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Nepal

Country:

Nepal

Year:

2015

FIW Status:

PF

PR Rating:

3

CL Rating:

4

Aggregate Score:

51

Combined Freedom Score:

3.5

Overview:

The second Nepalese Constituent Assembly (CA), whose members were elected at the end of 2013, assumed power in 2014, becoming the country's first elected government since the failure and dissolution of the first CA in 2012. Operating as Nepal's interim parliament and charged with forming the country's new constitution, the CA moved forward in 2014 with noteworthy support from the Unified Communist Party of Nepal (the Maoists), which after losing heavily in the elections had initially threatened not to participate. Even so, progress toward crafting a new constitution remained unfinished at year's end, and the CA appeared on track to miss its January 2015 deadline, leaving Nepal with an interim constitution. Supporters of various political parties continued to engage in violence at times.

In international relations, Prime Minister Narendra Modi became the first Indian head of government to visit Nepal in 17 years in an effort to strengthen bilateral ties and compete for influence with China, which has become increasingly important in Nepal in recent years. India offered \$1 billion in conditional assistance to Nepal.

Nepal passed a controversial law on transitional justice for combatants and victims of its civil war, despite heavy criticism by human rights groups and initial rejection by the Supreme Court. After the law was passed, the Supreme Court heard a new petition against it.

Ratings Change:

Nepal's political rights rating improved from 4 to 3 due to the functioning of a stable government following 2013 elections, and significant progress by the main political parties toward the completion of a draft constitution.

Political Rights and Civil Liberties:

Political Rights: 23 / 40 (+1) [Key]

A. Electoral Process: 8 / 12

Nepal is operating under a 2007 interim constitution created to transition the country from a constitutional monarchy to a republic following the end of a decade-long civil war between the government and Maoist rebels. The interim constitution calls for a 601-seat Constituent Assembly, tasked with drafting a new constitution and governing the country as an interim legislature. Members are elected through a mixed system of direct vote (240 seats), proportional representation (335 seats), and appointments by the cabinet (26 seats). Both the president and the prime minister are elected by a majority of the CA.

The first CA, elected in 2008, repeatedly extended its initial two-year mandate. In 2012, when it had still not passed a permanent constitution, it was forced to dissolve, leaving government in the hands of a caretaker administration until elections for the second CA in 2013.

International monitors found the November 2013 CA elections to be generally free and fair, despite violent incidents and bomb attacks in the preelection period. Turnout reached a record 78 percent. Some Maoist leaders alleged that fraud had been committed during the election, a contention disputed by all international monitors. The coalition of the Nepali Congress (NC) and the Communist Party of Nepal–Unified Marxist-Leninist (UML) dominated the results, with 196 and 175 seats, respectively. The Maoists placed third with 80 seats, followed by more than two dozen smaller parties.

The Maoist opposition initially refused to take part in the newly elected CA, threatening a return to violence. In response to public and international pressure, however, the party agreed to join in late 2013 and to participate in promulgating the constitution.

The 2014 constitution drafting process made more headway than in the previous two years, but drafters continue to grapple to design a federalist structure representative of the 125 ethnic groups in Nepal. The CA remains challenged by a lack of statesmanship on the part of Nepali leaders, but the fact that former rivals have not returned to arms is also notable. The Maoists' allies continue to target supporters of other political parties with violent attacks, strikes, and boycotts, but there were fewer incidents in 2014 than in previous years.

In August, the Maoists and their allies tried to prevent several sessions of the legislature from functioning, in protest of what they claimed were attempts to trample minority rights in drafting of the permanent constitution. The legislature was unable to operate on several days that month, but it functioned relatively normally during the remainder of the year.

B. Political Pluralism and Participation: 11 / 16

A diverse and competitive array of political parties operates in Nepal, though the political system suffers from considerable instability. Prior to the 2013 elections, Nepal experienced growing extremism, including attacks by armed gangs linked to the Maoist party on members of other parties and on people who allegedly informed on the Maoists during the civil war. The 2013 election, which resulted in two parties dominating the CA, reduced instability. The Maoists' decision to join the constitution drafting process resulted in fewer attacks on members of other parties in 2014.

Roughly a third of the seats in the CA are reserved for women through quotas in the party-list voting, and substantial allocations are also made for Madhesi, Dalits, and other minority groups. One of the biggest challenges to drafting the new constitution is agreeing to what extent subnational units (provinces) should be based on ethnic identity versus geographic regions.

