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## U.S. Department of State

### Nepal Country Report on Human Rights Practices for 1998

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#### NEPAL

Nepal is a constitutional monarchy with a parliamentary form of government. In 1990 the King, formerly an absolute monarch, legalized political parties, after which an interim government promulgated a new Constitution. The King retains important residual powers, but has dissociated himself from direct day-to-day government activities. The democratically elected Parliament consists of the House of Representatives (lower house) and the National Council (upper house). Since 1990, Nepal has held four national elections; two for the Parliament, and two nationwide elections for local government offices. International observers considered these elections to be generally free and fair. In February 1996, the leaders of the Maoist United People's Front (UPF) launched a "People's War" in midwestern Nepal, which has led to violence in 27 of 75 districts. The insurrection has been waged through torture, killings, and bombings involving civilians and public officials. The Constitution provides for an independent judiciary; however, the courts are susceptible to political pressure and corruption.

The National Police Force maintains internal security, assisted as necessary by the Royal Nepalese Army (RNA). Police reaction to the People's War insurgency led to incidents of unwarranted force against prisoners and noncombatants. The army is traditionally loyal to the King and has avoided involvement in domestic politics. The police are subject to civilian control, but local officials have wide discretion in maintaining law and order. The police committed numerous human rights abuses.

Nepal is an extremely poor country, with an annual per capita gross domestic product of approximately \$200. Over 80 percent of its 21 million people support themselves through subsistence agriculture.

Principal crops include rice, wheat, maize, jute, and potatoes. Tourism and the export of carpets and garments are the major sources of foreign exchange. Foreign aid accounts for more than half of the development budget. The economy is mixed, with approximately 50 public sector firms. Many former government firms have been privatized since 1992.

The Government generally respected citizen's human rights, but serious problems remain. The Government has not enforced all of the Constitution's provisions regarding basic human rights, and its record in some areas worsened during the year. There were also credible allegations that police killed unarmed civilians in the course of operations against the insurgents, or while these persons were in custody. The police continue to abuse detainees, using torture as punishment or to extract confessions. The Government rarely investigates allegations of police brutality or punishes police officers that commit abuses. The authorities use arbitrary arrest and detention. Prison conditions remain poor, and lengthy pretrial detention, judicial susceptibility to political pressure and corruption, and long delays before trial remain problems. The Government continues to impose some restrictions on freedom expression and of religion. Women and lower castes suffer from widespread discrimination. Violence against women, trafficking in women and girls for prostitution, forced labor, and child labor, including forced child labor, also remain serious problems.

In 1996 Parliament unanimously enacted a bill providing for a permanent human rights commission the authority to investigate human rights abuses. However, the commission still has not been established.

The Maoist insurgents continued to commit numerous abuses, including killings and bombings.

## **RESPECT FOR HUMAN RIGHTS**

### **Section 1 Respect for the Integrity of the Person, Including Freedom From:**

#### **a. Political and Other Extrajudicial Killing**

On a number of occasions, the Government used unwarranted lethal force against persons suspected of involvement in the People's War in central Nepal. Launched in 1996 by UPF leaders Baburam Bhattarai and Pushpa Kamal Dahal, the People's War is a self-declared Maoist insurgency.

In 1997 Amnesty International (AI) reported that police "have repeatedly resorted to the use of lethal force in situations where such force was clearly unjustified." AI's statement was based on an investigation of 50 killings committed by police, mostly in 1996.

During 1998 the Government increased its efforts to combat the Maoist insurgency. In May the police began a sweep in the mid-western districts. According to press reports, 139 UPF insurgents and 8 police officers were killed during the operation, and there were widespread allegations of police abuses in connection with the sweep. Official sources admitted that more than 3,000 persons were arrested during police operations aimed at locating UPF members. In June, 14 Nepalese human rights organizations conducted a tour of the affected areas, and submitted a joint declaration of protest to the Government in which it was reported that the police had killed at least 33 villagers in May and June. The groups also alleged that the Government was responsible for the extrajudicial killings of suspected UPF members. On April 4, police allegedly killed 3 students in Salyan district who were conducting a peaceful Maoist rally. In July Amnesty International reported that 9 civilians were killed by police in Sakla village in Jajarkot district during a religious festival on June 6. The police allegedly surrounded the area and shot randomly into a crowd of unarmed civilians. Also in June, police Inspector General Kharel stated that 20

to 30 police officers had been charged with abuses against the public in connection with their actions during the sweep.

On June 29, Mirza Dilshad Beg, a Member of Parliament, was shot and killed as he arrived home. However, at year's end, there was no evidence to suggest that he had been killed for political reasons; credible press reports stated that Indian criminal elements claimed credit for the killing.

The insurgents were responsible for numerous abuses. Guerrillas, usually armed with homemade guns, explosives, knives, and sticks, attacked landowners, civilians, government officials, and government facilities in a number of districts. A government newspaper reported that in March, two police officers were killed by land mines planted by the UPF in Rolpa district. On May 31, an agricultural development worker was killed in Salyan district, most likely by the UPF. However, it is unclear if he was merely a random victim or was the target of UPF violence. In late October, UPF insurgents mounted a series of attacks against police stations in Rukum, Rolpa, Kavre, Jajarkot, Liamjun, Tenahu, and Salyan districts. Five civilians and two police officers were killed in the attacks. According to government figures, the insurgency has resulted in the deaths of 35 police officers, 111 civilians, and over 498 insurgents since 1995. More than half of the insurgents killed by security forces since 1995 were killed between May and September, during Operation Sierra Kilo Two.

