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2009 Human Rights Report: Nepal

BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR

2009 Country Reports on Human Rights Practices

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Nepal, a population of approximately 29 million, is a federal democratic republic. The political system is based on the 2007 interim constitution with a prime minister as the chief executive and a Constituent Assembly that serves as a legislature and is required to draft a new constitution by 2010. The prime minister, Madhav Kumar Nepal, of the Communist Party of Nepal – United Marxist Leninist (UML), took office on May 25 following the resignation of former prime minister Pushpa Kamal Dahal whose party, the United Communist Party of Nepal – Maoists (UCPN-M), has a plurality in the Constituent Assembly. Domestic and international observers generally characterized the 2008 election results as credible, although there were reports of political violence, intimidation, and voting irregularities. Civilian authorities generally maintained effective control of the security forces, but there were frequent instances in which elements of the security forces acted independently.

The government's respect for human rights improved slightly as all parties joined the government. Members of the security forces, the Maoist militias, the Maoist-affiliated Young Communist League (YCL), and members of other small, often ethnically based armed groups committed human rights abuses. Members of the Nepal Army (NA) were confined to their barracks in accordance with the Comprehensive Peace Agreement (CPA) of 2006. Members of the Nepal Police (NP) and Armed Police Force (APF) occasionally used excessive and lethal force in response to continued demonstrations throughout the country. Maoist militias engaged in arbitrary and unlawful use of lethal force and abduction. Violence, extortion, and intimidation continued throughout the year. Numerous armed groups, largely in the Terai region in the lowland area near the Indian border, attacked civilians, government officials, members of particular ethnic groups, each other, or Maoist militias. Impunity for human rights violators, threats against the media, arbitrary arrest, and lengthy pretrial detention were serious problems. The government compromised the independence of the judiciary by exerting political pressure on the judicial process, and society continued to discriminate against persons of lower castes and persons with disabilities. Violence against women and trafficking in persons, mainly women and girls, continued.

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life

There were numerous reports that the government or its agents committed arbitrary or unlawful killings. The Informal Sector Service Center (INSEC) reported that security forces or other armed groups killed 229 persons during the year. Security forces killed at least 37 individuals, the Maoist party and its affiliate the YCL were believed to have killed four persons, and armed groups operating in Terai killed more than 21 persons; 141 persons reported killed could not be linked to a specific group, or the families and reporters were afraid to name the group. There were no substantive allegations of human rights abuses filed against the army during the year.

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On March 26, the UN Office of the High Commissioner for Human Rights (OHCHR) reported that an unidentified group killed Prachanda Man Thaiba, a member of the UML-affiliated Youth Force (YF) in Butwal. The YF accused YCL member Sujit Biswo Karma, and the Maoists initiated an internal investigation. In April then Prime Minister Dahal promised an investigation which the National Human Rights Commission (NHRC) promised to conduct. NHRC has not followed up on the case after completion of a preliminary investigation. The case was registered at the area police office (APO) in Butwal following a First Incident Report (FIR) filed by the victim's father. The case will remain active for 20 years and will be submitted to the court if the perpetrators are found.

On April 2, the OHCHR reported that YCL members allegedly killed YF member Anuj Thapa Magar in Biratnagar. YCL district leadership denied involvement. Following an investigation police arrested two individuals. On April 6, a FIR was filed by his family members; it named three persons and noted another 10 to 12 unidentified persons were involved. On April 14, one person was arrested by police and subsequently released. At year's end the case continued.

On July 7, the OHCHR reported that villagers from Dhunchepakha and Chapacho killed three persons for allegedly trying to kidnap village children. On July 21, the deputy superintendent of police at the Thimi Metropolitan Police Office informed the OHCHR that eight persons had been arrested. Of the four the Bhaktapur District Court released one on bail for lack of evidence, while the remaining three were sent to the central jail in Nakkhu, where they were under pretrial detention.

