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Nepal

Country:

Nepal

Year:

2018

Freedom Status:

Partly Free

Political Rights:

3

Civil Liberties:

4

Aggregate Score:

55

Freedom Rating:

3.5

Overview:

Since the end of a decade-long civil war in 2006, Nepal has held a series of competitive elections and adopted a permanent constitution. As politics have stabilized, pressure on journalists has decreased, and authorities have been somewhat more tolerant of peaceful assembly. However, political protests are still sometimes marred by violence, and corruption remains endemic in politics, government, and the judicial system. Other problems include gender-based violence, underage marriage, and bonded labor. Transitional justice bodies have struggled to fulfill their mandates.

Trend Arrow:

Nepal received an upward trend arrow due to the first national, regional, and local elections held under a new constitution, with high voter turnout despite some reports of violence.

Political Rights and Civil Liberties:

POLITICAL RIGHTS: 25 / 40 (+1)

A. ELECTORAL PROCESS: 10 / 12 (+1)

A1. Was the current head of government or other chief national authority elected through free and fair elections? 3 / 4

The president is the head of state and is elected to up to two five-year terms by a parliamentary electoral college and state assemblies. The prime minister is elected by the parliament. Thus, the legitimacy of executive office holders is largely determined by the conduct of legislative and provincial elections.

Sher Bahadur Deuba was elected prime minister in June 2017 after Pushpa Kamal Dahal, also known as Prachanda, had stepped down from that position in May as part of a power-sharing deal between their two parties. Deuba is the tenth prime minister since the end of the civil war in 2006. National elections took place in late 2017, and a new government will be formed based on those results in January 2018.

The current president, Bidhya Devi Bhandari, was elected in 2015.

A2. Were the current national legislative representatives elected through free and fair elections? 4 / 4 (+1)

Local elections—the first since 1997—were held in several stages in 2017, and national and provincial elections were held in November and December. The polls were generally well conducted and saw healthy turnout, and their results were accepted by the participating parties. However, the Rastriya Janata Party-Nepal (RJP-N), an umbrella group representing ethnic Madhesis, boycotted several rounds of local polls due to grievances related to provisions in the 2015 constitution.

While more peaceful than the 2013 election period, there were occasional incidents of election-related violence in 2017. Police killed three people during a Communist Party of Nepal–Unified Marxist-Leninist (CPN–UML) campaign rally in March. There was sporadic violence in the lead-up to the national elections held late in the year, in which one temporary police officer was killed. There was a significant uptick in violent incidents before elections held in the south in December; those clashes were related to interparty tensions and separatist opposition.

Score Change: The score improved from 3 to 4 because the provincial and national elections took place in a climate of relative peace and their results were accepted by stakeholders, and because local elections were held for the first time since 1997.

A3. Are the electoral laws and framework fair, and are they implemented impartially by the relevant election management bodies? 3 / 4

Nepal's parliament has yet to address the grievances that many have with the 2015 constitution, which are related to province demarcation, proportional representation based on population, and provisions in the citizenship law. In an attempt to placate the RJP-N, which had boycotted the early rounds of the 2017 local elections, parliament introduced a constitutional amendment bill intended to allay some of their concerns, but it failed to secure a two-thirds majority needed to pass.

B. POLITICAL PLURALISM AND PARTICIPATION: 10 / 16

B1. Do the people have the right to organize in different political parties or other competitive political groupings of their choice, and is the system free of undue obstacles to the rise and fall of these competing parties or groupings? 3 / 4

Political parties are generally free to form and operate, though the risk of political violence represents an effective restriction on free political participation. Numerous political figures and party supporters were arrested in 2017 in connection with late-year unrest. Separately, in February, the leader of the separatist Alliance for Independent Madhesh (AIM) was arrested on sedition charges after he addressed a mass demonstration, prompting an outcry among his Madhesi supporters.

B2. Is there a realistic opportunity for the opposition to increase its support or gain power through elections? 3 / 4

The three main opposition parties—the Nepali Congress, CPN–UML, and Communist Party of Nepal–Maoist (UCPN–M)—are relatively competitive, but smaller opposition parties have difficulty gaining representation.

B3. Are the people’s political choices free from domination by the military, foreign powers, religious hierarchies, economic oligarchies, or any other powerful group that is not democratically accountable? 2 / 4

People’s ability to freely exercise their political choices is limited by sporadic outbursts of political violence, as well as by heavy-handed security agents who at times have cracked down on political demonstrations. There were reports of vote-buying during the 2017 campaign period.

