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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 Constituent Assembly (CA), which is responsible for drafting a new constitution. The CA extended the deadline for the completion of a new constitution several times without agreeing on a final text. On May 24, the Supreme Court ruled that a further extension was unconstitutional, and three days later, Prime Minister Baburam Bhattarai, of the Unified Communist Party of Nepal (Maoist) (UCPN(M)), dissolved the CA. For the remainder of the year, there was no legal parliamentary or constituent assembly body, and no constitution. Domestic and international observers generally characterized the 2008 CA election results as credible, although there were reports of political violence, intimidation, and voting irregularities. Security forces reported to civilian authorities.

The most significant human rights problems were the country's inability to promulgate a permanent constitution that would enable a more stable political structure for the national government, the failure to hold elections to replace the dissolved CA, the continued absence of transitional justice mechanisms such as a truth and reconciliation commission to account for past human rights abuses, and the related failure to implement court-ordered arrests of military personnel, Maoists, and other individuals accused or convicted of human rights violations stemming from the country's 10-year insurgency.

Other human rights problems included extremely poor prison and detention center conditions. Corruption existed at all levels of government and police, and the courts remained vulnerable to political pressure, bribery, and intimidation. There were problems with self-censorship by members of the press. 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 by 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 sex trafficking of adults and minors 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, bonded, and child labor remained significant problems.

A decreasing number of armed groups, largely in the Tarai region, attacked civilians, government officials, members of particular ethnic groups, and each other. Members of the Maoist-affiliated All Nepal National Independent Students Union-Revolutionary (ANNISU-R) were responsible for extortion, intimidation, and school bus burnings. Armed groups were responsible for numerous disappearances, mainly in the Tarai region.

Impunity for conflict-era human rights violations continued to be a serious problem in the absence of a truth and reconciliation commission and disappearances commission.

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

a. Arbitrary or Unlawful Deprivation of Life

There were several reports that the government or its agents committed arbitrary or unlawful killings. The Tarai Human Rights Defenders Alliance (THRDA), a local human rights organization, reported that at least 16 individuals died at the hands of the Nepal Police (NP), and the Armed Police Force (APF) killed another two. NP and APF officials denied responsibility. The Nepal Army (NA) Human Rights Cell (HRC) reported that it did not receive complaints of arbitrary or unlawful deprivation of life.

There were conflicting accounts of the death of Ijahar Pamariya on September 8 in Sarlahi District. According to the THRDA, APF personnel beat Pamariya to death while attempting to clear the road of villagers obstructing traffic due to a dysfunctional electrical transformer. According to the NP HRC's report, however, Pamariya's postmortem indicated he died of a heart attack, showed no signs of a beating, and that his death occurred prior to the APF's arrival. Nevertheless, the APF HRC stated that the APF initiated a formal, high-level investigation, which continued at year's end, and, after its own internal preliminary review, reprimanded the unit commander for not following standard operating procedures.

On July 26, the attorney general delayed a Supreme Court hearing on the 1998 killing of Ujjan Kumar Shrestha. The Okhaldhunga District Court convicted Maoist cadre Balkrishna Dhungel for Shrestha's killing in 2004, and in 2010 the Supreme Court upheld the district court's decision. The UCPN(M)-led government attempted to pardon Dhungel, and in 2011 the Supreme Court issued an interim writ removing any obstacle to his arrest and incarceration. However, later that year the government claimed the killing was politically motivated and related to the conflict, thereby attempting to defer the case until the establishment of a truth and reconciliation commission. The police investigation and the district court decision established that Dhungel and his associates killed Shrestha due to a family dispute related to an intercaste marriage, rather than for political reasons.

As in past years there was violence in the Tarai region, although the number and severity of incidents decreased markedly following the end of the Maoist insurgency in 2006. Armed criminal gangs and groups associated with the governing UCPN(M) and a breakaway Maoist party, the Communist Party of Nepal-Maoist (CPN-M), reportedly committed acts of violence, extortion, and intimidation throughout the year.

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. According to the National Human Rights Commission (NHRC), there were approximately 1,200 unresolved cases of disappearances, 808 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 on the whereabouts of the 808 persons the NHRC identified as having disappeared with state involvement. The August NHRC

report stated that Maoists were believed to be involved in 227 unresolved disappearances during the conflict. As of year's end, the government had not prosecuted any Maoists for involvement in disappearances.

