other disadvantaged groups are stated to have the right to employment in state structures based on “the principle of inclusion.” A

quota system exists for traditionally marginalized groups, including women, in the federal workforce, but was not fully implemented.

Despite constitutional and legal protections, discrimination in employment and occupation occurred with respect to gender, caste, ethnicity, national origin, citizenship, disability, religion, sexual orientation and gender identity, and HIV-positive status. The government did not effectively enforce the law. Such discrimination was most common in the informal sector, where monitoring by the government and human rights organizations was weak or absent and those in disadvantaged categories had little leverage or recourse. In the formal sector, labor discrimination generally took the form of upper-caste men without disabilities being favored in hiring, promotions, and transfers.

According to the Ministry of Women, Children, and Senior Citizens and disability rights advocates, the overall rate of employment of persons with disabilities did not increase significantly. In the private sector, large numbers of persons with disabilities claimed they were denied work opportunities or dismissed due to their conditions. In all sectors, employees with disabilities reported other forms of discriminatory treatment.

Women faced discrimination in employment and occupation. For every 100 employed men, there were only 59 employed women, and the average monthly income for women was 6,000 rupees (\$50) less than what men earn. Women made up 58 percent of the population earning at least 7,600 rupees (\$65) per month, but only 12 percent of those the total population earning more than 25,000 rupees (\$210) or more per month. Patriarchal attitudes and unequal gender division of labor has long been identified as a factor causing inequality with direct links to lower income, education, and access to finance.

Authorities restrict domestic work in Gulf countries for Nepali women to protect them from exploitation and violence, including with conditions a labor destination country must meet. Civil society organizations note that these conditions are so stringent that they remain a de facto ban for women traveling for domestic employment.

According to the Nepal National Dalit Social Welfare Organization, the

government made little progress in implementing antidiscrimination legal provisions to assure employment opportunities for lower-caste individuals in both the public and private sectors. There was no comprehensive data on this abuse. Structural barriers and discrimination forced Dalits to continue low-income and dehumanizing employment, such as manual scavenging, disposing of dead animals, digging graves, or making leather products.

Reliable data on discrimination against LGBTQI+ persons in various sectors was not available, but activists reported it was common for LGBTQI+ persons to be denied promotions and competitive opportunities within security services and athletics. NGOs reported that the LGBTQI+ community does not have equal access to employment opportunities in either government or the private sector. Some members of the LGBTQI+ community reported discrimination in pay, and that they faced violence in the workplace. NGOs noted that the government took no action to address employment-based discrimination against the LGBTQI+ community.

### **e. Acceptable Conditions of Work**

**Wage and Hour Laws:** The minimum wage exceeded the official poverty line, but it was minimally sufficient to meet subsistence needs.

The law stipulates a 48-hour workweek, with one day off per week and one-half hour of rest per five hours worked. The law limits overtime to no more than four hours a day and 20 hours per week, with a 50 percent overtime premium per hour. Excessive compulsory overtime is prohibited. Employees are also entitled to paid public holiday leave, sick leave, annual leave, maternity leave, bereavement leave, and other special leave. The law provides benefits such as a provident (retirement) fund, housing facilities, day-care arrangements for establishments with more than 50 female workers, and maternity benefits.

**Occupational Safety and Health:** The law provides adequate occupational safety and health (OSH) standards, and the Ministry of Labor, Employment, and Social Security is responsible for their enforcement. However, implementation and enforcement of these standards were minimal, and the ministry considered OSH the most neglected area of labor law enforcement. The ministry found violations

across sectors, including in construction, mining, transportation, agriculture, and factory work.

**Wage, Hour, and OSH Enforcement:** The government did not effectively enforce minimum wage, overtime, and OSH laws.

The Ministry of Labor, Employment, and Social Security is responsible for enforcement of wage and hour laws. The ministry did not employ enough inspectors to enforce the wage and hour laws or the occupational health and safety laws. Inspectors have the authority to make unannounced inspections and initiate sanctions.

Penalties for violations of minimum wage and overtime laws were commensurate with those for similar crimes, such as fraud, but the number of worksite inspections was low. There were no reports that the labor inspectorate faced a full or partial moratorium on inspections, including on-site inspections. The country does not meet the ILO standard of one inspector per 40,000 workers. According to the Department of Labor, there were only 14 labor inspectors. According to the GEFONT and other labor rights activists, most factories in the formal sector complied with laws on minimum wage and hours of work, but implementation varied in the informal sectors.

Penalties for OSH violations were not commensurate with those for similar crimes, such as fraud or negligence, and were rarely applied against violators for the entire country.

The government had not created the necessary regulatory or administrative structures to enforce OSH provisions. The ministry did not have a specific office dedicated to OSH, nor did it have inspectors specifically trained in this area.

Although the law authorizes factory inspectors to order employers to rectify unsafe conditions, enforcement of safety standards remained minimal, and monitoring was weak. Accurate data on workplace fatalities and accidents was not available. Labor law and regulations provide for protection of workers from work situations that endanger their health and safety, but in small and cottage industries located in towns and villages, employers sometimes forced workers to work in such situations or risk losing their jobs. The number of labor inspectors was insufficient



to enforce compliance.

**Informal Sector:** According to the ILO, more than 70 percent of the economically active population was involved in the informal economy, and over 90 percent of women were employed in the informal sector including domestic service. A rapid study published by the Home Workers' Trade Union of Nepal in late 2020 showed that the pandemic and lockdowns had left more than 85 percent of domestic workers unemployed and without a safety net. Minimum-wage laws apply to both the formal sector and the informal sector, but implementation was stronger in the formal sector. Violations occurred in informal agriculture, transportation, domestic servitude, brick kilns, carpet industries, construction, and small hotels and restaurants. According to GEFONT, informal sector workers and those working part time are covered under the law, but implementation is very weak. There are no social protections provided for workers in the informal economic sector.