#### b. Disappearance

In July Amnesty International reported that Mohan Prasad Ali, a teacher from Dhakeri village in Banke district, was apprehended by police on June 12, and has not been seen since. Two men injured in the incident at Sakla village on June 6, Lal Bahadur Puma and Hari Narayan Sham, were evacuated by helicopter and are also reported to have disappeared (see Section 1.a.). In November AI reported that government officials told members of a delegation that it sent to Nepal that UPF militants had abducted Mohan Prasad Ali. Two student activists taken into custody in 1993 and 1994 remain missing.

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

The Constitution and criminal law prohibit torture; however, the police often use torture and beatings to punish suspects or to extract confessions. According to Amnesty International, torture methods include ear boxing, beating of the feet, and the rolling of weights over the thighs. The Government has failed to conduct thorough and independent investigations of reports of police brutality and has refused to take significant disciplinary action against officers involved. Police often are unwilling to investigate and to discipline fellow officers, and persons are afraid to bring cases against police for fear of reprisals. The Constitution provides for compensation for victims of torture, and a bill providing for such compensation was passed by Parliament in 1996. The Government has begun human rights education for the police force.

Human rights groups have reported instances of torture in areas affected by the "People's War." Dozens of male detainees reported having torture inflicted on them by the police, while women in these areas have reported instances of rape and sexual abuse by the police. Representatives of Amnesty International who visited Nepal after the May UPF sweeps began reported that they found evidence of "the systematic use of severe torture" by police. AI also raised its concerns over the relative impunity of the police for such actions.

Local and international human rights groups also have documented Maoist violence in areas affected by the "People's War," including the severing of arms and limbs. The Maoists most often have targeted political leaders, local elites, and suspected informers, including representatives of the more moderate

Communist Party of Nepal--the United Marxist Leninist party (UML) and of the Nepali Congress Party (NPC). A government newspaper reported that in March UPF members attacked the land revenue office in the Chabil district of Kathmandu and attempted to burn it down. On May 21, UPF members destroyed a telephone repeater station on the border of Rolpa and Rukum districts, cutting off all telephone service to Rolpa, Rukum, and Jajarkot districts. Also in May, the UPF attacked a the office of a nongovernmental organization (NGO) in Salyan. In August a group of 10 to 12 insurgents clubbed and injured a teacher at a local secondary school in Isahaneshwor village. In late October, the UPF bombed local government buildings, cut power lines, and looted businesses and NGO offices. On October 28, there was a failed bombing attempt at the Ilam district home of the Minister of Health; in November, the home of the Congress Party District President in Dhanusha was bombed; and on December 15, the Kathmandu home of the Minister for Land Reforms and Management Chiranjivi Wagle was damaged by a bomb, although no one was hurt.

According to AI, relatives of torture victims who file petitions under the Torture Compensation Act and lawyers who defend suspected UPF members were threatened by police.

Prison conditions are poor. Overcrowding is common in prisons and authorities sometimes handcuff or fetter detainees. Women are normally incarcerated separately from men, but in similar conditions. The Government still has not implemented a provision in the 1992 Children's Act calling for the establishment of a juvenile home and juvenile court. Consequently, children are sometimes incarcerated with adults--either with an incarcerated parent, or, as one local NGO reports, as criminal offenders. The Department of Prisons states that there are no cases of children in jail or custody for offenses they have committed; approximately 85 noncriminal dependent children, however, are incarcerated along with their parents (see Section 5). In Rukum district, a 13-year-old boy was arrested in 1997 and accused of being a Maoist. He was held for 6 months with 54 adults in a cell designed for only 15 persons, before a trial date was scheduled.

There has been some improvement in prison conditions. The authorities are more likely to transfer sick prisoners to hospitals than they were in the past. However, due to the inadequacy of medical facilities in the country, the authorities sometimes place the mentally ill in jails under inhumane conditions.

The Government permits local human rights groups to visit prisons.

#### d. Arbitrary Arrest, Detention, or Exile

The Constitution stipulates that the authorities must arraign or release a suspect within 24 hours of arrest, but the police often violate this provision. Under the Public Offenses Act of 1970, the police must obtain warrants for an arrest unless a person is caught in the act of committing a crime. For many offenses, the case must be filed in court within 7 days of arrest. If the court upholds the detention, the law authorizes the police to hold the suspect for 25 days to complete their investigation, with a possible extension of 7 days. However, the police often hold prisoners longer. The Supreme Court has on occasion ordered the release of detainees held longer than 24 hours without a court appearance.

Detainees do not have the legal right to receive visits by family members and they are permitted access to lawyers only after the authorities file charges. In practice the police grant access to prisoners on a basis that varies from prison to prison. Persons have a right to legal representation and a court appointed lawyer, but government lawyers or access to private attorneys is provided only on request. Consequently, those unaware of their rights may not have legal representation. There is a system of bail, but bonds are too expensive for most citizens. According to the Department of Prisons, over half of the 6,000 people imprisoned are awaiting trial. Due to court backlogs, a slow appeals process, and poor

access to legal representation, pretrial detention often exceeds the period to which persons subsequently are sentenced after a trial and conviction.

Under the Public Security Act, the authorities may detain persons who allegedly threaten domestic security and tranquillity, amicable relations with other states, and relations between citizens of different classes or religions. Persons whom the Government detains under the act are considered to be in preventive detention and can be held for up to 6 months without being charged with a crime. In April the police used the powers granted under the act to arrest 55 suspected UPF sympathizers during a nationwide general strike. All subsequently were released and the charges against them were dismissed. In October at least 300 persons were arrested in connection with a general strike called in Kathmandu by a communist group to protest efforts by police to flush out suspected UPF insurgents. In June the police arrested a human rights activist for alleged collaboration with the UPF (see Section 4). Human rights groups allege that the police have used arbitrary arrest and detention during the People's War to intimidate communities considered sympathetic to the Maoists. Since the insurgents began their terrorist campaigns, 4,669 Maoist-related arrests had been made through September. Of those arrested approximately 2,605 persons had been released, while 1,518 had been charged with crimes and were awaiting trial. Of those charged, 546 were still incarcerated and under investigation.