In August the International Committee of the Red Cross (ICRC) published on its Web site a list of 1,401 names of missing persons. In 2010 the ICRC and the Nepal Red Cross Society listed 1,369 missing persons; in 2009, 1,348; in 2008, 1,227; and in 2007, 812. The numbers of conflict-era missing persons continue to rise as more families come forward.

No one was held responsible for the disappearance of 49 suspected Maoists from the Maharajgunj Army barracks in Kathmandu in 2003. The NA HRC stated that the NA had established three separate investigative committees but was unable to determine the facts conclusively. The final committee, according to the HRC, submitted its findings to the Ministry of Defense, with a recommendation that the matter be revisited when the government forms a truth and reconciliation commission. In July the NA attempted to promote to brigadier general one of the officers implicated in the disappearances, Raju Basnet, but the prime minister denied the promotion. The NA resubmitted Basnet's name for promotion in September, and the prime minister approved it on October 4, although the Supreme Court stayed the decision pending further judicial review.

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. The Torture Compensation Act provides for compensation for victims of torture; the victim must file a complaint and pursue the case through the courts.

According to Advocacy Forum (AF), a local human rights nongovernmental organization (NGO), at least 12 abuse cases were filed during the year in addition to 118 cases filed since 2007. Of these, during the year the court awarded compensation in four cases and left pending the remaining cases. During the year the NP HRC reported receiving two torture complaints; after investigation, the NP suspended one police officer and issued a letter of reprimand to another.

During the year a prison and detention center monitoring report by the Office of the Attorney General (OAG) indicated that nearly 15 percent of detention center detainees reported receiving treatment that amounted to torture, which was generally described as beating a detainee's soles with the guard's hands, fists, or a bamboo stick, or being kicked with police boots. The report added that 25 percent of prisoners reported verbal abuse and 10 percent reported physical abuse. According to the report, many detainees said they deserved abuse for not following orders.

An AF report stated that, of 4,187 detainees interviewed in June, 689 reported some form of physical abuse. According to the NP HRC, the vast majority of these alleged incidents were not reported, making them impossible to investigate.

Child Workers in Nepal (CWIN), a leading local child rights NGO, recorded 112 cases of children under the age of 18, 107 boys and five girls, who were detained and generally reported receiving poor treatment. In January, according to AF, the NP arrested a 15-year-old minor from Syangja district for allegedly stealing a bicycle. The boy reported that police beat him with a one-inch thick plastic pipe on the soles of both his feet and twice kicked him on the left thigh. While he was held in detention with adult detainees, the NP reportedly forced him to clean the police station and carry water. The NP HRC stated that it had not been previously informed of this case and promised to investigate.

Prison and Detention Center Conditions

Prison and detention center conditions were extremely poor and did not meet international standards, according to a prison and detention center monitoring report issued during the year by the OAG. The government generally allowed visits by independent human rights observers.

Physical Conditions: According to the Department of Prison Management, as of August, 15,009 prisoners – 13,003 men, 1,020 women, 73 dependent children of imprisoned parents, and 913 foreign nationals – were in custody. The OAG report indicated that prison authorities did not separate serious offenders from moderate offenders in accordance with the law. Overcrowding was a serious problem in prisons, the report continued, with the 200-prisoner capacity Dillibazar Jail in Kathmandu holding 636 prisoners and the 700-prisoner capacity Parsa District Jail holding 1,201. According to the report, sanitation provisions in prisons and detention centers were extremely poor, although prisoners usually drank the same water as their guards and the local population. It added that 90 percent of detention center inmates received a medical examination after arrest as the law required and that prisoners had access to local hospitals at any time of need, but doctors did not conduct routine checkups for healthy prisoners as the law requires. According to AF, medical care was poor for prisoners with serious conditions, and some prisoners 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.

The OAG report stated that all detention centers and prisons had separate facilities for men and women. There are two government-run juvenile reform homes, one in Bhaktapur and the other in Pokhara. According to AF, pretrial juvenile detainees were sent there and were not kept with convicted prisoners.

Administration: There were no alternatives to sentencing for nonviolent offenders. Prisoners and detainees had reasonable access to visitors and were permitted religious observance. There were 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.

Monitoring: The government generally permitted the attorney general, NHRC, and ICRC to make unannounced visits to prisons and detainees in army and police custody, but it was difficult for international observers to obtain permission to visit prisons. The NHRC is authorized to request government action, but the government often denied NHRC requests.

d. Arbitrary Arrest or Detention

The law prohibits arbitrary arrest and detention, but there were reports that security forces arbitrarily arrested persons during the year. The law gives chief district officers (CDOs) wide latitude to make arrests, and human rights groups contended that police abused their 24-hour detention authority by holding persons unlawfully, i.e., without proper access to counsel, food, and medicine, or in inadequate facilities.