B4. Do various segments of the population (including ethnic, religious, gender, LGBT, and other relevant groups) have full political rights and electoral opportunities? 2 / 4

While the constitution has requirements for the participation of women and minorities in the legislature, discrimination against them makes meaningful political participation difficult. A limited definition of citizenship has resulted in the disenfranchisement of stateless people. Few women hold senior positions in politics. Bhandari is Nepal’s first female president.

C. FUNCTIONING OF GOVERNMENT: 5 / 12

C1. Do the freely elected head of government and national legislative representatives determine the policies of the government? 3 / 4

Nepal ratified its first democratic constitution in 2015, establishing a bicameral parliament with the prime minister as chief executive, and organizing the state into seven new provinces. Successful legislative elections were held in 2017, with new lawmakers expected to be seated in 2018. However, despite democratic improvements and political stabilization in recent years, representative rule has yet to be consolidated.

C2. Are safeguards against official corruption strong and effective? 1 / 4

Corruption is endemic in Nepali politics and government and often goes unpunished. Corruption by officials continued to obstruct the delivery of foreign aid that poured into the country after a devastating 2015 earthquake.

The Commission for Investigation of Abuse of Authority initiated its largest case to date in July 2017, when it filed charges against three members of the Tax Settlement Commission for alleged embezzlement and improper granting of tax exemptions to large businesses.

C3. Does the government operate with openness and transparency? 1 / 4

The government generally operates with opacity. The Election Commission, as well as the Truth and Reconciliation Commission (TRC) and Commission of Investigation on Enforced Disappeared Persons (CIEDP) are among bodies that have been criticized for a lack of transparency. Mechanisms for utilizing the 2007 Right to Information Act are poorly defined, and the law is inconsistently enforced.

CIVIL LIBERTIES: 30 / 60 (+2)**D. FREEDOM OF EXPRESSION AND BELIEF: 10 / 16 (+1)****D1. Are there free and independent media? 3 / 4 (+1)**

The 2015 constitution provides for freedom of expression and prohibits prior restraints on press freedom, though these rules can be suspended in cases of a national emergency. The constitution also states that the prohibition against prior restraint does not forbid restraints placed on the press in the interest of national security.

Arrests and assaults of journalists continued in 2017, particularly during periods close to elections. Nevertheless, pressure on the media eased has eased somewhat in recent years, and substantial investigative pieces on topics including government corruption are becoming more common.

Score Change: The score improved from 2 to 3 because pressure on media has eased, and investigative journalism is becoming more common.

D2. Are individuals free to practice and express their religious faith or nonbelief in public and private? 2 / 4

Like the interim constitution before it, the 2015 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 freedom is protected under the new constitution, and tolerance is broadly practiced, but members of some religious minorities occasionally report official harassment. Christian groups face considerable difficulty registering as religious organizations, leaving them unable to own land. Proselytizing is prohibited.

D3. Is there academic freedom, and is the educational system free from extensive political indoctrination? 2 / 4

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.

D4. Are individuals free to express their personal views on political or other sensitive topics without fear of surveillance or retribution? 3 / 4

The freedom to engage in private discussions on sensitive topics has expanded alongside Nepal's political stabilization. However, the heavy presence of the army in Madhesi regions during the 2017 campaign and election period prompted some anxieties among residents of those areas.

E. ASSOCIATIONAL AND ORGANIZATIONAL RIGHTS: 6 / 12 (+1)

E1. Is there freedom of assembly? 2 / 4 (+1)

While security force crackdowns on public assemblies led to three deaths in March, in general, public assembly was better tolerated in 2017—particularly in the context of elections—than it has been in previous years. However, crackdowns do still take place, disproportionately so in the southern regions, where there is a large Madhesi population.

Score Change: The score improved from 1 to 2 because authorities better tolerated peaceful public assemblies during the 2017 election period.

E2. Is there freedom for nongovernmental organizations, particularly those that are engaged in human rights– and governance-related work? 2 / 4

Although the new constitution allows nongovernmental organizations (NGOs) to form and operate within the country, legal restrictions have made this difficult in practice. The District Administration Office (DAO), which is in charge of registering NGOs and associations, is often understaffed and lacks essential resources. Foreign NGOs must enter project-specific agreements with the Nepalese government.