The 1991 amendments to the Public Security Act allow the authorities to extend periods of detention after submitting written notices to the Home Ministry. The police must notify the district court of the detention within 24 hours, and it may order an additional 6 months of detention before authorities file official charges. In 1997 the police asked the Government to enact legislation that would extend the maximum time of detention under the act to between 2 and 10 years.

Other laws, including the Public Offenses Act, permit arbitrary detention. This act and its many amendments cover crimes such as disturbing the peace, vandalism, rioting, and fighting. Under this act, the Government detained hundreds of civil servants during a 55-day antigovernment strike in 1991. Human rights monitors express concern that the act vests too much discretionary power in the Chief District Officer (CDO), the highest ranking civil servant in each of the country's 75 districts. The act authorizes the CDO to order detentions, to issue search warrants, and to specify fines and other punishments for misdemeanors without judicial review. Few recent instances of the use of the Public Offenses Act have come to light, since it has become more common, particularly with the Maoists, to arrest people under the Public Security Act.

Under the Public Offenses Act hundreds of persons were arrested on March 18, 1996 for staging a peaceful protest of the human rights situation in China organized by Amnesty International in Kathmandu. Although most were released the same day, several AI officers and 14 Tibetans were held in jail for up to 7 days, some without being charged.

The Constitution prohibits exile; it is not used.

#### e. Denial of Fair Public Trial

The Constitution provides for an independent judiciary and the Supreme Court has demonstrated independence. However, lower level courts remain vulnerable to political pressure. In addition, bribery of lower level judges and court staff is endemic.

The Supreme Court has the right to review the constitutionality of legislation passed by Parliament. It has ruled that provisions in the 1992 Labor Act and in the 1991 Nepal Citizenship Act are unconstitutional. In 1995 the Court also decided that the dissolution of the Parliament at the request of a

former Prime Minister was unconstitutional, and ordered the body restored.

Appellate and district courts have become increasingly independent, although they sometimes bend to political pressure. In Rolpa, one of the districts most affected by the "People's War," human rights groups have accused the district courts of acting in complicity with CDO's in violating detainees' rights. These groups allege that arrest without a warrant, prolonged detention without trial, and police torture occur in these areas.

The judicial system consists of three levels: District courts, appellate courts, and the Supreme Court. King appoints judges on the recommendation of the Judicial Council, a constitutional body chaired by the Chief Justice. The Council is also responsible for the assignment of judges, disciplinary action, and other administrative matters. Judges decide cases; there is no jury system.

Delays in the administration of justice are a severe problem. According to the latest statistics, approximately 150,000 cases are active throughout the country. The Supreme Court has a backlog of approximately 15,000 cases, which it expects to take 4 years to clear. A case appealed to the Supreme Court may take more than 10 years to conclude.

The Constitution provides for the right to counsel, equal protection under the law, protection from double jeopardy, protection from retroactive application of the law, and for public trials, except in some security and customs cases. All lower court decisions, including acquittals, are subject to appeal. The Supreme Court is the court of last appeal, but the King may grant pardons. The King can also suspend, commute, or remit any sentence. On the recommendation of the Government, the King often pardons up to 12 prisoners--if they have served 75 percent of their sentence and shown good behavior--on national holidays.

Military courts adjudicate cases concerning military personnel, who are immune from prosecution in civilian courts. In 1992 the Supreme Court ruled that military courts may no longer try civilians for crimes involving the military services.

The authorities may prosecute terrorism or treason cases under the Treason Act. Specially constituted tribunals hear these trials in closed sessions. No such trials took place during the past 3 years.

There were no reports of political prisoners.

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

The Government generally respected the privacy of the home and family. Search warrants are required before searches and seizures may be carried out, except in cases involving suspected security and narcotics violations. As amended, the Police Act of 1955 empowers the police to issue warrants for searches and seizures in criminal cases upon receipt of information about criminal activities. Within 24 hours of their issuance, warrants in misdemeanor cases must be approved by the CDO. Court judges must approve them in felony cases.

### **Section 2 Respect for Civil Liberties, Including:**

#### a. Freedom of Speech and Press

The Constitution specifies that all citizens shall have freedom of thought and expression and that the Government may not censor any news item or other reading material; however, the Government

imposes some restrictions on these rights. The Constitution prohibits speech and writing that would threaten the sovereignty and integrity of the Kingdom; disturb the harmonious relations among persons of different castes or communities; promote sedition, defamation, contempt of court, or crime; or contradict decent public behavior or morality.

The Press and Publications Act provides for the licensing of publications and the granting of credentials to journalists. The act includes penalties for violating these requirements. The act also prohibits publication of material that, among other things, promotes disrespect toward the King or the royal family; that undermines security, peace, order, the dignity of the King, or the integrity or sovereignty of the Kingdom; that creates animosity among people of different castes and religions; or that adversely affects the good conduct or morality of the public. The regulation also provides a basis for banning foreign publications. However, foreign publications are now widely available.

There are hundreds of independent vernacular and English newspapers available. Although these newspapers represent various political points of view, most have a small circulation and limited impact. The Government owns the daily Nepali-language newspaper with the largest circulation. Editors and writers at the Government newspaper practice self-censorship and generally reflect government policy. Ruling political parties have influenced the editorial policy of the government newspaper to their advantage. However, despite the sensitivity of the Government to the "People's War," the press has not faced overt pressure to report on it in a particular way. Views of human rights groups, the statements of the police, and the press releases of UPF leader Bhattarai have all been reported in the local press.