On October 5, police in Rupandehi District arrested two individuals on allegations of fraud and held them for four days without the opportunity to speak to an attorney or their families, according to human rights activists involved in the case. Police did not inform the families of the arrest or provide an arrest warrant. The arresting officer denied this assertion, and the district chief of police claimed the police followed all due process. After human rights defenders submitted the cases to the NP HRC, police released the individuals without charge.

Role of the Police and Security Apparatus

The NP is responsible for enforcing law and order across the country, while the APF is responsible for combating terrorism, providing security during riots and public disturbances,

assisting in natural disasters, and protecting vital infrastructure, public officials, and the borders. Police did not respond to some incidents of violence, particularly events involving Maoists or certain groups in the Tarai due to fear of violent or political retribution. There were multiple incidents in which police detained persons for illegal acts, but political leaders pressured the NP to release them.

The NP, APF, and NA have human rights cells. The NA and NP HRCs have independent investigative powers, but their investigations were not fully transparent. Since its inception, the NP HRC stated it had taken action against 586 personnel for human rights violations, but this could not be independently verified. The NA HRC maintained that it had investigated 70 percent of all human rights allegations against the NA and had punished 177 personnel. The NP, APF, and NA HRCs provide training to every individual in their organization. The APF and NP HRCs issued booklets outlining human rights best practices to nearly every police officer. In September the National Human Rights Council praised the NP for its efforts in protecting human rights, but corruption and impunity remained serious problems.

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 arraignment, or release a suspect within 24 hours of arrest.

If the court upholds a detention, the law generally authorizes police to hold the suspect for up to 25 days to complete an investigation, but with the ability to hold some persons for up to six months in special cases, such as suspected acts of terrorism. 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 in 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 occasionally 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 religious groups. 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 with extensions. 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.

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's 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 CA or government more broadly. Appellate and district courts showed independence and impartiality in many cases, although they remained susceptible to political pressure.

Trial Procedures

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, but these rights were not always applied. 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 access to government-held evidence, but access 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 Dev Bahadur Maharjan of Kathmandu. With legal assistance from AF, Maharjan submitted his case to the UNHRC in 2008. In a decision adopted on July 19, 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 Maharjan, 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. According to a published report by the Carter Center, by February only seven of 32 districts surveyed reported significant numbers of outstanding conflict-era land disputes. The largest number of unresolved cases was in the southwestern districts of Bardiya, Dang, Kailali, and Kanchanpur. The Carter Center also stated that in some cases, Maoists resolved land disputes by coercing the owner to sell at below-market rates.

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.

The law prohibits arbitrary interference with privacy, family, home, and correspondence. While the government generally respected these prohibitions in practice, there was one widely publicized exception. On May 8, the Kathmandu Town Development Authority and the Committee for Integrated Development of Bagmati Civilization destroyed approximately 250 homes and a primary school, leaving more than 800 individuals homeless. While the government claimed residents were squatting on public land, Human Rights Watch reported that the government did not respect due procedure, give adequate warning, or provide suitable alternative housing. Most of the displaced remained without proper housing and facilities. There were also complaints about a lack of due process in the demolition of property associated with the government's road expansion project in Kathmandu.

There were several reports of nongovernmental actors forcibly evicting residents. In May, Jasi Rokaya and Narajung Shahi, political activists associated with the CPN-M, which separated from the governing UCPN(M) party in June, used death threats to force 15 individuals to leave their village in Kalikot because they refused to withdraw an attempted murder case against members of the Youth Communist League.

Section 2. Respect for Civil Liberties, Including:

a. 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 enforce the law effectively.

Freedom of Speech: Generally citizens felt they could voice their opinions freely. Citizens often voiced critical opinions in print and electronic media without any restrictions. However, the government limited freedom of expression for the Tibetan community. On International Human Rights Day, which coincides with the Dalai Lama's 1989 Nobel Peace Prize award, eight Tibetans and 25 Nepalis of Himalayan origin were detained while peacefully marching in a human rights rally, carrying signs advocating for refugee rights in Nepal and wearing traditional Tibetan dress.

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 might lead to self-censorship, according to the Federation for Nepali Journalists (FNJ), an organization that promotes journalists' rights. The FNJ reported that a "psychological threat" against journalists existed, and the government had not been able to curb the attacks on press by both state and nonstate actors. Radio remained the primary source of information for 90 percent of the population.

