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2011 Country Reports on Human Rights Practices - Nepal

EXECUTIVE SUMMARY

Nepal is a federal democratic republic. The political system is based on the Interim Constitution of Nepal 2063 (2007), with a prime minister as the chief executive and a 601-member Constituent Assembly, which is responsible for drafting a new constitution. The Constituent Assembly extended the deadline for the completion of a new constitution several times, most recently to May 27, 2012. Baburam Bhattarai of the Unified Communist Party of Nepal-Maoist was elected prime minister by parliament on August 28; he is the fourth prime minister since the 2008 Constituent Assembly election. Domestic and international observers generally characterized the 2008 election results as credible, although there were reports of political violence, intimidation, and voting irregularities. Security forces reported to civilian authorities, but there were frequent instances in which elements of the security forces acted independently of civilian control.

The most significant human rights problems were abuses committed by the security forces (including members of the Nepal Army, Nepal Police, and Armed Police Force), which were responsible for extrajudicial killings, torture, and arbitrary arrest and detention; the government's failure to effectively enforce the law, which undermined the freedoms of speech and press; and continuing violence and lawbreaking by illegal armed groups.

Other human rights problems included extremely poor prison conditions, with conditions at detention centers even worse. Officials sometimes used antiterrorism legislation to justify excessive use of force. Corruption existed at all levels of government and the police, and the courts remained vulnerable to political pressure, bribery, and intimidation. The government sometimes restricted freedom of assembly. The government limited freedoms for refugees, particularly for the Tibetan community. Discrimination against women was a problem, and citizenship laws that discriminate based on gender contributed to statelessness. Domestic violence against women remained a serious problem, and dowry-related deaths occurred. Violence against children was widespread, although rarely prosecuted, and commercial sexual exploitation of children remained a serious problem. Discrimination against persons with disabilities, some ethnic groups, and persons with HIV/AIDS was a problem. Violence associated with caste-based discrimination occurred. There were some restrictions on worker rights, and forced and bonded labor and child labor remained significant problems.

Impunity for human rights violators continued to be a serious problem. The government took limited steps to prosecute or punish officials who committed abuses, whether in the security forces or elsewhere in the government. Investigations into individual abuses and

legal punishment for perpetrators sometimes occurred, but for many abuses, including serious abuses that occurred during the armed insurgency, a lack of accountability created an atmosphere of impunity. Authorities failed to implement court-ordered arrests of military personnel, Maoists, and other politically connected individuals accused or convicted of human rights violations.

Numerous armed groups, largely in the Tarai region, attacked civilians, government officials, members of particular ethnic groups, each other, and Maoist militias. Some members of the Maoist-affiliated Young Communist League (YCL) were responsible for extortion and intimidation, although the number of incidents declined during the year. Members of other small, ethnically based armed groups were responsible for killings, abductions, extortion, and intimidation. Armed groups were responsible for numerous disappearances (mainly in the Tarai region). Armed groups, criminals, and political parties used threats of violence to intimidate journalists throughout the country.

Section 1. Respect for the Integrity of the Person, Including Freedom from:

a. Arbitrary or Unlawful Deprivation of Life

There were numerous reports that the government or its agents committed arbitrary or unlawful killings. The Informal Sector Service Center (INSEC), a local human rights organization, reported that police killed at least eight persons, and soldiers killed one. On January 13, police arrested and beat Shambhu Paswan of Janakpur District to death at the Bhairahawa police station, on the border with India. While police officials claimed that Paswan died while undergoing treatment, the hospital to which he was sent declared Paswan dead upon arrival. Although the police administration promised to file a report criminal complaint against two officers involved in the beating, no action had been taken against them by year's end.

In March 2010 members of the Nepal Army (NA) killed two Dalit ("untouchable" lower-caste) women, Devisara BK and Amrita BK, and a 12-year-old girl, Chandrakala BK, inside Bardiya National Park in Surkhet District. Although the NA alleged that the three were armed and involved in poaching and were killed during a firefight, a National Human Rights Commission (NHRC) investigation concluded that they were shot in the back from a distance. The NHRC recommended action against those involved in the incident, including 15 army personnel of the Jwala Dal Battalion led by Captain Subodh Kunwar. The NHRC also recommended compensation to the families of 300,000 rupees (\$3,525) for each of those killed and free education for the children of the deceased women. Following an internal investigation in 2010, the army claimed that its personnel were performing their duty in good faith, and the military court took no action against those involved in the incident. The government provided 25,000 rupees (\$295) to the next of kin to perform last rites for the deceased.

On May 31, the district court of Chitwan sentenced Gobinda Bahadur Batala, or "Jibit," to three years in jail for the 2008 murder of businessman Ram Hari Shrestha. Because Batala, a member of the Unified Communist Party of Nepal-Maoist, had been in judicial custody for three years, he was released without serving additional time. Batala was later taken into custody on the charge of kidnapping Shrestha. On June 21, the Supreme Court ordered police to release Batala, stating that he could not be tried separately on the charge of abduction because he had already served three years in the Chitwan jail on the charge of being an accomplice in the murder. At year's end, police were still seeking another suspect in the Shrestha case, Kali Bahadur Kham, a senior Maoist leader.

No one had been held responsible in the 2004 killing of 15-year-old Maina Sunuwar, one of the high-profile cases identified by human rights groups. The Kavre District Court reported that the NA had partially cooperated with the court's order to hand over documents related to the case, although the NA did not suspend or hand over one of the accused, Major Niranjan Basnet. An internal military investigation found Basnet innocent. According to statements given during the NA investigation, Basnet was present during Sunuwar's detention and interrogation, which included "water pouring" and "electric shock." On February 17, Devi Sunuwar, Maina's mother, sent an open letter addressed to the chief of army staff urging him to play a pioneering role in ending impunity by handing over those responsible for the killings, including Major Basnet. As of year's end, the chief

of staff had taken no steps in response to the letter. The other three persons accused in the case, all retired from the army, remained at large.

There was continuing violence in the Tarai region. Some armed groups, many ethnically based, clashed with each other and with the local population. Police were unable to fully provide law and order, although the security situation in most parts of the Tarai improved during the year. Members of the Maoists, Maoist-affiliated groups, and other ethnically based splinter groups in the Tarai, committed acts of violence, extortion, and intimidation throughout the year.

According to INSEC, as of midyear armed groups operating in the Tarai region killed 11 persons and unidentified groups killed 89 others. On February 24, members of an armed group shot and killed Madhav Thapa, a civil servant working at the Bara District Land Revenues Office, while he was watching television at home. The Akhil Tarai Mukti Morcha, led by Jai Krishna Goit, claimed responsibility for the killing, alleging that Thapa was a corrupt official. Persons close to Thapa denied those allegations. As of year's end there were no further updates. INSEC reported two killings by the Maoist party and its YCL affiliate. According to INSEC, a total of 89 persons were killed and 59 abducted by unidentified groups in 2011, compared with 117 persons killed and 83 abducted in 2010.

b. Disappearance

There were no reports that government forces were responsible for disappearances during the year.

The fate of most of those who disappeared during the 10-year Maoist insurgency (1996-2006) remained unknown. On August 30, the NHRC released a public report that stated there were 789 unresolved cases of disappearances, 619 of which were believed to involve the state. As of year's end, the government had not prosecuted any government officials for involvement in disappearances, nor had it released any information about the whereabouts of the 619 persons the NHRC identified as having disappeared with state involvement. The August NHRC report stated that Maoists were believed to be involved in 170 unresolved disappearances during the conflict. As of year's end, the government had not prosecuted any Maoists for involvement in disappearances.