Nevertheless, journalists are detained on occasion. On January 19, newspaper editor Ashok Subedi was detained in Ramechchap, and on January 20 editor Matrika Pradel was arrested in Udaypur district. Both were charged with participating in Maoist activities, charges that both of their newspapers claim are false. Another journalist was arrested on January 7 in Janakpurdham after reporting on corruption sanctioned by local authorities. He was beaten and held incommunicado, and his press accreditation was revoked. In June several newspapers that printed information about abuses committed by security forces were confiscated by authorities prior to distribution. There were also reports that articles supporting the insurgents were banned. There were allegations that on July 2, police instructed transport companies not to do business with newspapers that published information about anti-insurgent operations, and that police seized and burned such newspapers, which they found on buses and trucks. On August 17 in Kathmandu, Judge Ishwor Prasad Khatiwada sentenced reporter K.P. Gautam to 5 days' imprisonment for printing an article on a report on judicial corruption that had been released by the Parliament Economic Committee. Judge Khatiwada was one of the judges implicated in the report.

The Government owns the only television station. The Government also owns and controls one radio station that broadcasts on both AM and FM. There are three private or community-run radio stations; Radio Sagamatha, Kantipur FM, and FM 97.7. Television time on the government-owned television station is regularly leased to private producers. Radio reaches the greatest number of people and has the largest influence. Programming currently reflects a broader range of interests and political viewpoints than prior to the political transformation in 1990. The Government does not restrict access to foreign radio broadcasts or to the purchase of television satellite dishes that can access international news from the British Broadcasting Corporation (BBC) and the Cable News Network (CNN). A small but growing number of Nepalese also have access to foreign news through private cable networks. Indian broadcast television is also readily available in many parts of Nepal.

The Broadcast Act of 1993 allows private television and FM radio broadcasts, but implementation by the Government has been slow. There are two private cable television networks, which have been operating for close to 2 years in the Kathmandu valley. They provide mainly entertainment programming, but commentary critical of government policies occurs occasionally during publicly

broadcast discussion programs.

There has been much debate about liberalizing the media and privatizing government-owned media. This debate has put pressure, so far successfully resisted, on successive governments to open the airwaves and divest government-controlled printing operations.

The Government limits academic freedom to the same extent as it limits the media. No overt efforts to enforce these limitations were reported this year.

#### b. Freedom of Peaceful Assembly and Association

Although the Constitution provides for freedom of assembly, this right may be restricted by law on vague grounds such as undermining the sovereignty and integrity of the State or disturbing law and order. Persons protesting Chinese human rights policy were arrested and detained in 1996 before and during peaceful protests (see Section 1.d.).

#### c. Freedom of Religion

The Constitution describes Nepal as a Hindu Kingdom, although it does not establish Hinduism as the state religion. The majority of citizens are Hindu. The Constitution permits the practice of all religions and prohibits discrimination on the basis of caste except for traditional religious practices at Hindu temples, where, for example, members of the lowest caste are not permitted.

Although the Government generally has not interfered with the practice of other religions, conversion is prohibited and punishable with fines or imprisonment, and members of minority religions occasionally complain of police harassment. Some groups are concerned that the ban on proselytizing limits the expression of non-Hindu religious belief. Foreigners convicted of proselytizing can be expelled from the country.

Arrests for proselytizing are rare. The only incident of arrest to occur in the past few years was in September 1994 when 11 Christians were sentenced to 2 years in jail. The King pardoned them after they had served 3 months of their sentence.

In August an Internet service provider warned a group of foreigners to stop a religiously oriented electronic discussion group because the content of the discussions violated laws against proselytizing. In 1997 a Seventh Day Adventist aid organization came under government scrutiny after a disgruntled employee reportedly spread rumors to the press and Hindu organizations that the group was proselytizing. For a period of approximately 1 month, the organization was the subject of slanderous and vituperative attacks by Hindu organizations. The Government convened a committee that asked Adventist Development and Relief Agency (ADRA) to confine itself to relief and welfare activities for which it was registered. While ADRA denied that it had proselytized, it did have links to an Adventist school (established for the children of Adventist workers in Nepal), which also had been accused of proselytizing. To clarify its function and role, ADRA severed all official ties with the school. The school continues to operate normally.

#### d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation

The Constitution provides for freedom of movement and residence, and the Government generally does not restrict travel abroad. However, the Government restricts travel to some areas near the Chinese border for foreign tourists and for foreign residents, such as Tibetans residing in Nepal. The Government

allows citizens abroad to return, and is not known to revoke citizenship for political reasons.

The Government has no official refugee policy. However, it does provide asylum for refugees and has cooperated with the office of the United Nations High Commissioner for Refugees (UNHCR), and with other humanitarian organizations, in assisting refugees from Bhutan and Tibet (China). The UNHCR has maintained an office in Kathmandu since 1989. Since 1959 the Government has accepted approximately 20,000 Tibetan refugees, many of whom still reside in the country. Since 1991 it has also provided asylum to more than 90,000 Bhutanese refugees, the great majority of whom are now living in UNHCR-administered camps in eastern Nepal.

In 1995 the Government reversed a 1960's decision to suspend the issuance of identification cards to Tibetans, and again began to them issue identification cards. However, later that year the program was again suspended in connection with a change in government, and there remain many Tibetans with no form of identification and no permanent status. Undocumented Tibetan residents face difficulties in obtaining basic rights and are unable to travel abroad or to access such services as banking. The UNHCR donates blank resident identification cards to the Government for Tibetans, but approximately 4,000 Tibetan refugees within the Kathmandu valley remain without identification cards. During the year, the Government reactivated the program and planned to finish issuing identification cards to the remaining undocumented Tibetans by 1999.