C. Functioning of Government: 5 / 12 (+1)

The second CA, elected at the end of 2013, assumed power in 2014, becoming the country's first functioning elected government since a series of unstable, short-lived, or caretaker governments following the 2008 elections. A cabinet was formed in early 2014, allowing Nepal to achieve greater stability in economic affairs, foreign policy, and other areas. Despite promises to complete a new constitution by year's end, however, the goal seemed far off. The NC also faced public criticism for being slow to nominate officials for lower government service posts.

Corruption is endemic in Nepali politics and government. Nepal's Commission for the Investigation of Abuse of Authority (CIAA), which combats graft, is active, but high-level officials are rarely prosecuted. Many lawmakers have been accused or convicted of corruption in the past. Graft is particularly prevalent in the judiciary, with frequent payoffs to judges for favorable rulings, and in the police force, which has been accused of extensive involvement in organized crime. In August 2014, the CIAA raided the offices of the Kathmandu Metropolitan Municipality Office, one of the first instances of taking on officials in the capital. In Transparency International's 2014 Corruption Perceptions Index, Nepal ranked 126 of 175 countries and territories.

Civil Liberties: 27 / 60

D. Freedom of Expression and Belief: 9 / 16

The interim constitution provides for press freedom and specifically prohibits censorship, though these rules can be suspended in cases of national emergency. In practice, media workers frequently face physical attacks, death threats, and harassment by armed groups, security personnel, and political cadres, and the perpetrators typically go unpunished. There are a variety of independent radio and print outlets, and internet usage and internet media have grown, providing unprecedented access to information and public space for debate. The Maoist party's loss in the 2013 elections reduced its sway over radio and print media in 2014. Still, in 2014 Maoist groups repeatedly tried to block the publication of several leading

newspapers that they viewed as unflattering in their coverage of their party. In December, the five Maoist insurgents arrested for the high-profile and brutal 2004 killing of Radio Nepal journalist Dekendra Thapa were convicted, though each were sentenced to two years or less in prison.

The interim constitution identifies Nepal as a secular state, signaling a break with the Hindu monarchy that was toppled as part of the resolution of the civil war in 2006 (it was formally abolished in 2008). Religious tolerance is broadly practiced, but proselytizing is prohibited, and members of some religious minorities occasionally report official harassment. Christian groups face considerable difficulty registering as religious organizations, leaving them unable to own land.

The government does not restrict academic freedom, and much scholarly activity takes place freely, including on political topics. However, Maoist strikes have repeatedly threatened the school system. Minorities, including Hindi- and Urdu-speaking Madhesi groups, have complained that Nepali is enforced as the language of education in government schools.

Nepali security forces reportedly have spied on Tibetans inside Nepal and passed information back to Chinese intelligence.

E. Associational and Organizational Rights: 6 / 12

Freedom of assembly is guaranteed under the interim constitution. While security forces have allowed large protests by Maoists and other political parties, Tibetan protests have been violently suppressed in recent years. In certain cases, authorities have detained Tibetan and Nepali monks and pressured them to sign pledges not to participate in future demonstrations.

Nongovernmental organizations (NGOs) played an active role in the movement to restore democracy in the mid-2000s, and restrictions on NGO activity imposed by the king toward the end of his rule have been lifted. However, groups working on Tibetan issues report increasing intimidation by security forces and pressure to leave the country.

Labor laws provide for the freedom to bargain collectively, and unions generally operate without state interference. Workers in a broad range of “essential” industries cannot stage strikes, and 60 percent of a union’s membership must vote in favor of a strike for it to be legal. Several unions linked to the Maoists have been accused of using violence to threaten employers and government officials to comply with union demands during bargaining processes. In April 2014, a high-profile work stoppage by the Sherpas who assist expeditions on Mount Everest highlighted the poor labor conditions amid Nepal’s multimillion-dollar trekking industry. The work stoppage came after an avalanche on Mount Everest killed 13 Sherpas.

F. Rule of Law: 5 / 16

The constitution provides for an independent judiciary, but most courts suffer from endemic corruption, and many Nepalese have only limited access to justice. Because of heavy case backlogs and a slow appeals process, suspects are frequently kept in

pretrial detention for periods longer than any sentences they would face if tried and convicted.

Prison conditions are poor, with overcrowding and inadequate sanitation and medical care. The government has generally refused to conduct thorough investigations or take serious disciplinary measures against police officers accused of brutality or torture. The UN Committee Against Torture has found that torture is widespread for suspects in police custody. Amnesty International has reported that torture extends to women and children.