In 2010 the International Committee of the Red Cross (ICRC) published a list of 1,369 names of missing persons on its Web site. At the end of this year, the list contained 1,383 names. In 2009 the ICRC and the Nepal Red Cross Society listed 1,348 missing persons; in 2008, 1,227; and in 2007, 812.

The government did not respond to the 2008 Office of the UN High Commissioner for Human Rights (OHCHR) report on the Bardiya District, where at least 170 persons disappeared between 2001 and 2004, nor did it respond to a 2006 OHCHR report on 49 persons who disappeared after being arrested and detained at the Maharajgunj barracks in Kathmandu in 2003 on suspicion of being linked to the Maoists. Human rights organizations repeatedly called on the government to investigate the human rights violations at the Maharajgunj barracks, including the responsibility of those within the chain of command. One of the senior military officers implicated in the incident, Major General Toran Bahadur Singh, retired from the army in June.

According to INSEC there were 144 abductions during the year. Most abductions were for ransom and occurred in the Tarai region, where armed groups operated with relative impunity.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

Although the Interim Constitution of 2007 requires that torture be criminalized, the law does not have clear guidelines for punishing offenders, and no one was prosecuted for torture, including police who tortured and otherwise abused citizens. The Torture Compensation Act provides for compensation for victims of torture; the victim must file a complaint and pursue the case through the courts. Two cases were filed during the year in addition to 30 cases filed since 2009. Of these, the court withdrew three cases due to out-of-court settlements, dismissed six cases due to the victim's failure to appear before the court within the time permitted, found that there was not sufficient evidence to

prove torture in two cases, and provided compensation in seven cases. The remaining cases were pending.

During the year Advocacy Forum (AF), a human rights nongovernmental organization (NGO), reported that, of the 4,187 detainees interviewed between January and December, 689 reported torture by state actors. The government generally failed to conduct thorough and independent investigations of reports of security force brutality and did not take significant disciplinary action against those involved. Some detainees were afraid to bring cases against the police due to fear of reprisal. The number of cases represented a slight increase compared with 2010.

Child Workers in Nepal Concerned Center, a leading local child rights NGO, recorded 69 cases of children under the age of 18, 66 of whom were boys, who were detained and suffered some kind of physical or mental abuse during interrogation. Children reported being hit by bamboo sticks, kicked or hit with fists, spit on, and having their hair pulled. Most of the children who were arrested involved cases of robbery. In 30 percent of cases, the age of the child detained was incorrectly recorded as 16 years and above, presumably to make them eligible for detention. Likewise, street children in Kathmandu were frequently arrested on suspicion of committing a crime when incidents were reported to police in areas where the children resided. They were frequently detained overnight, made to clean dirty toilets at the detention centers, and often mistreated by area residents when accused of committing a crime.

According to reports, on July 21, Nijamiddin Sekh (alias Bablu) was arrested by police in Nepalgunj, Banke District, and taken to a police station for questioning. According to Sekh, he was blindfolded, handcuffed, and subsequently pushed from a high place, later awakening in a hospital bed with a broken backbone. A doctor's examination revealed additional signs of mistreatment, including blue and red marks on his feet, scratches, and bruises on his lower lip and body. As of year's end, police had not charged Sekh with a crime, and the police officers involved in the arrest and torture had not been charged.

AF attributed 42 cases of torture to nonstate actors during the period between January and June, including 25 cases to Maoists, one to the Maoist-affiliated YCL, and one to the All Nepal National Free Students Union. The government failed to conduct thorough investigations of reports of nonstate actor brutality.

Campaigners against land mines stated that improvised explosive devices (IEDs) remained scattered and unmarked throughout the country. According to INSEC, land mines and IEDs laid by Maoists and the NA during the conflict caused 22 incidents and resulted in the death of 10 persons and injury to 23 during the year. UNICEF reported 16 casualties from IED explosions as of June 14, when Nepal was formally declared a minefield-free country. The army placed 12,070 land mines at 53 locations and planted 1,078 IEDs during the conflict.

The Maoists placed no land mines but used thousands of IEDs. The UN Mine Action Team reported that more than 52,000 Maoist IEDs were destroyed after Maoist combatants were cantoned in 2007.

Prison and Detention Center Conditions

Prison conditions were extremely poor and did not meet international standards, while conditions at detention centers were worse. The government generally allowed visits by independent human rights observers.

According to the Department of Prison Management, as of July 15, 12,364 prisoners – 10,699 men, 829 women, 79 dependent children of imprisoned parents, and 757 foreign nationals – remained in custody. Although there generally were separate facilities for men and women, in some overcrowded prisons, men and women were held in the same prison but in segregated cells. In October 2011 a reliable news report noted that the Kavre District jail held 131 inmates, while its capacity was estimated at 65. According to AF, sanitation provisions were inadequate and medical care was poor for prisoners with serious conditions. Prisoners generally had access to well water or filtered water, although some had access only to unfiltered and dirty water.

Due to a lack of adequate juvenile detention facilities, children occasionally were incarcerated with adults or were allowed to remain in jails with their incarcerated parents.

There is only one functional government-run juvenile reform home, Sano Thimi in Bhaktapur. According to the Department of Jail Management, pretrial juvenile detainees were sent there and were not kept with convicted prisoners. Adult pretrial detainees were kept with convicted prisoners due to inadequate pretrial detention space.

Prisoners and detainees had reasonable access to visitors and were permitted religious observance. There were also procedures for prisoners to submit complaints, although authorities were quicker to respond to allegations when NGOs or international organizations were aware of the complaints. There were no prison ombudsmen to handle prisoner complaints.

The government generally permitted the NHRC, ICRC, and OHCHR to make unannounced visits to prisons and detainees in army and police custody, although it was reported that access by international observers to prison detainees was restricted in the first half of the year. Although the NHRC is authorized to request government action, the government often denied NHRC requests. There were no alternatives to sentencing for nonviolent offenders.

d. Arbitrary Arrest or Detention

The law prohibits arbitrary arrest and detention, but security forces arbitrarily arrested persons during the year. Police routinely abused their 48-hour detention authority by holding persons unlawfully (i.e., without proper access to counsel, food, and medicine, or in adequate facilities), often at the behest of the chief district officer (CDO) or assistant CDO. It was not unusual for CDOs to direct police to arrest individuals for minor, petty infractions (e.g., unpaid taxes), and many of those orders (which were frequently verbal) were undocumented and appeared politically motivated.

Role of the Police and Security Apparatus

The Nepal Police (NP) is responsible for enforcing law and order across the country, and the Armed Police Force (APF) provides back-up support. Police did not respond to most incidents of violence, particularly events involving Maoists and armed groups in the Tarai region. There were multiple incidents in which police detained persons for illegal acts, but political leaders sometimes pressured the NP to release detainees.

The NP, APF, and NA have human rights cells, although they tend to limit their activities to training and capacity building rather than investigating cases. Corruption and impunity remained serious problems. The NP were generally unarmed and have the role of preventing and investigating nonterrorist criminal behavior.

At the district level, the NP often operated without significant guidance from superiors, allowing considerable discretion in the enforcement of laws. There continued to be many reports of police abuse and bribery. The NP, APF, and NA have mechanisms for investigating abuses by security forces; however, the investigations are internal and not fully transparent. The National Human Rights Commission and security forces' internal offices provided human rights training and training to reform the security forces.