China and the Government of Nepal tightened control of movement across their border in 1986, but both sides have enforced these restrictions haphazardly. Police and customs officials occasionally harass Tibetan asylum seekers who cross the border from China. Border police often extort money from Tibetans in exchange for passage. With the change from a Communist Party government to a coalition government headed by the Nepal Congress Party in September 1995, the former practice of forcibly returning asylum seekers to China has stopped. There were no reports of forced expulsion of Tibetan asylum seekers during the year.

There are approximately 95,000 ethnic Nepali refugees from Bhutan in UNHCR-administered camps in southeastern Nepal. An additional 15,000 refugees reside outside the camps in either Nepal or India. The total represents approximately one-sixth of Bhutan's estimated pre-1991 population.

The UNHCR monitors the condition of the Bhutanese refugees and provides for their basic needs. The Government accepts the refugee presence as temporary, on humanitarian grounds, but offers little more than a place to stay. The Government officially restricts refugee freedom of movement and work, but does not strictly enforce its policies. Living conditions in the camps have improved dramatically since 1992. Adequate clean water is available and health, sanitation, and nutrition standards are acceptable. Violence has sometimes broken out between camp residents and the surrounding local population. The UNHCR and other donors and relief organizations have defused tensions through a refugee-affected areas assistance plan aimed at improving conditions in communities adjacent to the camps.

In 1993 the Governments of Nepal and Bhutan formed a joint committee to resolve the refugee problem and to determine different categories of refugees in preparation for future repatriation. Seven rounds of bilateral talks have been held, but with little concrete progress. A visit to Bhutan by the Nepali acting Foreign Secretary in August led to speculation that a resolution might be in sight, but no agreements were reached and no breakthrough occurred. The lack of significant progress in bilateral negotiations has led to increased frustration in the camps and to a recent campaign of "peace marches" by refugees seeking to return to Bhutan.

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

Citizens, through their elected representatives, have the right to amend the Constitution with the exception of certain basic principles that they may not change--sovereignty vested in the people, the multiparty system, fundamental rights, and the constitutional monarchy.

Parliamentary elections are scheduled at least every 5 years. Midterm elections may be called if the ruling party loses its majority, loses a vote of no confidence, or calls for elections. The Constitution grants suffrage to all citizens aged 18 and over.

The House of Representatives, or lower house, may send legislation directly to the King by majority vote. The National Council, or upper house, may amend or reject lower house legislation, but the lower house can overrule its objections. The upper house may also introduce legislation and send it to the lower house for consideration.

The King exercises certain powers with the advice and consent of the Council of Ministers. These include exclusive authority to enact, amend, and repeal laws relating to succession to the throne. The King's income and property are tax-exempt and inviolable, and no question may be raised in any court about any act performed by the King. The Constitution also permits the King to exercise emergency powers in the event of war, external aggression, armed revolt, or extreme economic depression. In such an emergency, the King may suspend without judicial review many basic freedoms, including the freedoms of expression and assembly, freedom from censorship, and freedom from preventive detention. However, he may not suspend habeas corpus or the right to form associations. The King's declaration of a state of emergency must be approved by a two-thirds majority of the lower house of the Parliament. If the lower house is not in session, the upper house exercises this power. A state of emergency may be maintained for up to 3 months without legislative approval and up to 6 months, renewable only once for an additional 6 months, if the legislature grants approval.

The Constitution bars the registration and participation in elections of any political party that is based on "religion, community, caste, tribe, or region," or that does not operate openly and democratically.

On December 10, the coalition government of Prime Minister G.P. Koirala of the Nepali Congress Party (NCP), which came to power after the resignation of Prime Minister Surya Bahadur Thapa of the Rastriya Prajanta Party (RPP) on April 10, lost the support of its coalition partner, the Communist Party of Nepal-Marxist Leninist (CPN-ML). Under the threat of a no confidence motion, Prime Minister Koirala resigned on December 21. On December 23, Prime Minister Koirala was reappointed as the head of a new coalition government that would hold office until nationwide elections were held. Elections were tentatively scheduled for May 3, 1999.

In March 1997, when local elections were scheduled across the country, Maoist violence and threats forced the postponement of voting in parts of 15 of the 75 electoral districts. Officials recorded 16 deaths, mostly civilians, from election-related violence during these elections. The Maoists' efforts to disrupt the elections caused some candidates to withdraw and voters to avoid polling stations. Since no one was elected to office in these areas, they remain without elected boards to manage district governance. On November 16, elections were held in several midwestern districts to elect district development committees; although some candidates were intimidated by the Maoists and withdrew, the elections apparently were otherwise free and fair. Elections were also held on December 18 to select new elected boards to manage villages in Rolpa, Rukum, Salyan, and Jajarkot districts. UPF leader Baburam Bhattarai called for a boycott of the December elections. Due to intimidation by the Maoists, some would-be candidates withdrew, which meant that in a few cases candidates ran unopposed.

There are no specific laws that restrict women, indigenous people, or minorities from participating in the

Government or in political parties. Tradition limits the roles of women and of some castes and tribes in the political process. However, the Constitution requires that women constitute 5 percent of each party's candidates for the House of Representatives. A royal ordinance, which since has been ratified by Parliament, also requires that 20 percent of all village and municipal level seats be reserved for female candidates. Currently, 7 of the 205 members of the lower house are women and 5 of the 60 members of the upper house are women.