Violence and Harassment: There were several instances of violence and harassment against journalists. On April 3, Yadav Poudel, a reporter for the Kathmandu-based Avenues TV, was found dead in Jhapa district. The media believed that Poudel's death was related to his reporting on a local prostitution racket. Three individuals were in police custody.

Criminal gangs and armed groups affiliated with political parties or, in one case, with a nongovernmental federation of ethnic-based organizations, deliberately targeted journalists throughout the country. According to the FNJ, the government did not take sufficient measures to preserve the safety and independence of the media, and the government rarely prosecuted individuals who attacked or killed journalists.

On May 20, Ang Kaji Sherpa, general secretary of the Nepal Federation of Indigenous Nationalities (NEFIN), an umbrella group for organizations representing the political aspirations of ethnic minorities, threatened journalists because of NEFIN's perception that journalists were not adequately or fairly reporting ethnic problems. On May 20-22, during a national NEFIN general strike, NEFIN supporters attacked several journalists and vandalized journalists' property. NEFIN officials stated they did not order the attacks but also did not retract Sherpa's threatening comments.

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 legally operate independently from direct government control, indirect political influence sometimes led to self-censorship. In June the government demoted the acting general manager of Nepal Television, Deepak Mani Dhital, because of the live broadcast of a mass meeting of 27 opposition parties in Kathmandu.

Nongovernmental Impact: 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. Ethnic 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 without appropriate legal authority. There were no reports of government restrictions on access to the Internet. According to the Nepal Telecommunications Authority, Internet penetration was nearly 20 percent as of October.

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 Tibetan opera show at the Sherpa monastery in Kathmandu in August.

On September 11, Hindu fundamentalists from the World Hindu Federation (WHF) disrupted an exhibition at Kathmandu's Siddhartha Art Gallery and reportedly threatened to kill the artist. WHF members later filed a formal complaint with Kathmandu's District Administration Office, saying the art works exhibited were an "abuse of freedom of expression" and anti-Hindu. They also asserted that the WHF did not threaten anyone. Police made no arrests and responded by padlocking the gallery for the investigation. The gallery reopened after the exhibition was removed. The NP HRC stated no complaint was made to its offices.

The media continued to report instances of abduction, extortion, and intimidation of school officials by politically affiliated student groups, and the government did not take adequate measures to stop this practice. In June students of the Sarwodaya Higher Secondary School in Saptari District closed their school and smeared black paint on the principal's face, claiming he was responsible for financial irregularities and a textbook shortage in several other districts. In July members of the CPN-M-affiliated ANNISU-R vandalized four schools and burned two school buses in an extortion effort. On September 18, schools in Kanchanpur District closed, protesting UCPN (M)-affiliated ANNISU-R attacks to extort money.

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 continued to limit freedom of assembly for the Tibetan community, particularly in Kathmandu. As in previous years police were visibly present in Tibetan neighborhoods in the days surrounding the March 10 Tibetan Uprising Day. On March 10, police detained 12 individuals, including six who were peacefully protesting outside the Chinese embassy. Police prevented some Jawalakhel Settlement residents from entering the community hall in order to prevent their participation in a politically themed ceremony. On March 14, Lhasa Uprising Day, police detained 85-100 individuals, including the coordinator of the Tibetan Refugee Welfare Office, apparently to prevent any gatherings or protests.

On July 6, security personnel attempted to prevent Buddhists, including Tibetans, from attending the Dalai Lama's birthday celebration. Approximately 15 individuals were detained at various junctions throughout Kathmandu while en route to a religious ceremony in Boudhanath. According to human rights defenders, three groups of police (composed of 20 officers each) monitored the program from outside the monastery where the event took place. On September 2, Tibetan Democracy Day, authorities denied permission to hold a religious event at a monastery in Boudhanath affiliated with the Central Tibetan Authority and prevented members of the Jawalakhel community from traveling to Boudhanath.

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 [International Religious Freedom Report](#).

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

The law provides for freedom of internal movement, 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. While the government did not always fully cooperate with the Office of the UN High Commissioner for Refugees (UNHCR) in providing protection and assistance, authorities generally implemented established procedures for handling newly arrived Tibetans entering the country without documents, and coordination among police, immigration officials, and UNHCR officials was generally conducted in a timely, standardized fashion.

Numerous political groups, including all the major political parties, restricted freedom of movement, including forced general strikes, known locally as "bandhs," to pressure the government and civil society. In an attempt to prevent violence between irate citizens, who are denied the ability to conduct daily business, and strike enforcers, police often assisted the strikers by blocking traffic. The largest bandh occurred in the far western part of the country, where for more than three weeks in May, strikers aligned with opposing national political agendas clashed with each other and blocked basic services and normal daily life.