Arrest Procedures and Treatment While in Detention

Arbitrary Arrest: The law stipulates that, except in cases involving suspected security and narcotics violations, authorities must obtain a warrant for arrest and arraign or release a suspect within 24 hours of arrest. There were instances in which detainees were kept in illegal detention for several days after their arrest.

If the court upholds a detention, the law authorizes police to hold the suspect for up to 25 days to complete an investigation, with a possible extension of seven days, although security personnel occasionally held prisoners for longer periods. In some cases the Supreme Court ordered the release of detainees held longer than 24 hours without a court appearance. Some foreigners, including refugees, reported difficulty obtaining bail.

The interim constitution provides for 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.

Detainees have the legal right to receive visits by family members. In practice family access to prisoners varied from prison to prison. There is a system of bail, but bonds were too expensive for most citizens.

Pretrial Detention: Pretrial detention often exceeded the period to which persons subsequently were sentenced after a trial and conviction. Time served is credited to a prisoner's sentence.

Under the Public Security Act, security forces may detain persons who allegedly threaten domestic security and tranquility, amicable relations with other countries, or relations between citizens of different classes or religions. The government may detain persons in preventive detention for as long as 12 months without charging them with a crime, as long as the detention complies with the act's requirements. The court does not have any substantive legal role in preventive detentions under the act.

Other laws, including the Public Offenses Act, permit detention without charge for as long as 25 days. This act covers crimes such as disturbing the peace, vandalism, rioting, and fighting. Human rights monitors expressed concern that the act vests too much discretionary power in the CDO. Police frequently arrested citizens under the act and detained them for short periods without charge.

According to AF, in some cases detainees were brought before judicial authorities well after the legally mandated 24-hour limit, allegedly to allow injuries from police mistreatment to heal.

NGOs expressed concern about police use of private houses to hold detainees after arrest.

e. Denial of Fair Public Trial

The law provides for an independent judiciary, but courts remained vulnerable to political pressure, bribery, and intimidation. Authorities did not consistently respect court orders. The Supreme Court has the right to review the constitutionality of legislation passed by the Constituent Assembly. Appellate and district courts showed independence and impartiality in many cases, although they remained susceptible to political pressures.

Trial Procedures

Although the law provides for the right to counsel, equal protection under the law, protection from double jeopardy, protection from retroactive application of the law, and public trials, these rights were not applied equally except in a few security and customs cases. 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. Judges decide cases; there is no jury system. The law provides detainees the right to legal representation and a court-appointed lawyer, a government lawyer, or access to private attorneys. However, the government provided legal counsel only upon request. Persons who are unaware of their rights may be deprived of legal representation. Defense lawyers may cross-examine accusers. By law defense lawyers are entitled to have access to government-held evidence, but it was very difficult to obtain. All lower court decisions, including acquittals, are subject to appeal. The Supreme Court is the court of last resort.

Military courts adjudicate cases concerning military personnel under the military code, which provides military personnel the same basic rights as civilians. Military personnel are immune from prosecution in civilian courts, except in cases of homicide or rape involving a civilian. The NA asserted that military personnel are immune from prosecution in civilian courts for conflict-era violations, an interpretation of law not shared by the human rights community and inconsistent with Supreme Court decisions.

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 could seek remedies for human rights violations in national courts. There is no regional court mechanism for human rights in South Asia. However, individuals can seek justice from international organizations such as the UN Human Rights Council (UNHRC) if all domestic legal options are exhausted. One such example was the case of torture survivor Yubraj Giri of Banke district. With legal assistance from AF, Giri submitted his case to the UNHRC in 2008. In a decision adopted on April 12, the UNHRC held the government responsible for breaching treaty obligations under the International Covenant for Civil and Political Rights. The council requested the government to ensure thorough and diligent investigation into the torture and mistreatment suffered by Giri, punish those responsible, and provide the victim and his family with adequate compensation.

Property Restitution

The Maoists and their affiliate organizations returned some previously seized property as the Comprehensive Peace Agreement requires but kept other illegally seized lands and properties. Organizations closely affiliated with Maoists also seized additional properties.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

The law allows police to conduct searches and seizures without a warrant if there is probable cause that a crime has been committed, in which case a search may be conducted as long as 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 office to conduct a search, and there must be another official present who is at least at the rank of assistant subinspector.

Security personnel frequently conducted vehicle and body searches at roadblocks in many areas.

The law prohibits arbitrary interference with privacy, family, home, and correspondence, and the government generally respected these prohibitions in practice.

There were no reports of the government forcing civilians to resettle. Some persons who had resettled to escape Maoist extortion, recruitment, or retaliation could not return home.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

Status of Freedom of Speech and Press

The law provides for freedom of speech and press, and the government generally respected these rights in practice. However, in some cases the government failed to effectively enforce the law.

Freedom of Speech: Generally citizens felt they could voice their opinions freely. However, the government limited freedom of expression for the Tibetan community. For example, 30 Regional Tibetan Youth Club members gathered at a community hall in the Boudhanath neighborhood of Kathmandu for a 24-hour hunger strike on April 18-19 to protest against the Kirti monastery crackdown in eastern Tibet. Police ordered individuals, including women, wearing "free Tibet" T-shirts to remove them (including taking off one in public) and put on shirts without political slogans, but they were permitted to continue the protest and hunger strike.

Freedom of Press: The independent media were active and expressed a wide variety of views without restriction. However, impunity for past attacks on members of the press may lead to self-censorship, according to the Federation for Nepali Journalists (FNJ), an organization that promotes journalists' rights. Radio remained the primary source of information for 90 percent of the population.

Violence and Harassment: There were several instances of police interfering with the press covering political stories. For example, on June 19, the Home Ministry instructed security personnel to prevent journalists from entering Singha Durbar, the central administrative office of the government in Kathmandu, during a politically sensitive meeting. After intense pressure from the media, journalists were allowed to enter Singha Durbar late the following day.

On June 5, *Nagarik* reporter Khilanath Dhakal was attacked in Biratnagar after writing a story about Youth Action Nepal (YAN), the youth wing of the Communist Party of Nepal–Unified Marxist Leninist political party. YAN leaders allegedly masterminded the attack, which left Dhakal seriously injured. YAN central leader Mahesh Basnet openly challenged the police to arrest YAN regional leader Parshu Ram Basnet, who was widely assumed to have ordered the attack; Mahesh Basnet also threatened to shut down *Nagarik* and throw its editor in chief in jail for writing negative stories about YAN. The incident and Mahesh Basnet's subsequent statements received extensive media coverage. At year's end Parshu Ram Basnet was charged but had not been arrested and remained at large.

Criminal gangs and armed groups affiliated with political parties deliberately targeted journalists throughout the country. According to the FNJ, there were 24 threats and 23 attacks targeting journalists, resulting in one death during the year. Reporters in remote areas outside Kathmandu, in particular, were susceptible to threats and violence in response to stories they wrote. Rarely were the persons accused in these cases brought to trial. According to the FNJ, the government did not take sufficient measures to preserve the safety and independence of the media, and individuals who attacked or killed journalists were rarely prosecuted.

Censorship or Content Restrictions: The interim constitution protects media licenses from revocation based on the content of what is printed or broadcast. Although government-owned stations have legal cover to operate independently from direct government control, indirect political influence sometimes led to self-censorship. In July Nepal TV deleted a question about the Maoists from an interview with a foreign diplomat conducted by an independent production company. According to Nepal TV, an employee felt the question would be insulting to the Maoist leadership. After questions were raised about the incident, the interview was rebroadcast in its entirety.