#### **Section 4 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights**

There are approximately 10 nongovernmental (NGO) human rights organizations. These include the Human Rights Organization of Nepal (HURON), the Informal Sector Services Center (INSEC), the International Institute for Human Rights, Environment, and Development (INHURED), and the Forum for the Protection of Human Rights (FOPHUR). The Nepal Law Society also monitors human rights abuses and a number of NGO's focus on specific areas such as torture, child labor, women's rights, or ethnic minorities. On April 22, Amnesty International launched a week-long program on the rights of the child to highlight the lack of government action to protect the rights of the child. The program was part of a regional effort to encourage the protection of children's rights, and included a signature campaign and public awareness and lobbying events. AI sought to encourage the Government to create separate courts for children and a national monitoring committee on the rights of children. Groups are free to publish reports on human rights abuses. The Government has also allowed groups to visit prisons and prisoners, and in late November allowed a visit by an Amnesty International delegation. The Government rarely arrests or detains those reporting on human rights problems, but in June the police arrested Gopal Siwakoti Chintan, a human rights activist, for alleged collaboration with the UPF. The police also confiscated audiotapes and videotapes of interviews with victims of human rights violations from Chintan's office. The police later released Chintan due to a lack of evidence that he had collaborated with the UPF. There were reports that the Government and UPF militants limited the activities of human rights activists.

#### **Section 5 Discrimination Based on Race, Sex, Religion, Disability, Language, or Social Status**

The Constitution specifies that the State shall not discriminate against citizens on grounds of religion, race, sex, caste, or ideology. However, there is still a caste system. Discrimination against lower castes, women, and the disabled remains common, especially in rural areas.

##### **Women**

Violence against women is a serious problem. There is no law against domestic violence, which is widespread. In one study, 50 percent of the respondents said that they know someone who was the victim of domestic violence. In another survey, respondents listed the perpetrators of violence in 77 percent of incidents as family members, and 58 percent reported that it is a daily occurrence. Little public attention is given to violence against women in the home; the Government makes no special effort to combat it.

Rape and incest are also problems, particularly in rural areas. There are laws against rape which impose prison sentences of 3 to 5 years, and of 1 year or a fine for the rape of a prostitute.

There is a general unwillingness among citizens, and particularly among government figures, to recognize violence against women as a problem. In a survey conducted by Saathi, a local NGO, 42 percent of the respondents said that in their experience medical practitioners were uncooperative or

negligent in cases of violence against women and girls. This unwillingness to recognize violence against women and girls as unacceptable in daily life is seen not just in the medical profession, but among the police and politicians as well.

The police department has a "women's cell" in five cities, including Kathmandu. These cells are made up entirely of female officers, who receive special training in handling victims of domestic violence. The police have also sent out directives instructing all officers to treat domestic violence as a criminal offense that should be prosecuted. However, according to a police official, this type of directive is difficult to enforce because of entrenched discriminatory attitudes. Even though the police may make an arrest, further prosecution is seldom pursued by the victim or by the Government.

At least six NGO's in Kathmandu work on the problem of violence against women and on women's issues in general. Saathi's assistance program includes a women's shelter and a suicide intervention center. The shelter provides housing, medical attention, counseling, and legal advocacy for the victims of violence.

Two conferences were held in 1997 that focused on the problem violence against women. One was a national conference of NGO's, government officials, and parliamentarians organized by the NGO Saathi. The Government announced new initiatives at the meeting, including the formation of a new National Women's Commission to help guide government policy. The conference participants formulated a common strategy to unite NGO efforts in the field, as well. There was also an international conference organized by the UNICEF regional office for South Asia.

The dowry tradition is strong, with greater prevalence in the Terai region. The killing of brides because of defaults on dowry payments is rare, but does occur. More common is the physical abuse of wives by the husband and the husband's family to obtain additional dowry or to force the woman to leave to enable the son to remarry.

Trafficking in women and girls remains a deeply ingrained social problem in several of the country's poorest areas. Estimates of the number of girls and women working as prostitutes in India range between 40,000 and 100,000. The best available data suggest that approximately 5,000 to 7,000 girls between the ages of 10 and 18 are lured or abducted into prostitution each year. Prostitution is also a problem in the Kathmandu valley. A children's human rights group in Nepal states that 20 percent of prostitutes are younger than 16 years old. In many cases, parents or relatives sell women and young girls into sexual slavery. Every year, it is estimated that hundreds of girls and women return to Nepal after having worked as prostitutes in India. Most are destitute, and it is estimated that over 65 percent of such women are HIV-positive when they return. There is legislation to protect women from coercive trafficking, including a ban on female labor leaving Nepal to work in Saudi Arabia and other countries in the Gulf. According to press reports, in August the police arrested four men from the Butwal region on charges of attempting to smuggle three women into Mumbai, India, with the intention of selling them into forced prostitution. The men had lured the women by telling them that they would be taken to Saudi Arabia for legitimate employment. However, despite the existence of antitrafficking legislation and recent attempts to increase the imposition of penalties on traffickers, antitrafficking legislation is not well enforced. The fear of the spread of AIDS by returning prostitutes has discouraged the Government from promoting the rehabilitation of prostitutes. Government efforts focus more on preventing prostitution and trafficking in women. The Ministry of Labor and Social Welfare sponsors job and skill training programs in several poor districts known for sending prostitutes to India. Several NGO's have similar programs, in addition to rehabilitation and training programs for former prostitutes.

Although the Constitution provides protections for women, including equal pay for equal work, the Government has not taken significant action to implement its provisions. Women face discrimination,

particularly in rural areas, where religious and cultural tradition, lack of education, and ignorance of the law remain severe impediments to their exercise of basic rights such as the right to vote or to hold property in their own names.