E3. Is there freedom for trade unions and similar professional or labor organizations? 2 / 4

The 2015 constitution provides for the right to form trade unions. Labor laws protect the freedom to bargain collectively, and unions generally operate without state interference. Workers in a broad range of “essential” industries cannot stage strikes. 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.

F. RULE OF LAW: 6 / 16

F1. Is there an independent judiciary? 2 / 4

The 2015 constitution provides for an independent judiciary. However, most courts suffer from endemic corruption, and in practice many Nepalese have only limited access to justice.

The state has generally ignored local court verdicts, Nepalese Supreme Court decisions, and National Human Rights Commission (NHRC) recommendations addressing crimes committed during the 1996–2006 civil war.

F2. Does due process prevail in civil and criminal matters? 1 / 4

Constitutional guarantees of due process are poorly upheld in practice. Reports of arbitrary arrests continue. Due to heavy case backlogs and a slow appeals process, suspects are frequently kept in pretrial detention for periods longer than the sentences they would face if tried and convicted. The government provides legal counsel to those who cannot afford their own, but only at a defendant's request. Therefore, those unaware of their right to a public defender often end up representing themselves.

F3. Is there protection from the illegitimate use of physical force and freedom from war and insurgencies? 2 / 4

Rights advocates continue to criticize Nepal for failing to punish abuses and war crimes committed during the civil war, which lasted from 1996 to 2006. Moreover, there has been no institutional reform of the security forces, which stand accused of carrying out torture, murder, and forced disappearances during the conflict. Some alleged perpetrators of wartime abuses serve in government.

Due to a lack of will on the part of the security forces and political parties, neither the Truth and Reconciliation Commission (TRC) nor the Commission of Investigation on Enforced Disappeared Persons (CIEDP), two key transitional justice bodies, have implemented reforms demanded by the United Nations and two Nepali Supreme Court rulings. The mandates of both bodies were extended by one year in February 2017; the government extended the mandates without requiring implementation of the reforms, which are meant to address deficiencies that permit impunity.

Separately, the state has yet to address allegations of violent repression of the 2015–16 Terai protests.

F4. Do laws, policies, and practices guarantee equal treatment of various segments of the population? 1 / 4

The 2015 constitution enshrines rights for sexual minorities. The first passport on which the holder was permitted to select a third gender was issued in 2015. However, LGBT (lesbian, gay, bisexual, and transgender) people reportedly face harassment by the authorities and other citizens, particularly in rural areas.

Although the new constitution outlines implementation of major international human rights provisions, and includes civil, political, economic, social, and cultural rights, the language of the constitution frames these rights for Nepali citizens only. This potentially leaves equal rights of noncitizens, including migrants and people who cannot prove citizenship, unprotected.

Tibetans in Nepal face difficulty achieving formal refugee status due to Chinese pressure on the Nepalese government.

Women rarely receive the same educational and employment opportunities as men.

G. PERSONAL AUTONOMY AND INDIVIDUAL RIGHTS: 8 / 16

G1. Do individuals enjoy freedom of movement, including the ability to change their place of residence, employment, or education? 3 / 4

Citizens are generally enjoy freedom to travel throughout Nepal. There are legal limits on the rights of refugees to move freely, but restrictions are inconsistently enforced. Citizens generally enjoy choice of residence, though bribery is common in the housing market, as well as to gain admittance to universities.

G2. Are individuals able to exercise the right to own property and establish private businesses without undue interference from state or nonstate actors? 2 / 4

Although citizens have the right to own private businesses, starting a business in Nepal often requires bribes to a wide range of local and national-level officials. Licensing and other red tape can be extremely onerous. Women face widespread discrimination when starting businesses, and customs and border police are notoriously corrupt in dealing with cross-border trade.

G3. Do individuals enjoy personal social freedoms, including choice of marriage partner and size of family, protection from domestic violence, and control over appearance? 2 / 4

Gender-based violence against women remains a major problem. The 2009 Domestic Violence Act provides for monetary compensation and psychological treatment for victims, but authorities generally do not prosecute domestic violence cases. Underage marriage of girls is widespread.

G4. Do individuals enjoy equality of opportunity and freedom from economic exploitation? 1 / 4

Trafficking of children and women from Nepal for prostitution in India is common, and police rarely intervene. Bonded labor is illegal but remains a serious problem throughout Nepal. Child labor also remains a problem, and children can be found working in the brickmaking, service, and other industries, as well as engaged in forced begging and sex work.

The 2015 earthquake left millions of people homeless. Many of those affected lack opportunities for social mobility, as they struggle to recover from the disaster.

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