The Maoists also influenced media outlets through their powerful trade unions. In the Tarai and the eastern hills, armed groups coerced journalists, resulting in self-censorship and fear for personal safety. Armed groups and political parties burned copies of newspapers they found objectionable.

Internet Freedom

There were no reports that the government monitored e-mail or Internet chat rooms, and individuals and groups could engage in the expression of views via the Internet, including by e-mail. In contrast with 2010, there were no reports of government restrictions on access to the Internet. The Home Ministry's efforts in 2010 to block Internet sites considered obscene were met with mixed reactions from the public and raised concerns about freedom of expression among some members of the press and free speech advocates, as some nonobscene content was reportedly blocked as well. However, the government reversed its decision and did not impose similar restrictions on Internet freedom in 2011.

Academic Freedom and Cultural Events

There were some government restrictions on cultural events. The assembly of Tibetans often led to strict restrictions that limited cultural freedoms, including a Himalayan opera show in October.

The media continued to report instances of abduction, extortion, and intimidation of school officials by armed groups, and the government did not take adequate measures to stop this practice.

b. Freedom of Peaceful Assembly and Association

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

Freedom of Assembly

The law provides for freedom of assembly, and it was generally respected for citizens and legal residents of the country, despite some restrictions. The law authorizes CDOs to impose curfews if there is a possibility that demonstrations or riots may disturb the peace.

The government limited freedom of assembly for the Tibetan community. For example, on March 10, police arrested four individuals who were observing Tibetan Uprising Day at Sampeheling Monastery in Boudhanath. Later that day seven Tibetans demonstrating outside the Chinese embassy in Kathmandu were arrested and detained for more than a week. Police beat several of them while in custody, according to the Human Rights Organization of Nepal.

Security personnel attempted to prevent Buddhists, including Tibetans, from attending the Dalai Lama's birthday celebration on July 6. For Tibetan Democracy Day on September 2, authorities denied permission to hold a religious event at a monastery in Boudhanath. However, a religious celebration to observe Nobel Peace Prize day on December 10 took place peacefully in Boudhanath and Jawalakhel settlements, with a minimal presence of Nepali authorities and no arrests.

Freedom of Association

The law provides for freedom of association, and the government generally respected this right in practice.

c. Freedom of Religion

See the Department of State's [2010 International Religious Freedom Report](#).

d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons

The law provides for freedom of movement within the country, foreign travel, emigration, and repatriation, except for most refugees, whose freedom of movement within the country is legally limited. Constraints on refugee movements were enforced unevenly and more often against the Tibetan than the Bhutanese refugee population. The government did not always cooperate with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing protection and assistance to internally displaced persons, refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern. The established procedures for handling newly arrived Tibetans entering the country without documents were generally implemented through coordination between police, immigration officials, the UNHCR, and the Tibetan Reception Center, in a timely, standardized fashion overall. However, concerns regarding the implementation of these procedures arose after a group of 23 new Tibetan arrivals was detained in September following intervention by Chinese authorities, who requested their return. After a delay, the 23 were released to the UNHCR and were in India at year's end.

Numerous political groups restricted freedom of movement, including forcing transportation strikes, known locally as "bandhs," to bring attention to political issues. Ethnic groups in the Tarai region called most bandhs.

Internally Displaced Persons (IDPs)

Although the government and Maoists agreed to support the voluntary return in safety and dignity of IDPs to their homes following the 10-year civil war, in practice the agreement was not implemented. Several UN agencies, including the UNHCR, OHCHR, and UN Development Program, continued working with the government to develop an IDP policy consistent with international principles. Civil society and international organizations estimated that there were as many as 70,000 IDPs. The Ministry of Peace and Reconstruction estimated that 78,689 persons were displaced from 1996 to 2006.

The government allowed several international organizations, such as the Norwegian Refugee Council, ICRC, Caritas, International Relief and Development, and Action Aid Nepal to initiate programs to assist IDPs. Middle- and lower-caste IDPs faced severe problems obtaining adequate shelter and food. According to UN agencies and international NGOs, the main obstacles preventing most IDPs from returning to their homes continued to be fear of Maoist reprisal, local Maoist commanders' noncompliance, and conflict with those occupying the houses and lands of the IDPs. According to the Nepal IDP Working Group, most IDPs were unwilling to return home, not only due to security but also economic concerns, primarily involving property, housing, and employment opportunities.

Children of persons who were killed or displaced during the conflict were often unable to access government benefits because they were not able to register with local authorities due to fear of retribution by Maoists or inability to confirm the death of a family member who disappeared during the conflict. According to Caritas, the government made little effort to aid or monitor the movement of IDPs.

Protection of Refugees

Access to Asylum: The laws do not provide for the granting of asylum or refugee status, and the government has not established a system for providing protection to refugees. While the government has in place ad hoc administrative directives that provide some protection for Bhutanese and Tibetan refugees, implementation of the directives was sometimes unpredictable.

The government officially restricted freedom of movement and work for the approximately 55,000 Bhutanese refugees residing in refugee camps in the eastern part of the country, but those restrictions were largely unenforced for this population. In 2007 the government agreed to permit third-country resettlement for Bhutanese refugees. Since resettlement began, roughly 58,500 Bhutanese refugees have been resettled to third countries, of which 49,100 were resettled in the United States.

Tibetans who arrived in the country after 1989 are not recognized as refugees. Consequently, most Tibetans who arrived since then transited to India, although an estimated 15,000-20,000 Tibetans remained in Nepal. After China heightened security along its border and increased restrictions on internal freedom of movement in 2008, the number of Tibetans who transited the country dropped significantly. UNHCR-facilitated exit permits for recent arrivals from Tibet transiting Nepal to India have become more regularized, with only minor administrative delays.

There continued to be reports of harassment by Chinese officials within Nepal's borders.

There were instances in which local police assisted and protected Tibetans found in the border region.

Refugee Abuse: There were numerous reports that police and other local officials harassed Tibetans engaged in daily activities. Police reportedly conducted random checks of identity documents of Tibetans, including monks. These identity checks sometimes included threats of deportation or detention, followed by requests for bribes.

On June 22, authorities arrested 12 Tibetans taking part in a candlelight vigil in support of a monk who committed suicide to protest Chinese oppression of Tibetans' freedom in China. Security forces detained and questioned leaders of the Tibetan community, forcing other leaders into temporary hiding. In addition, more than 50 Tibetans were detained on November 1 during a three-day event organized by the Regional Tibetan Youth Club to show solidarity with monks who had committed self-immolation in China.

The following day an additional 18 Tibetans were detained following an attempted self-immolation during the protest. All detainees were released later the same day.

Access to Basic Services: Many of the Tibetans who lived in the country did not have legal resident status. Many who arrived after 1990 and their Nepal-born children were without legal status and had no documentation. Even those with acknowledged refugee status had no legal rights beyond the ability to remain in the country, and the Nepal-born children of Tibetans with legal status often lacked documentation. Tibetan refugees had no entitlement to higher education, business ownership or licenses, bank accounts, or to conduct legal transactions, including documentation of births, marriages, and deaths, although bribery often made these possible. While Nepal-based Tibetans with registration cards were eligible to apply for travel documents to leave the country, the legal process was arduous, expensive, opaque, and poorly publicized.

In March police and government officials denied permission for Tibetans in Nepal to participate in the prime ministerial elections of the Central Tibetan Administration. While police halted voting in Kathmandu, settlements in Pokhara recorded approximately 700 votes.