Women have benefited from changes in marriage and inheritance laws. In 1994 the Supreme Court struck down provisions of the Citizenship Law that discriminated against foreign spouses of Nepalese women. However, many other discriminatory laws still remain. According to legal experts, there are more than 20 laws that discriminate against women. For example, the law grants women the right to divorce, but on narrower grounds than those applicable to men. The law on property rights also favors men in its provisions for inheritance, land tenancy, and the division of family property. In 1995 the Supreme Court also ordered the Council of Ministers to enact legislation within 1 year giving women property rights in regard to inheritance and land tenancy that were equal to those of men. To comply with this order, the Government introduced an amendment to the Civil Code in April that would have allowed daughters to inherit parental property, but only if they remained unmarried until the age of 35. Moreover, if a woman married after age 35, the amendment stipulated that she would be obliged to return the inherited property. At year's end, this amendment, which would appear to only partially meet the requirements of the Supreme Court, remained stalled in Parliament.

According to the 1991 census, the female literacy rate is 26 percent, compared with 57 percent for men. Human rights groups report that girls attend secondary schools at a rate half that of boys. There are now many NGO's focused on integrating women into society and the economy. These NGO's work in the areas of literacy, small business, skills transfer, and against trafficking in women and girls.

There are a growing number of women's advocacy groups and nearly all political parties have women's groups. Members of Parliament have begun working for the passage of tougher laws for crimes of sexual assault, but have had little success so far.

## Children

Although education is not compulsory, the Government provides free primary education for all children between the ages of 6 and 12, but many families cannot afford school supplies or clothing. Schools charge fees for further education. Free health care is provided through government clinics, but they are poorly equipped and too few in number to meet the demand. Community-based health programs assist the prevention of childhood diseases and provide primary health care services. Due to poor or nonexistent sanitation in rural areas, many children are at risk from severe and fatal illnesses.

The Children's Act of 1992 provides legal protection for children in the workplace and in criminal proceedings. Although it calls for the establishment of child welfare committees and orphanages, the Government has established few such facilities. The Labor Act of 1992 prohibits the employment of minors less than 14 years of age, but employers, particularly in the informal sector and in agriculture, widely ignore the law.

Children under the age of 16 work in all sectors of the economy. Children's rights groups estimate that up to half of all children work. As recently as early 1994, the carpet industry employed an estimated 23,000 children, or nearly one-third of all workers in that industry. Due to negative publicity in consumer nations, these figures have declined and children now account for approximately 2 to 5 percent of the carpet industry's employees, or about 6,000 workers (see Section 6.d.). In 1996 a consortium of carpet manufacturers established a certification system for carpets made without child labor. The Ministry of Labor is increasing its efforts to monitor the use of child labor. Children continue to work in the agriculture, pottery, basket weaving, sewing, weaving, and iron smithing industries. There

also were reports that the UPF uses children as messengers and runners. Forced child labor also is a problem (see Section 6.c).

Prostitution and trafficking in young girls remain serious problems.

Social attitudes view a female child as a commodity, to be bartered off in marriage, or as burden. Some people, in fact, consider marrying a girl before menarche an honorable, sacred act that increases one's chances of a better afterlife. As a result, child-brides are common. According to the UNICEF's Regional Office for South Asia, 40 percent of all marriages are consummated with a girl under 14 years of age. The age difference in marriage is often cited as one cause of domestic violence.

A local NGO reports that approximately 100 children considered delinquents or accused of public offenses are incarcerated with adults because the Government has not established juvenile homes. Some of these delinquent children allegedly are as young as 9 years old, even though, under the law, children under 18 cannot be charged with crimes; the Government maintains that there are no persons under the age of 18 that are incarcerated for crimes they have committed. However, according to the Government, 85 children are in jails as noncriminal dependents of incarcerated adults (see Section 1.c.).

### People with Disabilities

The disabled face widespread discrimination. Families often are stigmatized by and ashamed of disabled family members, who may be hidden away or neglected. Economic integration is further hampered by the general view that the disabled are unproductive. The mentally retarded are associated with the mentally ill. Sometimes, mentally ill and retarded persons are placed in prisons due to the lack of facilities or support.

The Government has long been involved in providing for the disabled, but the level of government assistance has not met the needs of the disabled. The 1982 Disabled Persons Protection and Welfare Act and additional 1994 rules mandate accessibility to buildings, to transportation, to employment, to education, and to other state services. However, despite government funding for special education programs, the Government does not implement or enforce laws regarding the disabled. A number of NGO's working with the disabled receive significant funding from the Government, but persons who are physically or mentally disabled rely almost exclusively on family members to assist them.

### National/Racial/Ethnic Minorities

Nepal has over 75 ethnic groups that speak 50 different languages. The Constitution provides that each community "shall have the right to preserve and promote its language, script, and culture." The Constitution further specifies that each community has the right to operate schools up to the primary level in its mother tongue.

Discrimination against lower castes is especially common in the rural areas of western Nepal. Although the Government has outlawed the public shunning of "untouchables," an exception was retained for traditional practices at Hindu religious sites. Economic, social, and educational advancement tend to be a function of historical patterns, geographic location, and caste. Better education and higher levels of prosperity, especially in the Kathmandu valley, are slowly reducing caste distinctions and increasing opportunities for lower socioeconomic groups. Better educated urban-oriented castes (Brahmin, Chhetri, and certain elements of the Newar community traditionally dominant in the Kathmandu valley) continue to dominate politics and senior administrative and military positions, and to control a disproportionate share of natural resources in their territories.