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, the agreement was not implemented. Several UN agencies, including the UNHCR and the UN Development Program, continued

working with the government to develop an IDP policy consistent with international principles. Civil society and international organizations estimated 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 in 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.

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.

The government officially restricted freedom of movement and work for the approximately 40,000 Bhutanese refugees residing in the two remaining 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 71,000 Bhutanese refugees have been resettled in third countries, including 60,000 to the United States.

The government does not recognize Tibetans who arrived in the country after 1989 as refugees. Consequently, most Tibetans who arrived since then transited to India, although an estimated 15,000-20,000 remained in the country. 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 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 detention, followed by requests for bribes.

There were various reports during the year of the preventive detention of Tibetan refugees and individuals of Himalayan descent on dates of political, cultural, and religious importance, including Tibetan Uprising Day on March 10, the Dalai Lama's birthday on July 6, and International Human Rights Day on December 10.

Access to Basic Services: Many of the Tibetans who lived in the country did not have legal resident status or documentation, particularly those who arrived after 1990 and their Nepal-born children. 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, the right to work, business ownership or licenses, bank accounts, or 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.

Approximately 300 refugees from other countries, including Somalia, Burma, and Pakistan, lived in the country. 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 for third-country settlement. The government allowed the UNHCR to provide some education, health, and livelihood services to these refugees, but the refugees lacked legal access to public 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).

Citizenship laws that discriminate by gender contributed to statelessness. The 2006 Citizenship Act, which allowed more than 2.6 million persons to receive certificates, states that anyone born to a Nepali mother or father has the right to Nepali citizenship, although the same law states, contradictorily, that a child born to a Nepali woman who is married to a foreign citizen is able to obtain citizenship only through naturalization. In practice securing citizenship papers for the child of Nepali parents, even when the mother possesses Nepali citizenship documents, was nearly impossible unless the father of the child supported the application. This persisted despite a February 2011 Supreme Court decision to grant a child Nepali citizenship through the mother if the father was unknown or absent.

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

During the constitution-drafting process, equal citizenship rights for women was one of the most contentious and highly politicized problems, with no final decisions made to date. 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 CA that, according to the 2007 interim constitution, was to serve as both a legislature and a constitution-drafting body. The CA's original two-year term was extended three times after it failed to produce a new constitution. On May 24, three days before the final extension deadline, the Supreme Court refused to approve another extension. Thereafter, the prime minister announced new elections for a national body on November 22. Opposition parties complained that they had not been consulted on the announcement, and the government was unable to amend electoral laws to allow for elections in

November. On September 19, the major political parties agreed to hold elections. No date was set by year's end.

There have not been local elections since 1997. Elected local councils were dissolved in 2002, and civil servants and political appointees headed local government units.

Participation of Women and Minorities: No specific laws restrict women, indigenous people, or minorities from voting or participating in government or political parties, but tradition limits the participation of women, some castes, and some ethnicities in the political process. There were 194 women in the 601-seat CA dissolved on May 27. In the 44-member cabinet, seven members were from ethnic minority communities, five were women, and four were low-caste Dalits. The larger political parties had associated women's wings, youth wings, trade unions, and social organizations; however, women, youth, and minorities complained that party leaders, mostly upper-caste men, prohibited meaningful political participation.

Section 4. Corruption and Lack of Transparency in Government

The law provides criminal penalties for corruption by officials. However, the government did not implement the law effectively, and there continued to be reports that officials 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 88 percent success rate concerning the corruption cases it filed, but some cases involving politicians were not filed or were defeated in court. Civil society organizations lauded some of the high-profile convictions obtained by the CIAA but believed it needed to be strengthened.

Public officials are subject to financial disclosure laws. According to the National Vigilance Center, the body mandated to monitor financial disclosures and make them available to the public, 77 CA members and an estimated 35,000 civil servants had not submitted their annual financial statements as required by law. Those who did not may face a fine of up to 5,000 rupees (\$57).

There were numerous reports of corrupt actions by ministers and CA members. On February 21, the then minister of information and communication, J. P. Gupta, was convicted of illegally amassing wealth disproportionate to his income. Gupta's sentence marked the first time in the country's history that a sitting minister was convicted of corruption, albeit for crimes that occurred prior to his appointment as minister. On July 25, a special court sentenced Congress leader Govinda Raj Joshi to 18 months in jail and a substantial fine for illicit activities during his multiple tenures as a government minister.