The country hosted approximately 300 refugees from other countries, including Somalia, Burma, and Pakistan. The government continued to deny these groups recognition as refugees and required prohibitive fines (\$5 for each day out of status) for permission to exit the country. However, the government waived fines in a few instances with compelling humanitarian concerns. The government allowed the UNHCR to provide some education, health, and livelihood services to refugees, but they lacked legal access to education and the right to work.

Stateless Persons

In 1995 the government-established Dhanapati Commission estimated that 3.4 million individuals in the country lacked citizenship documentation. Although the government acknowledged that these individuals were Nepalis, they did not hold the citizenship certificate (issued to citizens at the age of 16 if born to a Nepali parent) needed to obtain many rights of citizenship (see section 6, Women and Children). Although the 2006 Citizenship Act allowed more than 2.6 million persons to receive certificates, a UNHCR-led survey in November estimated that approximately three to five million persons still had not received citizenship documentation due to isolation, poverty, and discriminatory practices at the local level.

Citizenship laws that discriminate based on gender contributed to statelessness. Citizenship is transmitted to children if either the mother or father is a citizen. In practice local officials generally refused to issue citizenship documents to children on the basis of their mother's citizenship certificate alone. On February 27, the Supreme Court confirmed that citizenship can be passed by the mother, even if the father is unknown or not available due to separation from the family. After that time, a number of citizenship certificates were issued, but some local officials did not follow the court ruling. The issue of citizenship rights was under review in the Constituent Assembly.

Stateless persons did not experience violence; however, they experienced discrimination in employment, education, housing, health services, marriage, birth registration, access to courts and judicial procedures, and land or property ownership.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

The law provides citizens the right to change their government peacefully, and citizens generally exercised this right in practice.

Elections and Political Participation

Recent Elections: In 2008 citizens elected members to the Constituent Assembly, which was to serve as both a legislature and a constitution-drafting body. Domestic and international observers found the election results credible, although there were reports of political violence, intimidation, and voting irregularities.

Participation of Women and Minorities: There are no specific laws that restrict women, indigenous people, or minorities from voting or participating in government or in political parties, but tradition limited the roles of women and some castes and ethnicities in the political process. Members of certain castes traditionally held more power than others. There were 194 women in the 594-seat Constituent Assembly. In the 44-member cabinet, seven members were from ethnic minority communities, five were women, and four were Dalits. Most of the larger political parties had associated youth wings, trade unions, and social organizations.

Section 4. Official Corruption and Government Transparency

The law provides criminal penalties for official corruption. However, the government did not implement the law effectively, and officials frequently engaged in corrupt practices with impunity. The Commission for the Investigation of the Abuse of Authority (CIAA), mandated to investigate official acts of corruption, claimed an 80 percent success rate concerning corruption cases it filed, but some cases involving politicians were not filed or were defeated in court. Most civil society organizations believed the CIAA was not an effective commission. Public officials are subject to financial disclosure laws. However, according to the National Vigilance Center, 77 Constituent Assembly members and an estimated 35,000 civil servants had not submitted their annual financial statements as required by law. Those who do not may face a fine of up to 5,000 rupees (\$60).

There were numerous reports of corrupt actions by ministers and Constituent Assembly members. On March 16, the Supreme Court convicted former minister and Nepali Congress leader Chiranjibi Wagle of corruption and sentenced him to 18 months' imprisonment and a fine of 20.3 million rupees (\$238,400). The Supreme Court concluded that Wagle amassed property through abuse of power when he was in public office and transferred the properties to the names of family members, including his son Devendra. This was the first time since 1990 that the Supreme Court convicted a senior politician on corruption charges.

On April 25, authorities arrested Constituent Assembly members Gayatri Sah of the Nepali Janata Dal party and B.P. Yadav of the Madhesi Janadhikar Forum over allegations of misuse of diplomatic passports. Crime Investigation Branch investigations revealed that the lawmakers acted with passport racketeers, who obtained diplomatic passports, citizenship certificates, and identity cards to alter and use them to send prospective clients to Australia. On May 18, Sah and Yadav were detained at the central jail. They were each released on bail of 1.5 million rupees (\$17,620), and the case was still pending at year's end. Both were suspended from the Constituent Assembly.

Maoists and Maoist-affiliated organizations continued to commit abuses during the year, but less than in previous years. Maoists regularly extorted money from businesses, workers, private citizens, and NGOs.

On April 10, a Maoist trade union faction led by Salik Ram Jammakattel sent letters to entrepreneurs seeking "physical, moral, and financial" assistance for an International Worker's Day celebration. The union sent letters to more than 3,000 businesses across the nation, demanding 100,000 rupees (\$1,175) from each. The newly-formed Maoist Peoples' Volunteers Bureau also attempted to extort businessmen, government offices, and contractors, which they labeled "political donations."

Corruption and impunity remained problems within the NP. According to international observers, there was a severe shortage of senior-level NP officers. At the district level, this shortage resulted in untrained constables making policies and decisions outside of their authority and without supervision, creating opportunities for bribery, corruption, misinterpretation, and abuse of authority.

On June 7, the CIAA charged 36 incumbent and retired police officials and two suppliers with embezzling 288 million rupees (\$3.4 million) while purchasing armored personnel carriers for the NP peacekeeping mission deployed in Darfur. Ramesh Chand Thakuri, former head of the NP, and 24 other police officials were automatically suspended upon the filing of the case on June 7.

In 2007 the interim parliament passed the Right to Information Law, which mandates that public organizations provide citizens with information as quickly as possible and respond within 15 days. In practice the government generally met this requirement. If authorities deny individuals access to information, officials must provide a valid explanation. The law provides that information may be withheld on five grounds: to facilitate the investigation and filing of criminal charges, to protect the economic and commercial interests of the country, to preserve banking and commercial secrecy, to prevent disruption of communal harmony, or to prevent disruption of personal life or security.

Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were somewhat cooperative and responsive to their views.

Many independent domestic human rights NGOs operated in the country. The government met with and was generally responsive to human rights NGOs, as demonstrated by the government's cooperation with human rights organizations during Nepal's first Universal Periodic Review before the UNHRC. The Nepal Law Society also monitored human rights abuses, and a number of other NGOs focused on specific areas, such as torture, child labor, women's rights, and ethnic minorities.

The Maoist party had publicly castigated some lawyers and human rights defenders for their possible role in the June 2010 denial of a visa for a foreign training program for Agni Sapkota, a Maoist leader alleged to be responsible for human rights abuses during the insurgency. Members of the Maoist party threatened specific human rights activists. On May 7, Sapkota was appointed minister for information and communications, which led human rights defenders and civil society groups to file a public interest case with the Supreme Court demanding his removal because he was under investigation for his conduct during the insurgency. Maoist-affiliated groups accused human rights organizations of a politically motivated attack on Sapkota. While the Supreme Court considered the public interest case, on July 25, the government withdrew the nominations of several Maoist ministers, among them Sapkota's, for unrelated reasons.

UN and Other International Bodies: As set out in the 2006 Comprehensive Peace Agreement, the OHCHR continued its work with the government to formulate and implement policies and programs for the promotion and protection of human rights. The government requested an extension of the OHCHR's mandate through December. The government required the OHCHR to close all its regional offices in 2010, and the regular mandate renewal negotiations made it difficult for the OHCHR to operate. The government did not approve OHCHR's request for a mandate extension, which expired on December 8 and would require OHCHR to close its operations in the country by mid-2012.