There were no further developments in the 2008 killing of Ram Hari Shrestha in Chitwan District. In 2008 authorities charged five UCPN-M members in connection with the case: Govinda Bahadur Batala, Keshab Adhikari, Ganga Ram Thapa, Kali Bahadur Kham, and Arjun Karki. In 2008 the NP arrested Govinda Bahadur Batala, while the remaining four, who were allegedly under the protection of the Maoist-affiliated People's Liberation Army were not located.

Authorities closed the investigation into the 2007 killing of Moid Khan after the family withdrew the Supreme Court case.

According to INSEC, landmines and improvised explosive devices (IEDs) killed 12 persons and injured 41, including 32 children. Five deaths and one injury were reported from NA-planted landmines around military installations and infrastructure. The UN Mine Action Team has destroyed more than 14,682 IEDs in nine locations and cleared 17 of 53 antipersonnel minefields and 105 of the 312 IED fields the NA laid. The CPA and the December 2006 agreement on Monitoring of the Management of Arms and Armies called for all landmines to be identified and located within 30 days and removed completely within 60 days.

b. Disappearance

The fate of many of those who disappeared during the 10-year Maoist insurgency (1996-2006) remained unknown. According to NHRC estimates, there were 835 unresolved cases of disappearances at year's end, 616 believed to involve the state and 219 believed to involve the Maoists. The International Committee of the Red Cross (ICRC) estimated the number of disappeared at more than 1,365. A significant number of the disappeared were young, married men who were the primary income earners for their families. At year's end the government had not prosecuted any government officials or

Maoists for involvement in disappearances or released any information about the whereabouts of the 616 persons the NHRC identified as disappeared with state involvement.

The government did not respond to an OHCHR report on 49 disappeared persons who had been arrested and detained at the Maharajgunj barracks in Kathmandu in 2003 on suspicion of being linked to the Maoists, nor did it respond to the OHCHR's report on disappearances in the Bardiya district where at least 170 persons disappeared between 2001 and 2004. On August 28, the OHCHR again called on the government to investigate the human rights violations at Maharajgunj barracks, including the responsibility of those within the chain of command. In December Major General Toran Bahadur Singh, who was commander of the 10th Brigade and had chain of command responsibility for the Maharajgunj barracks, was promoted to lieutenant general and second in command of the NA, against the strong opposition of the OHCHR and local human rights organizations.

The media and civil society reported that abductions and kidnappings of children escalated during the year. Most abductions were for ransom and occurred in the Terai, where armed groups operated with relative impunity.

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

Although the 2007 interim constitution prohibits torture, the law does not clearly criminalize torture, and no one has been prosecuted for torture. The Torture Compensation Act (TCA) provides for compensation to victims of torture; however, the victim must file a complaint and pursue the case through the courts. During the year Advocacy Forum-Nepal (AF) filed 15 new cases under the TCA. The cases were pending in the district court.

A credible nongovernmental organization (NGO) reported that of the 2,079 detainees interviewed between January and June in 18 districts, 540 claimed they had been tortured. Citizens were afraid to bring cases against the police for fear of reprisal. Although the overall reported rate of torture decreased over the past year by 7.8 percent, in some districts, such as in Dhanusha, Kathmandu, Lalitpur, and Banke, the percentage was significantly higher. Credible national and international sources reported that security forces tortured blindfolded detainees and beat the soles of their feet, and kicked and beat detainees with plastic poles or bamboo sticks.

In 2008 a Human Rights Watch (HRW) report found more than 200 cases of torture or abuse in police custody of boys and girls as young as 13, mostly during interrogations. The HRW reported that children allegedly were tortured using methods such as kicking, punching, inserting metal objects under toenails, and beating with bamboo sticks and plastic pipes. Child Workers in Nepal Concerned Center, a credible local child rights NGO, registered 771 cases of violence and abuse of children in police custody.

On January 4, AF reported that uniformed police arrested and tortured Narayan Thapa. He was hospitalized, and his case was referred to the NHRC and OHCHR for investigation. On February 4, the case was registered at the Morang District Court under the Torture Compensation Act. The accused police personnel furnished their reply to the court before the November 24 deadline, but at year's end the Morang District Court had not set a date for the hearing.