Maoists, Maoist-affiliated organizations, and those connected with the splinter CPN-M party, continued to commit abuses during the year. Maoists regularly extorted money from schools, businesses, workers, private citizens, and NGOs. The CIAA investigated allegations that the Maoist leadership misappropriated up to two billion rupees (\$22.9 million) of government funds by including extra combatants in the rolls of the cantonments. There were less frequent reports that student and labor groups associated with other political parties also demanded contributions from schools and businesses.

Corruption and impunity remained general problems within the NP.

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. 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 operated with some government restriction, investigating and publishing their findings on human rights cases. Government officials were somewhat cooperative and responsive to their views; however, the government also placed more burdens on NGOs by complicating procedures for obtaining visas and compelling them to sign asset control documents. International NGOs reported that the government suggested they not focus on good governance and human rights, but rather on economic growth and job creation.

Many independent domestic human rights NGOs operated in the country. The government met with and was sometimes responsive to human rights NGOs. 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. Members of the Maoist parties reportedly threatened human rights activists for their investigations into Maoist-related conflict-era human rights abuses.

UN and Other International Bodies: The government did not approve the request of the Office of the High Commissioner for Human Rights (OHCHR) for a mandate extension, and the OHCHR left the country on March 20.

Government Human Rights Bodies: The NHRC investigates allegations of abuses, but resource constraints and insufficient manpower restricted the number of investigations. The NHRC stated that the government helped promote impunity by not fully implementing its recommendations. Of 568 recommendations the NHRC made during the previous 11 years, the government implemented 153 fully and 312 partially with 97 still pending, according to the NHRC.

The NA, NP, APF, and Maoist party have not seriously addressed conflict-era human rights violations for which they were responsible. Following the May 27 dissolution of the CA, Prime Minister Bhattarai's government twice attempted to pass ordinances forming a truth and reconciliation commission. The president did not approve the first attempt. Human rights defenders criticized both proposed ordinances because they could provide amnesty to perpetrators of serious human rights violations and, therefore, did not meet international standards.

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. Even though the Caste Discrimination and Untouchability Act was passed in May 2011, 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. Transnational and internal sex and labor trafficking persisted.

Women

Rape and Domestic Violence: Violence against women remained a problem. Under the civil code sentences for rape vary between five and 15 years, depending on the female victim's age. The law also mandates five years' additional imprisonment in the case of gang rape, rape of pregnant women, or rape of a woman 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 2011-12, there were 555 cases of rape and 156 cases of attempted rape filed with police, compared with 48 cases of rape and 151 cases of attempted rape in the previous fiscal year, according to the Women's Police Cell, a special NP unit 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 abuses were common. Violence against women was one of the major factors responsible for the poor health of women, livelihood insecurity, and inadequate social mobilization. The domestic violence law imposes a fine of 3,000 to 25,000 rupees (\$34 to \$286), 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 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 \$172), 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 implement the act successfully 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 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 generally prohibits polygamy, there are exceptions if the wife is infertile, sick, or crippled. According to the 2011 Nepal Demographic Health Survey, 4 percent of women and 2 percent of men lived in polygamous unions. Polygamists not covered under the above exceptions are subject to a one- to two-year prison term and a fine, but the second marriage is not invalidated.

Harmful Traditional Practices: A woman's family must pay the husband's family a predetermined dowry based on the husband's training and education. The tradition was strong in the Tarai districts bordering India, and there were sporadic incidents of bride killing over dowry disputes. For example, in July according to press reports, Binti Saha's husband, father-in-law, and mother-in-law beat her to death and then burned her body because she failed to provide a motorcycle for her dowry. More often husbands or in-laws seeking additional dowry from the woman's family physically abused wives or forced women to leave so the men could remarry.

Traditional beliefs about witchcraft negatively affected rural women, especially widows, the elderly, persons of low economic status, or members of the lower Dalit caste. Shamans or family members 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 as being fed human excreta, being hit with hot spoons in different parts of the body, being forced to touch hot irons or breathe in chili smoke, or having their genitals perforated .

During the year there were reports of women accused of witchcraft being beaten. For example, according to press reports, relatives of Sunita Pudasaini, a widow, beat her, gouged out an eye, and left her for dead after a shaman accused her of casting a spell on her cousin, causing infertility.

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 (\$114). Sexual harassment was a problem and government enforcement was weak, but the NP, to general approval by women, initiated a special campaign to curb sexual harassment on public transportation. Lack of awareness over what constitutes sexual harassment led victims not to report many incidents.