Government Human Rights Bodies: The NHRC investigates past and current allegations of abuses. Resource constraints and insufficient manpower restricted the number of investigations. The NHRC stated that the government had helped promote impunity by not fully implementing its recommendations. Of 450 recommendations the NHRC made during the previous 11 years, the government implemented 126 fully and 246 partially, according to NHRC.

Section 6. Discrimination, Societal Abuses, and Trafficking in Persons

The law prohibits discrimination based on race, caste, gender, disability, language, or social status. However, the government did not effectively enforce these prohibitions. The Caste Discrimination and Untouchability Act, passed in May, criminalizes discrimination based on caste. As of year's end, its effectiveness was unclear. A rigid caste system continued to operate throughout the country in many areas of religious, professional, and daily life. Societal discrimination against lower castes, women, and persons with disabilities remained common, especially in rural areas.

Women

Rape and Domestic Violence: Violence against women remained a problem. Under the civil code, sentences for rape vary between five and 12 years, depending on the female victim's age. The law also mandates five years' additional imprisonment in the case of gang rape or rape of pregnant women or women with disabilities. The victim's compensation depends on the degree of mental and physical torture. Under the law the definition of rape includes marital rape, and the husband can be jailed for three to six months. Most incidents of rape went unreported, although in those rape cases that were reported, police and the courts were responsive. During fiscal year 2010-11, 481 cases of rape and 151 cases of attempted rape were filed with police, compared with 376 cases of rape and 101 cases of attempted rape in the previous fiscal year, according to the Women's Police Cell, a special unit of the NP that investigates crimes against women.

Domestic violence against women remained a serious problem. While few cases were reported, there was much anecdotal evidence that physical and verbal abuse was common. Violence against women was one of the major factors responsible for the poor health of women, livelihood insecurity, and inadequate social mobilization. According to Amnesty International, in the first half of the year, more than 300 domestic violence cases were reported to police in the Kathmandu valley alone; many more went unreported. The domestic violence law imposes a fine of 3,000 to 25,000 rupees (\$35 to \$295), six months' imprisonment, or both, on violators. Repeat offenders receive double punishment. Any person holding a position of public responsibility is subject to 10 percent greater punishment than is a person who does not hold such a position. Anyone who does not follow a court order is subject to a fine of 2,000 to 15,000 rupees (\$23 to \$175), four months' imprisonment, or both.

Although the government passed the Domestic Violence (Crime and Punishment) Act in 2009, many security officials and citizens were unaware of the law. The government's effort to establish the needed structures to successfully implement the act were uncoordinated and incomplete. The majority of domestic violence cases were settled through mediation rather than legal prosecution.

Educational programs offered by NGOs for police, politicians, and the general public aimed to promote greater awareness of domestic violence. Police claimed to have women's cells in each of the country's 75 districts, but they had minimal resources and untrained personnel to deal with victims of domestic violence and trafficking. Police directives instruct officers to treat domestic violence as a criminal offense, but the directives were difficult to enforce because of entrenched discriminatory attitudes.

Although the law prohibits polygamy, it persisted. Polygamists are subject to a two-month prison term and a fine, but the second marriage is not invalidated. Violence surrounding polygamy remained a problem.

Harmful Traditional Practices: The dowry tradition was strong in the Tarai districts bordering India, and there were sporadic incidents of bride killing over dowry disputes. More often husbands or in-laws seeking additional dowry physically abused wives or forced women to leave so the men could remarry.

For example, on March 26, Bibha Devi Mandal's husband, mother-in-law, and brothers-in-law, beat her to death for not bringing enough dowry. At year's end police were investigating her death following her parents' complaint.

Traditional beliefs about witchcraft negatively affected elderly rural women and widows with low economic status, especially those who belonged to the lower caste of Dalits. Shamans or other local authority figures publicly beat and otherwise physically abused alleged witches as part of exorcism ceremonies. The media and NGOs reported numerous cases of such violence during the year. There was no government mechanism to prevent such abuses or to provide compensation to those abused, but civil society organizations raised public awareness of the problem. Women accused of witchcraft were severely traumatized and suffered physical and mental abuse, including such acts being fed human excreta, being hit with hot spoons in different parts of the body, being forced to touch red-hot irons or breathe in chili smoke, or being perforated in their private organs.

During the year there were reports of cases of women being beaten after having been accused of witchcraft. For example, 41-year-old Gauri Devi Saha of Bara was severely

beaten and forced to eat human waste by her neighbors, who accused her of having practiced witchcraft on May 5.

On November 23, Samkhu Devi Urawa of Bhokhra-3, Sunsari was attacked by her brother-in-law, Dukhan Lal Urawa, who accused her of witchcraft and being responsible for the death of his mother, Laliya Devi Urawa, and brother Dhurpa Urawa, who died two years earlier. The perpetrator was taken into custody, and a legal case continued at year's end.

Sexual Harassment: The law contains a provision against sexual harassment, with a maximum penalty of a one-year prison sentence and fine of 10,000 rupees (\$117). Government enforcement was weak. Sexual harassment was a problem, but lack of awareness as to what constitutes sexual harassment led victims not to report most incidents.

Sex Tourism: Thousands of women were forced into commercial sexual exploitation in other countries and increasingly within the country, according to organizations that provided services to sex workers and victims of human trafficking. According to the National Human Rights Commission Office of the Special Rapporteur on Trafficking, approximately one-fourth to one-third of all sex entertainment workers were children under the age of 18. The Human Trafficking and Transportation (Control) Act, 2007 and the Domestic Violence (Crime and Punishment) Act 2009 provide for criminal penalties for exploitation, including human trafficking.

Reproductive Rights: Couples and individuals generally may decide freely the number, spacing, and timing of their children and were not subject to discrimination, coercion, or violence regarding these choices. Contraception was available to both men and women. According to the 2011 Nepal Demographic Health Survey, 43.2 percent of married women used a modern contraceptive method while 56.8 percent of married women had an unmet need for family planning. Forty-eight percent of mothers received prenatal care from a doctor, nurse, or midwife. The country made progress in reducing its maternal mortality rate from 850 per 100,000 live births in 1990 to an estimated 229 per 100,000 live births in 2010. Despite these improvements, the rate of deliveries attended by skilled birth attendants was relatively low (36 percent) according to the health survey. According to the survey, women did not have access to life-saving interventions during pregnancy, delivery, and the postnatal period and were dying as a result, especially in remote areas. Men and women generally were diagnosed and treated equally for sexually transmitted infections.

Discrimination: Although the law provides protections for women, including equal pay for equal work, the government did not implement those provisions, including in many state industries.

Women faced systemic discrimination, particularly in rural areas, where religious and cultural traditions, lack of education, and ignorance of the law remained severe impediments to the exercise of basic rights, such as the right to vote or to hold property in one's own name.

Citizenship is automatically conferred through either Nepali parent (see section 6, children). In practice, however, government officials often refused to grant citizenship documents based on the mother's citizenship if a father's identity was unknown or if he was a foreign national.

Despite the 2006 Gender Equality Act, discriminatory provisions remain in the law. According to INSEC, 62 laws have provisions that discriminate against women. For example, the law on property rights favors men in land tenancy and the division of family property. The law encourages bigamy by allowing men to remarry without divorcing if the first wife becomes incapacitated or infertile.

The Foreign Employment Act no longer requires a woman to get permission from the government and her guardian before seeking work through a foreign employment agency.