On July 31, the OHCHR investigated allegations of torture and ill-treatment of Sushan Limbu and Bhakta Rai in the Urlabari APO in Morang. The OHCHR reported that one of the detainees had undergone surgery for injuries he suffered while in detention. The NP Human Rights Directorate investigated and on August 20 found four police personnel guilty of committing abuses: Inspector Chakra Bahadur Basnet, Head Constable Netra Bahadur Magar, Police Officer Bhesh Raj Acharya, and Police Officer Seman Khatri. On August 24, NP Headquarters issued a formal warning to the four and closed

the case. After the human rights directorate of the NP completed its investigation, Inspector Chakra Bahadur Basnet returned to the Urlabari APO and resumed work despite the serious allegations against him.

During the year APF personnel reportedly tortured persons in Jhapa and Dhanusha districts. In the Jhapa district, 10 Bhutanese refugees allegedly were tortured at both the APF camp in Beldangi-2 refugee camp and at the Pathibara Gan APF camp in Padajungi, Jhapa district. In Dhanusha district, APF personal allegedly tortured 13 persons, and in Udayapur district, the APF allegedly tortured nine persons.

During the year the AF documented 98 cases of torture by nonstate actors. The AF attributed responsibility for 49 cases to the Maoists and the YCL; 34 cases to Madhesi armed groups, including the Janatantrik Terai Mukti Morcha (JTMM); six cases to the Tharu Mukti Morcha; and nine cases to unidentified armed groups in the Terai. The government failed to conduct thorough and independent investigations of reports of security force or Maoist/YCL brutality and generally did not take significant disciplinary action against those involved.

INSEC reported that YCL rehabilitation centers appeared to have closed. The centers, which operated during the insurgency, had been used as ad hoc punitive detention facilities where villagers who were perceived to be anti-YCL were detained.

Between mid-July 2008 and mid-July 2009, the NHRC made recommendations to the government to resolve 157 complaints of human rights abuses, including torture and killings. None of these recommendations were implemented, since the government was still resolving a backlog of NHRC recommendations from 2003-04.

Prison and Detention Center Conditions

Prison conditions were extremely poor and did not meet international standards. According to the director general of the Department of Prisons, 9,260 prisoners--8,599 men and 661 women--remained in custody through December 31. Although there generally were separate facilities for men and women, in some overcrowded prisons men and women were in the same prison but in segregated cells.

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

During the year the Supreme Court affirmed the standards for juvenile detention set out in the Torture Act and Regulations, and the court ordered government agencies to improve the infrastructure and capacity of existing juvenile correction homes, mandated the creation of new homes in regions lacking them, and prohibited juveniles from being returned to police custody. There is only one functional government-run juvenile reform home, Sano Thimi in Bhaktapur.

According to the Department of Jail Management, pretrial juvenile detainees are sent to the sole juvenile correction home and are not kept with convicted prisoners.

The government generally permitted the NHRC, ICRC, and OHCHR to make unannounced visits to prisons and detainees in army and police custody. Although the NHRC is authorized to request government action, the government often denied the NHRC the right to intervene.

d. Arbitrary Arrest or Detention

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

On August 3, two persons were arrested in Naubise, Dhading district, for allegedly being members of the Terai-based JTMM armed group and possessing arms. They were arrested by NP in civilian clothes and detained in the Kamalpokhari Ward Police Office. Both were reportedly mistreated, and arrest and detention letters were not issued to them until three days after their arrest.

Role of the Police and Security Apparatus

The Comprehensive Peace Agreement (CPA) called on the NP and the APF to enforce law and order across the country. Police did not respond to most incidents of violence, particularly events involving Maoists and armed groups in the Terai. There were multiple incidents in which police detained Maoist and YCL cadres for illegal acts, but political leadership within the Home Ministry freed the detainees or other political leaders intervened.