Human rights advocates have criticized Nepal for failing to punish human rights abuses and war crimes committed during the decade-long civil war, a shortcoming due in part to a weak judiciary and a prevailing climate of impunity. In January 2014, the Nepali Supreme Court ruled the Ordinance on Truth, Reconciliation and Disappearances bill, Nepal's legislation for enacting transitional justice, as unconstitutional and in violation of international human rights law. Nevertheless, the legislature passed the law without significant changes. The law grants the Commission of Inquiry on Enforced Disappearances power to recommend amnesty for all alleged perpetrators of disappearances committed during the civil war. The truth and reconciliation commission set out by the law remained unformed at the end of the year, a failure that human rights and judicial watchdogs widely condemned. Nepal's National Human Rights Commission (a largely toothless organization) issued a report in August urging the government to take stronger action against people involved in killings and disappearances during the civil war period.

The South Asia Terrorism Portal reported no fatalities due to Maoist activity in 2013 and 2014.

A 2007 civil service law reserves 45 percent of posts for women, minorities, and Dalits, but their representation in state institutions remains inadequate, particularly at the highest levels of government. Members of the Hindu upper castes continue to dominate government and business, and low-caste Hindus, ethnic minorities, and Christians face discrimination in the civil service and courts. Despite constitutional protections and the 2012 Caste-Based Discrimination and Untouchability (Offense and Punishment) Act—which prohibits discrimination against Dalits and increases punishments for public officials found responsible for discrimination—Dalits continue to be subjected to exploitation, violence, and social exclusion.

Madhesis—plains-dwelling people with close connections to groups across the border in India—comprise 35 to 50 percent of Nepal's population. They are underrepresented in politics, receive comparatively little economic support from the government, and are often discriminated against socially and in the labor market.

In 2007, the Supreme Court ordered the government to abolish all laws that discriminate against LGBT (lesbian, gay, bisexual, and transgender) people, and in 2008 it gave its consent to same-sex marriage. The government has yet to implement these rulings, though citizens can now obtain third-gender identity documents. LGBT people reportedly face harassment by the authorities and other citizens, particularly in rural areas.

According to a March 2014 Human Rights Watch report, Tibetans in Nepal face difficulty achieving formal refugee status due to Chinese pressure on the Nepalese government. The report found that NGOs working on Tibetan issues are under mounting pressure from the Nepali government, on behalf of Beijing, to repatriate

Tibetan refugees to China before they can register with UN officials in Kathmandu or transit to India. Nepali forces have also increasingly monitored the northern border, stopped Tibetan refugees, and sent them immediately back to China.

G. Personal Autonomy and Individual Rights: 7 / 16

Citizens generally enjoy freedom to travel throughout Nepal, though Tibetan migrants are frequently harassed by police and prevented from moving around the country. Citizens also generally enjoy choice of residence, though bribery is common in the housing market, as well as in obtaining places in universities.

Although citizens have the right to own private businesses, starting a business in Nepal often involves paying off a wide range of local and national-level officials. Licensing and other red tape can be extremely onerous, and the World Bank ranks Nepal 108 out of 189 economies in its *Doing Business 2015* report. Women face widespread discrimination to start businesses in Nepal, and customs and border police are notoriously corrupt in dealing with cross-border trade.

Women rarely receive the same educational and employment opportunities as men, and gender-based violence against women such as domestic violence, rape, and dowry violence continue to be major problems. The 2009 Domestic Violence Act provides for monetary compensation and psychological treatment for victims, but authorities generally do not prosecute domestic violence cases. The National Women's Commission charged with providing reparations to women subjected to gender-based violence has also been severely criticized for failure to implement its mandate and for politicized distribution of resources. Trafficking of young women from Nepal for prostitution in India is common. According to some estimates, between 12,000 to 15,000 girls are trafficked across the India-Nepal border each year. Police rarely intervene in the kidnappings. Underage marriage of girls is widespread, particularly among lower-status groups. Human Rights Watch has reported that kidnapping gangs have become rampant in recent years, abducting children to obtain small ransoms.

Bonded labor is illegal but remains a serious problem throughout Nepal. The legal minimum age for employment is 14 years, but 1.6 million underage children, more girls than boys, are believed to be engaged in various forms of labor, often under hazardous conditions.

Scoring Key: X / Y (Z)

X = Score Received

Y = Best Possible Score

Z = Change from Previous Year

Full Methodology

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