In remote areas, school lessons and national radio broadcasts are often conducted in the local language. However, in areas with nearby municipalities, education at the primary, secondary, and university levels is conducted almost exclusively in Nepali, which is constitutionally mandated as the official language of the State. Human rights groups report that the languages of the small Kusunda, Dura, and Meche communities are nearly extinct and that non-Hindu peoples are losing their culture.

## **Section 6 Worker Rights**

### **a. The Right of Association**

The Constitution provides for the freedom to establish and to join unions and associations. It permits restriction of unions only in cases of subversion, sedition, or similar conditions. Despite the political transformation in 1990, trade unions are still developing their administrative structures to organize workers, to bargain collectively, and to conduct worker education programs. The prior UML government "automatically" registered its own affiliated unions but interfered in the registration of unions associated with the Nepali Congress Party's labor organization.

Union participation in the formal sector is significant, but it accounts for only a small portion of the labor force. In 1992 Parliament passed the Labor Act and the Trade Union Act, and formulated enabling regulations. However, the Government has not yet fully implemented the laws. The Trade Union Act defines procedures for establishing trade unions, associations, and federations. It also protects unions and officials from lawsuits arising from actions taken in the discharge of union duties, including collective bargaining.

The law permits strikes, except by employees in essential services such as water supply, electricity, and telecommunications. The law empowers the Government to halt a strike or to suspend a union's activities if the union disturbs the peace or if it adversely affects the nation's economic interests. Under the Labor Act, 60 percent of a union's membership must vote in favor of a strike in a secret ballot for the strike to be legal.

The Trade Union Act prohibits employers from discriminating against trade union members or organizers. There have been few reports of discrimination against union members.

The Government does not restrict unions from joining international labor bodies. Several trade federations and union organizations maintain a variety of international affiliations.

### **b. The Right to Organize and Bargain Collectively**

The Labor Act provides for collective bargaining, although the organizational structures to implement the Act's provisions have not been established. Collective bargaining agreements cover an estimated 20 percent of wage earners in the organized sector. However, labor remains widely unable to use collective bargaining effectively due to inexperience and employer reluctance to bargain.

There are no export processing zones.

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

The Constitution prohibits slavery, serfdom, forced labor, or traffic in human beings in any form. The Department of Labor enforces laws against forced labor in the small formal sector, but remains unable to enforce the law outside that sector.

Large numbers of women still are forced to work against their will as prostitutes (see Section 5). Bonded labor is a continuing problem, especially in agricultural work. Bonded laborers are usually members of lower castes. An estimated 100,000 persons are forced to work under the "Kamaiya" or bonded labor system in the southern Terai region. These "Kamaiyas" generally are agricultural workers who work for the same landlords their family may have served for many generations. The Government has not yet enacted legislation or taken other significant steps to address the problem.

The Nepal Labor Act specifically prohibits forced or bonded child labor, but enforcement of this law is inadequate. Forced child labor exists in many sectors of the economy, and an estimated 40,000 children work as bonded laborers. Each year, an estimated 5,000 to 7,000 girls between the ages of 10 and 18 are trafficked to India to work as prostitutes (see Section 5). On December 27, police raided a small wool spinning factory in Kathmandu and freed approximately 12 children from forced labor, some as young as 8 years of age. The children worked 18-hour days, without bathroom or other breaks, and they complained of inadequate food and no pay.

#### d. Status of Child Labor Practices and Minimum Age for Employment

The Constitution stipulates that children shall not be employed in factories, mines, or similar hazardous work. The law also establishes a minimum age for employment of minors at 16 years in industry and 14 years in agriculture. The Constitution limits children between the ages of 14 and 16 years to a 36-hour work week. The law also mandates acceptable working conditions for children. However, both the resources and the commitment devoted to the enforcement of these provisions are limited and child workers are found in many sectors of the economy (see section 5). Although the law prohibits forced or bonded labor by children, it exists in many sectors (see Section 6.c.).

Up to half of all children work, mostly in agriculture. In 1996 a certification system for carpets made without child labor was established. Of the 207 carpet factories that export, approximately 30 have signed on to this or a similar agreement (see Section 5). Partially as a result of this initiative, and of consumer pressure, children now reportedly constitute only 5 percent of the work force in the export-oriented carpet industry. However, children's rights activists say that, in the smaller factories, children are still a large part of the work force. In December police freed several children from forced labor in a Kathmandu carpet factory (see Section 6.c). Children continue to work in the agriculture, pottery, basket weaving, sewing, weaving, and iron smithing industries. Few or no children work in the garment industry.

The Ministry of Labor's enforcement record is improving. In the urban formal sector, it has had some success in enforcing laws relating to tenure, minimum wage, and holidays. Government inspectors are also increasing their monitoring of the use of child labor in carpet factories.

#### e. Acceptable Conditions of Work

In 1997 legislation was passed that raised the minimum wage for unskilled labor to \$22 (1,300 rupees) per month from \$19 (1,150 rupees). The law also defined monthly minimum wages for semi-skilled labor at \$23 (1,350 rupees), skilled labor at \$25 (1,460 rupees), and highly skilled labor at \$28 (1,650 rupees). The minimum wage for children ages 14 to 16 was set at \$17 (1,025 rupees). These wages are sufficient only for the most minimal standard of living. Wages in the unorganized service sector and in agriculture are often as much as 50 percent lower.

The Labor Act calls for a 48-hour work week, with 1 day off per week, and limits overtime to 20 hours per week. Health and safety standards and other benefits such as a provident fund and maternity benefits

are also established in the act. Implementation of the new Labor Act has been slow, as the Government has not created the necessary regulatory or administrative structures to enforce its provisions. Workers do not have the right to remove themselves from dangerous work situations. Although the law labor officers to order employers to rectify unsafe conditions, enforcement of safety standards remains minimal.

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