Both the police and NA had human rights cells to investigate cases of abuse, although they tended to limit their activities to training and capacity building rather than investigating cases; corruption and impunity remained problems. Police generally were unarmed and had the role of preventing and investigating nonterrorist criminal behavior.

At the district level, police often operated without significant guidance from superiors, allowing considerable discretion in the enforcement of laws. As in 2008, there were many reports of police abuse and bribery.

Arrest Procedure and Treatment While in Detention

The law stipulates that, except in cases involving suspected security and narcotics violations, authorities must obtain a warrant for arrest, arraign or release a suspect within 24 hours of arrest, and file a case in court within seven days of arrest; however, security forces regularly violated these provisions.

If the court upholds a detention, the law authorizes police to hold the suspect for 25 days to complete an investigation, with a possible extension of seven days. Security forces occasionally held prisoners longer. 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.

Detainees have the legal right to receive visits by family members, and they are permitted access to lawyers once authorities file charges. 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 often exceeded the period to which persons subsequently were sentenced after a trial and conviction. Persons detained have time they served credited to their sentence.

Under the Public Security Act, security forces may detain persons who allegedly threaten domestic security and tranquility, amicable relations with other countries, or relations between citizens of different classes or religions. The government may detain persons in preventive detention for as long as six months without charging them with a crime. The detention period can be extended after submitting written notice to the Home Ministry. The security forces must notify the district court of

the detention within 24 hours. The court may order an additional six months of detention before the government must file official charges.

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

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

NGOs expressed concern about police use of private houses to hold detainees after arrest. In early May at least three detainees claimed to have been held in unofficial places of detention.

e. Denial of Fair Public Trial

The law provides for an independent judiciary, but courts remained vulnerable to political pressure, bribery, and intimidation.

The Supreme Court has the right to review the constitutionality of legislation parliament passes. Appellate and district courts showed independence and impartiality in many cases, although they remained susceptible to political pressures.

The judicial system consists of three levels: district courts, appellate courts, and the Supreme Court. The Constitutional Council, chaired by the prime minister, nominates the chief justice of the Supreme Court. After an advisory hearing before the Parliamentary Special Hearing Committee, the president may then appoint the new chief justice. After advisory hearings the chief justice, on recommendation of the Judicial Council, appoints other Supreme Court justices. The council also is responsible for the assignment of judges, disciplinary action, and other administrative matters. A special court hears cases related to narcotics trafficking, trafficking in persons (mainly women and girls), crimes against the state, corruption, and crimes related to foreign currency.

Delays in the administration of justice were a severe problem. As of December 31, the Supreme Court reported a backlog of 10,306 cases. There was no indication that this backlog lessened during the year.

Trial Procedures

Although the law provides for the right to counsel, equal protection under the law, protection from double jeopardy, protection from retroactive application of the law, and public trials, these rights were not equally applied except in a few security and customs cases. Judges decide cases; there is no jury system. All lower court decisions, including acquittals, are subject to appeal. The Supreme Court is the court of last resort.

The law provides detainees with 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.

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 has argued that military personnel are immune from prosecution in civilian courts for conflict-era violations, an interpretation of law that is 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.

Authorities may prosecute terrorism or treason cases under the Treason Act. Specially constituted tribunals hear these trials in closed sessions, but no such trials have occurred since 1991.

Although the Maoists announced the dissolution of their parallel government structures and courts in 2007, according to police and NGO reporting they continued to function in some districts, particularly in rural areas. In areas where they no longer functioned, the Maoists often expected previous decisions and sentences to be carried out. These courts had no due process and handled both criminal and civil cases. According to the OHCHR, these courts did not provide minimum guarantees of due process and fair trial.

Political Prisoners and Detainees

No political prisoners or detainees were reported to be held by the government. According to INSEC, no labor camps were being operated by the UCPN-M.

Civil Judicial Procedures and Remedies

During the year there were some allegations of government abuses of civil procedures including bribery and intimidation by political leaders.