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 27.5 percent of married women had an unmet need for family planning. From 2006 to 2011, 58 percent of mothers received prenatal care from a doctor, nurse, or midwife; 26 percent received care from trained health workers such as a health assistant, auxiliary health worker, or village health worker; and 15 percent received no prenatal care. The country made progress in reducing its maternal mortality rate from 539 per 100,000 births in 1996 to 281 per 100,000 births in 2010. The rate of deliveries attended by skilled birth attendants was relatively low (36 percent) according to the health survey, but the government provided financial assistance to women seeking skilled delivery care in a health facility to promote safe motherhood. According to the survey, 43 percent of women had a postnatal checkup in the first two days after birth.

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 a woman's name. The 2006 amendment to the Transfer of Property Act grants women equal shares of their parents' inheritance and the right to keep their property after marriage, but many women were not aware of their rights, and others were afraid to challenge existing practice.

Citizenship is automatically conferred through either Nepali parent (see Children below). 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. Provisions that discriminate against women exist in 62 laws. 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.

In an attempt to protect women from trafficking and abuse, on August 9 the government declared that it would not permit women under the age of 30 to travel to the Persian Gulf region for domestic employment. According to Human Rights Watch, the new regulation would not prevent trafficking or abuse but would force women to seek irregular channels to the Gulf, putting them at greater risk of exploitation. The regulation was also viewed as discriminatory because young men were not similarly prohibited from traveling to the Gulf.

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 2011 decision that applicants may seek citizenship through either their father or mother, 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 provides 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. Some school-age girls did not attend school due to the absence of separate or proper toilets. The Department of Education estimated that approximately 60 percent of public schools did not have separate toilets for girls. Frequent general strikes by political entities also hampered the education of all students. In July a Maoist student union protesting the use of foreign school names and high fees forced more than 800 high schools to shut down.

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 had chapters in all 75 districts.

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

Child Marriage: The law prohibits marriage for girls before the age of 18. While families in many areas sometimes forced their young children to marry, the rate of underage marriages decreased since 2002. The country's 2011 Demographic and Health Survey indicated that 71 percent of women between the ages of 15 and 19 in 2011 were unmarried, compared with 60 percent in 2001. In the same period, it added, the marriage rate of girls under the age of 15 dropped from 24 percent to 5 percent. 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 going 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, a type of brothel. 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. CWIN reported that 68 percent of rape victims were under the age of 16.

Child pornography is against the law, with fines up to 100,000 rupees (\$1,144) and sentences of up to five years in prison, or both.

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 allegedly arrested street children to "clean up" police stations. These children also reported abuses by security forces.

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 [Trafficking in Persons Report](#).

Persons with Disabilities

The interim constitution addresses the rights of persons with disabilities, but government efforts to enforce existing laws and regulations to improve rights and benefits for persons with disabilities were not effective. On August 14, the Supreme Court ordered the government to do more for persons with physical and mental disabilities, such as providing a monthly stipend, building shelters, and appointing one social welfare worker in each district.

According to the NHRC, persons with mental disabilities were the most stigmatized, discriminated against, and misunderstood; access to mental health services was available only in the larger cities. The Ministry of Women, Children, and Social Welfare was responsible for the protection of persons with disabilities, the Ministry of Education provided scholarships for 73,161 children with disabilities, and the Ministry of Local Development allocated 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. The government generally upheld these provisions. There were more than 75 ethnic groups, which spoke more than 50 different languages.

Discrimination against lower castes and some ethnic groups was especially common in the Tarai region and in rural areas

Caste-based discrimination is illegal, and the government outlawed the public shunning of Dalits and made an effort to protect the rights of disadvantaged castes. Progress in reducing discrimination was more successful in urban areas. 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. Dalits occasionally were barred from entering temples and sharing water sources.

Resistance to intercaste marriage remained high and in some cases resulted in forced expulsion from the community. On July 1, according to media reports, a Dalit boy married a non-Dalit girl in Dhading District even though the bride's parents opposed the marriage. As a result of the animosity, clashes broke out between Dalits and non-Dalits, forcing 10 Dalit families to leave their village under the threat of more violence.

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

No laws specifically criminalize same sex sexual activity, and lesbian, gay, bisexual, and transgender (LGBT) persons actively and openly advocated for their rights. The CA had a prominent openly gay elected representative, and many mainstream political parties included pro-LGBT legislation in their party manifestos. LGBT activists continued to press for protections for sexual minorities in the new constitution.