According to the UN Committee on the Elimination of All Forms of Discrimination against Women, there were limitations to women's access to fixed property and credit.

Children

Birth Registration: According to the 2006 Nepal Citizenship Act, citizenship is derived from one of the parents with Nepali nationality. Despite the Supreme Court's 2009 decision that the right to choose whether to seek citizenship through one's father or mother rests with the applicant, many were denied citizenship due to lack of access to local authorities or lack of awareness of the law by applicants or government officials. This led to problems attaining citizenship and difficulty in school admissions. Children living without parents, such as street children whose parents' whereabouts were not known, faced many hurdles, although children in institutional care can obtain citizenship through the guardianship of their respective institutions. Children found within the borders of the country without parental identity were considered citizens on the basis of lineage until the parents of the child were identified (see section 2.d., Stateless Persons.).

Education: Although the law provides for the welfare and education of children, its implementation was uneven. Education is not compulsory. Government policy provided free primary education for all children between the ages of six and 12, although most students have some costs for examinations and must buy uniforms. The government reported that 91.9 percent of school-age children were attending public schools but that girls were the majority of those deprived of basic education.

Medical Care: The government provided basic health care free to children and adults, although prevalent parental discrimination against girls often resulted in impoverished parents giving priority to their boys when seeking medical services.

Child Abuse: Violence against children was widespread, although rarely prosecuted. The government established some mechanisms to respond to child abuse and violence against children, such as the Central Child Welfare Board, which has chapters in all 75 districts.

The law forbids discrimination based on gender. However, in practice there was considerable discrimination against girls.

Child Marriage: The law prohibits marriage for girls before the age of 18; however, families in many areas sometimes forced their young children to marry. UNICEF reported that 51 percent of Nepalese married as children. The country's 2011 Demographic and Health Survey found that, among Nepalese women age 25 to 49, 55 percent were married by the time they reached 18, and 74 percent were married by age 20. In some areas in the East, many young girls were married off to escape large dowry payments, which increase with the age of the girl. Social, economic, and religious values promoted the practice of child marriages. 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 a fine, with the fees collected in the case of underage marriage to be turned over to the girl involved. According to the civil code, the government must take action whenever a case of child marriage is filed with authorities. There were no government programs to prevent child marriage.

Sexual Exploitation of Children: Commercial sexual exploitation of children remained a serious problem. There were reports of boys and girls living on the streets who survived through prostitution and of underage girls employed in dance bars, massage parlors, and cabin restaurants. The minimum age for consensual sex is 16, and the penalties for rape vary according to age of the victim and the relationship. Conviction for rape can result in six to 10 years' imprisonment if the victim is under 14 years of age, or three to five years' imprisonment if she is 14 or older. Conviction for attempted rape may be punished with half of the penalty provided for rape.

Child pornography is against the law. However, ambiguous interpretation of the law made it difficult to prosecute pornographers. Children's rights advocates considered the penalty for such offenses – a fine of up to 10,000 rupees (\$117), imprisonment for up to one year, or both – inadequate as a deterrent.

Displaced Children: Internal displacement due to the decade-long Maoist conflict continued; estimates of the number displaced ranged widely. As IDPs, children experienced poor social reintegration, inadequate food, shelter, health care, and limited

access to education. Security forces often abused and arrested street children to "clean up" the streets.

International Child Abductions: The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction.

Anti-Semitism

There were no reports of anti-Semitic acts.

Trafficking in Persons

See the Department of State's *2011 Trafficking in Persons Report*.

Persons with Disabilities

The interim constitution does not address the rights of persons with disabilities. Government efforts to enforce laws and regulations to improve rights and benefits for persons with disabilities were not effective. The law mandates access to buildings, transportation, employment, education, and other state services, but these provisions generally were not enforced. The government did not effectively enforce laws regarding persons with disabilities.

According to Handicap International, persons with physical and mental disabilities faced discrimination in employment, education, access to health care, and the provision of other state services. The Ministry of Women, Children, and Social Welfare is responsible for the protection of persons with disabilities, the Ministry of Education provides scholarships for children with disabilities, and the Ministry of Local Development is responsible for allocating 5 percent of the budget of local development agencies for disability programs. Some NGOs working with persons with disabilities received funding from the government. However, most persons with physical or mental disabilities relied almost exclusively on family members for assistance.

National/Racial/Ethnic Minorities

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. In practice the government generally upheld these provisions.

There were more than 75 ethnic groups which spoke 50 different languages. Discrimination against lower castes and some ethnic groups was especially common in the Tarai region and in rural areas in the West, even though the government outlawed the public shunning of Dalits and made an effort to protect the rights of disadvantaged castes. Better education and higher levels of prosperity, especially in the Kathmandu valley, were slowly reducing caste distinctions and increasing opportunities for lower socioeconomic groups. Better educated, urban-oriented castes continued to dominate politics and senior administrative and military positions and control a disproportionate share of natural resources.

Caste-based discrimination is illegal. However, Dalits occasionally were barred from entering temples and sharing water sources. Progress in reducing discrimination was more successful in urban areas.

Resistance to intercaste marriage remained high and in some cases resulted in forced expulsion from the community. While Dalits who participated in wedding activities traditionally reserved for non-Dalits, such as riding a horse, were sometimes assaulted, the courts showed a willingness to prosecute such cases of discrimination.

Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity

The country has no laws that specifically criminalize homosexuality. However, government authorities, especially police, sometimes harassed and abused homosexual persons. According to the Blue Diamond Society, a local NGO, harassment of such persons by both government and citizens was common. NGOs working on lesbian, gay, bisexual,

transgender, and intersex (LGBTI) issues reported that police harassment of sexual minorities occurred in rural areas of the country, especially in the Tarai region.

In 2007 the Supreme Court directed the government to enact laws to protect LGBTI persons' fundamental rights, enable third-gender citizenship, and amend all laws that were sexually discriminatory. Many mainstream political parties included pro-LGBTI legislation in their party manifestos, and LGBTI activists continued to press for protections for sexual minorities in the new constitution.

Other Societal Violence or Discrimination

There was no official discrimination against those who provided HIV prevention services or against high-risk groups likely to spread HIV/AIDS, although there was societal discrimination against these groups. Discrimination against women infected with HIV/AIDS was greater than for men, even though men who traveled to other countries for work were at higher risk of contracting the disease and spreading it to their wives.

Section 7. Worker Rights

a. Freedom of Association and the Right to Collective Bargaining

The law grants Nepali workers the freedom to form and join unions of their choice, except subversive, seditious, or similar organizations, as deemed by the government. Freedom of association extends to workers in both the formal and informal sector but not to foreign nationals. Noncitizens cannot be elected as trade union officials and do not have the right to form unions. Nepali workers have the rights to strike, except for employees in 16 essential services, and bargain collectively. The law also provides for the protection of unions and their officials from lawsuits arising from actions taken in the discharge of union duties, including collective bargaining, and prohibits antiunion discrimination. The law provides for reinstatement of workers fired for union activity.

The law stipulates that unions must represent at least 25 percent of workers to be considered representative. However, the minimum requirement does not prohibit the formation of ersatz union groups, which call strikes and enter into direct negotiation with the government. Workers in the informal sector are also allowed to form unions, but according to the Department of Labor many workers were not aware of these rights.