In 2007 the Supreme Court directed the government to enact laws to protect LGBT persons' fundamental rights, enable third-gender citizenship, and amend all laws that were sexually discriminatory. Implementation of the 2007 decision was slow, however, and although the Home Ministry authorized the use of "other" in official identification documentation from May 23 forward, officials had yet to implement the decree. Government authorities, especially low-level police in rural areas and the Tarai, sometimes harassed and abused LGBT persons. According to the Blue Diamond Society, a local LGBT advocacy NGO, harassment of such persons by both government and citizens was common, but acts of violence were on the decline. The NP HRC confirmed some low-level harassment occurred because many citizens had negative views of LGBT persons, and the NP was not immune to such social perceptions. Nonetheless, the NP HRC conducted LGBT rights training and worked closely with the LGBT community to minimize and prevent such harassment. The NP HRC reported that it had found at least one officer guilty of harassing an LGBT person and reprimanded that officer.

Other Societal Violence or Discrimination

There was no official discrimination against persons who provided HIV prevention services or against high-risk groups likely to spread HIV/AIDS, although there was societal discrimination against these groups. Media reports indicated that nurses at Bir Hospital and doctors at the B. P. Koirala Institute of Health Services refused to treat HIV positive patients. 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 than women 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 those deemed by the government as subversive or seditious organizations. Freedom of association extends to workers in both the formal and informal sectors 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 right to strike and bargain collectively, except for employees in 16 essential services, including public transportation, banking, security, and health care, among others, who have no such rights. 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.

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 unofficial union groups, which call strikes and enter into direct negotiation with the government. Workers in the informal sector may also form unions, but many workers were not aware of these rights.

The law also protects union representatives from adverse legal action arising from their official union duties, including collective bargaining, and prohibits antiunion discrimination. The law prohibits dismissal or transfer of employees for attempting to form a union. If workers are dismissed for engaging in union activities, they can seek reinstatement by filing a complaint in labor court or with the Department of Labor, which has semijudicial and mediation authority. 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.

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 law was uneven in practice. Freedom of association and the right to collective bargaining generally were respected 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. Unions were often linked to political parties and did not operate independently from them.

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

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. On August 14, Dvyani International, an Indian-based company that operated four restaurant franchises in Kathmandu, announced that it was suspending business following violent attacks and continuing threats on restaurant management from the All Nepal Revolutionary Hotel and Restaurant Workers Association, a labor union affiliated with the CPN-M. The association alleged that it was attempting to form a union, but the company shut down the restaurants as an antiunion pressure tactic. Restaurant management maintained that closing the businesses was a safety precaution and business would resume when it could fire those responsible for the violence. Dvyani International reopened the restaurants on September 16.

b. Prohibition of Forced or Compulsory Labor

The interim constitution outlawed all forms of forced or compulsory labor, including slavery and bonded labor. However, there were reports that forced labor and bonded labor persisted, especially in agriculture, domestic services, factories, food services, textile embroidery, begging, entertainment industries, and brick kiln work. Victims of bonded and forced labor were generally lower-caste women and children. The Haliya system, another form of bonded labor primarily for individuals engaged in cultivating farmland, was outlawed in 2008. Of 19,059 identified Haliyas (agricultural bonded laborers), only 2,400 had identity cards, making it difficult for them to access public services.

Government enforcement of the interim constitution was uneven, and social reintegration remained difficult. During the year the government rehabilitated an additional 1,278 Kamaiyas, another category of bonded laborer, bringing the total number of rehabilitated persons to 23,680 in a total Kamaiya population of 27,570.

Also see the Department of State's [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 were not fully implemented.

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; only five of 12 labor inspector

positions were filled. Child labor in the informal sector occurred in agriculture, domestic service, portering, recycling, transportation, and rock breaking, although the worst abuses were reported in brick kilns, embroidery factories, and the entertainment sector. In the informal sector children worked long hours in unhealthy environments, carried heavy loads, were at risk of sexual exploitation, and at times suffered from numerous health problems. Forced child labor was reported in the brick, stone, and embroidered textile industries as well as the entertainment sector.

According to the Nepal Labor Force Survey 2008, the most recent survey available, the labor force participation rate was 13.4 percent for children between the ages of five and nine and 52.7 percent for children between the ages of 10 and 14.

Also see the Department of Labor's [*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 (\$71). 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 approximately 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 law provides 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 female workers, and maternity benefits.

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. 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 and unregulated labor "brokers" and middlemen who were often trusted members of the community, complicated effective monitoring of recruitment practices. 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, since 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.

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