The law does not allow dismissal or transfer of employees for attempting to form a union. If workers are dismissed for engaging in union activities, they can file a case with the Department of Labor, which has semi-judicial and mediation authority, or the Labor Court to be reinstated. Most cases are settled through mediation. By law employers can fire workers only under limited conditions and only after three counts of misconduct. The law stipulates that participation in a strike that does not meet legal requirements is considered misconduct.

Workers in 16 essential services are prohibited from striking. These sectors include public transportation, banking, security, and health care, among others. The law's definition of essential services does not conform to international standards. Members of the armed forces, police, and government officials at the under secretary level or higher are also prohibited from taking part in union activities. In the private sector, employees in managerial positions are not permitted to join unions. However, the definition of what constitutes a managerial position was vague.

To conduct a legal strike, 51 percent of a union's membership must vote in favor of a strike 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 a 30 days' notice, the strike is considered illegal.

Enforcement of the above laws was uneven in practice. Although the government restricted strikes in essential services, workers in hospitals, hotels, banking, restaurants, and the transportation sector called numerous strikes during the year. Freedom of association and the right to collective bargaining generally were respected in practice. Unions were often linked to political parties and did not operate independently from

them. Although the law has minimum threshold requirements, some unions represent less than the 25 percent of the workforce required to be considered representative.

Labor leaders faced challenges in reaching collective bargaining agreements due to political infighting among trade unions.

During the year the three major unions called a nationwide strike to press for an increase in the minimum wage to 6,100 rupees per month (\$72). After extensive negotiations between the three major unions and two apex business federations, both sides agreed to the wage increases. However, the agreement was later undercut by another small and unregistered union group affiliated with Madhesi (Tarai-based) political parties. After pressure from the business community, the government agreed to enter discussions with the unregistered union group, which successfully pressed for a minimum wage of 6,200 rupees (\$73) per month for its members. Later the government overturned the agreement reached between the three major trade unions and two apex business federations.

Violence in labor disputes usually involved labor unions that threatened government officials, employers, or other union members if they did not agree to the union's demands. Several cases were documented in which members of the Maoist-affiliated All Nepal Trade Union Federation (ANTUF) attacked other unions. ANTUF members also forced companies to dismiss workers who belonged to other unions or forced workers to join its union or risk losing their jobs. In the Surya Nepal Garment factory, union members affiliated with the Maoist party forcibly locked management staff, including one pregnant staff member, in the factory for 36 hours without food and water to demand payment during a strike. The management staff members were later released after intervention by the CDO. Cases of violence against union members also were reported, although they were rarer.

b. Prohibition of Forced or Compulsory Labor

The law prohibits all forms of forced or compulsory labor. However, there continued to be reports of debt bondage.

In 2002 the government formally outlawed the Kamaiya system, a form of bonded labor. Government enforcement of the law was uneven, and social reintegration remained difficult. In 2010 the government rehabilitated an additional 6,870 Kamaiyas, bringing the total number of rehabilitated persons to 22,402 in a total Kamaiya population of 27,570. The Haliya system, another form of bonded labor primarily for individuals engaged to cultivate farmland, was outlawed in 2008, but OHCHR-Nepal reported that some freed Haliyas had not been issued identity cards, making it difficult for them to access public services.

There were reports that forced labor and bonded labor persisted, especially in agriculture, domestic services, factories, food services, textile embroidery, production of pornography, begging, circus entertainment, and brick kiln work. Victims of bonded and forced labor were generally women and children.

Also see the Department of State's [2011 Trafficking in Persons Report](#).

c. Prohibition of Child Labor and Minimum Age for Employment

The law establishes a minimum age of 16 for employment in industry and 14 for employment in agriculture and mandates acceptable working conditions for children. Employers must maintain records of all laborers between the ages of 14 and 16. The law prohibits employment of children in factories, mines, or 60 other categories of hazardous work and limits children between the ages of 16 and 18 to a 36-hour workweek (six hours a day between 6 a.m. and 6 p.m., and six days a week). The law also establishes specific penalties for those who unlawfully employ children, but regulations to enforce the law had not been fully implemented. For example, children could be found working in construction sites in the capital, often without any protective gear.

The Ministry of Labor, which is responsible for enforcing child labor laws and practices, had a poor enforcement record, and a significant amount of child labor occurred in the

formal and informal sectors. Resources devoted to enforcement were limited. According to the Ministry of Labor, recent inspections did not find children working. However, child labor in the informal sector occurred in agriculture, domestic service, portering, recycling, transportation, and rock breaking. In the informal sector children worked long hours, carried heavy loads, were at risk of sexual exploitation, and at times suffered from ear, eye, or skin disorders or musculoskeletal problems. Forced child labor was reported in the brick, carpet, embroidered textile, and stone industries. Children working in textiles and embroidery faced hazards, as they were confined to small, poorly ventilated rooms where they worked with sharp needles.

According to the Nepal Labor Force Survey 2008, the most recent survey available, the labor force participation rate was 13.4 percent for children ages five to nine and 52.7 percent for children ages 10 to 14. Of those, 1.6 million children worked full time.

Also see the Department of Labor's *2010 Findings on the Worst Forms of Child Labor*.

d. Acceptable Conditions of Work

The minimum wage for unskilled laborers was 6,200 rupees per month (approximately \$73). The minimum wage exceeded the poverty line of \$1.25 per day but was barely sufficient to meet subsistence needs. Minimum wage laws apply to both the formal (which accounts for about 10 percent of the total workforce) and informal sector, but implementation was stronger in the formal sector.

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 in 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 government sets occupational health and safety standards and establishes other benefits, such as a provident fund, housing facilities, day-care arrangements for establishments with more than 50 women workers, and maternity benefits.

In practice the Ministry of Labor reported that most factories in the formal sector were in compliance with laws on minimum wage and hours of work, but implementation varied in the informal sector, including in agriculture and domestic servitude. The ministry had 12 factory inspectors for the entire country, who also acted as labor and occupational health and safety inspectors. Reportedly there were vacant inspector positions at the ministry.

Implementation of occupational health and safety standards was minimal, and the Ministry of Labor considered it the most neglected area of labor law enforcement. For example, the law requires establishments to provide protective eye equipment where cement, iron, and glass are used, but workers at many construction sites operated without equipment such as head gear or shoes. Such violations were found across sectors, including in construction, mining, transportation, agriculture, and factory work.

The government had not created the necessary regulatory or administrative structures to enforce occupational safety and health provisions. The Ministry of Labor did not have a specific office dedicated to occupational safety and health, nor did it have inspectors specifically trained in this area. Penalties were insufficient to deter violations. Workers often felt they could not remove themselves from dangerous work situations without fear of losing their jobs. 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 were not collected on a regular basis.

The government regulated labor contracting, or "manpower," agencies that recruited workers for overseas jobs and penalized fraudulent recruitment practices. However, according to several NGOs, government officials were often complicit in falsifying travel documents and overlooking recruiting violations by labor contractors. The myriad of unregistered labor "brokers" and middlemen – who were often trusted members of the community – complicated effective monitoring of recruitment practices. The government began a number of initiatives to raise awareness and make the recruitment process more

transparent. Workers were also encouraged to register and pay a fee to the Foreign Employment Promotion Board, which tracked migrant workers and provided some compensation if workers' rights were violated. The government required all contracts to be translated into Nepali and instituted provisions whereby all workers have to attend a predeparture orientation program. During the orientation workers are made aware of their rights and legal recourse should their rights be violated. However, the effectiveness of such initiatives remained questionable as workers who went overseas often skipped the mandatory training, and many companies were found to issue predeparture orientation certificates for a small fee rather than deliver the training.