Property Restitution

The Maoists returned some previously seized property as the CPA requires but kept other illegally seized lands and properties in their possession; they also seized additional properties. For example, on September 1, more than 1,000 activists of Tamu Rastriya Mukti Morcha, an organization affiliated with the UCPN-M, seized land belonging to Bharat Gurung in Srinathkot.

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

Security forces could enter and search houses without warrants, although forced searches are illegal. The YCL occasionally conducted illegal forced searches of businesses, civilian homes, and property.

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

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

g. Use of Excessive Force and Other Abuses in Internal Conflicts

There was significant internal conflict in the Terai. Numerous armed groups, many ethnically based, clashed with each

other and with the local population. Police had a limited mandate and were unable fully to promote law and order. Members of the Maoists, the Maoist-affiliated YCL, and other ethnically based splinter groups in the Terai frequently committed acts of violence, extortion, and intimidation throughout the year.

On July 17, according to the OHCHR, APF personnel opened fire on protesters in the Saptari district, killing one person and injuring three others. The CDO informed the OHCHR that the dispute occurred during the arrest of several businessmen during which some protesters attempted to seize weapons from the APF and the APF fired. The NHRC was conducting an investigation of the incident, and a three-member probe committee commissioned by the Home Ministry submitted a report at the national level. District authorities were unaware of the content of the report; however, the CDO provided one million rupees (\$13,300) to the family of the victim.

Killings

INSEC reported that during the year armed groups killed 229 civilians; of that number, the state killed 37. The OHCHR documented nearly 40 credible allegations of extrajudicial killings attributed to the NP in both the current year and 2008. There were no developments in the 2007 death of Ram Babu Sharma Neupane by cadres of the Janatantrik Terai Mukti Morcha-Goit faction (JTMM-G).

Child Soldiers

The CPA forbade the use of children younger than 18 as soldiers in the armies of either side; however, the Maoists continued to recruit children after signing this agreement. The 2,973 combatants verified by UN Mission in Nepal to be younger than 18 as of May 2006 had not been released from the cantonments. An action plan for release was signed on December 16 between the Maoists and the government to establish a timetable and details for the discharge of the combatants.

Other Conflict-related Abuses

Maoists and Maoist-affiliated organizations continued to commit abuses during the year in contravention of the CPA. Maoists regularly extorted money from businesses, workers, private citizens, and NGOs. When individuals or companies refused or were unable to pay, Maoist recrimination was violent or implied the threat of violence.

Maoists attacked political opponents on several occasions. On May 6, according to the OHCHR, YCL members allegedly attacked the president of the Nepal Teacher's Union and member of the Nepali Congress (NC), Rup Narayan Jabegu, in the Panchthar district. While he took refuge in the district headquarters, the armed group reportedly vandalized his house, assaulted him with a knife, and shot at him. The group left when villagers gathered to protest. On May 7, approximately 100 to 150 NC members surrounded the houses of YCL cadres who were allegedly involved and vandalized one of the houses.

On May 31, according to human rights defenders, a group of 27 YCL cadres attacked the NC district president of Kalikot district, Mukti Prasad Neupane. He reportedly filed a FIR with the police, but there was no subsequent investigation.

On July 12, according to the OHCHR, in Gulmi district, Maoist followers reportedly abducted and assaulted a UML member. On July 14, the UML district secretary, along with members of other parties, filed a FIR about the incident. The deputy superintendent of police from Gulmi told the OHCHR that the perpetrators were charged under the Public Offense

Act, and the case was pending with the CDO.

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The law provides for freedom of speech and of the press; however, in practice there were constraints on such freedoms.

The interim constitution protects media licenses from revocation based on what they print or broadcast. The government owned two television stations, Nepal TV and Nepal TV Metro, and controlled one radio station that broadcast both AM and FM signals. Radio remained the primary source of information, with more than 150 independent radio stations reaching more than 90 percent of the population.

The independent media were active and expressed a wide variety of views. Hundreds of independent vernacular and English-language newspapers were available, representing various political viewpoints.

Foreign publications were widely available, and none were banned or censored during the year. Foreign print media was present, and reporting on the country was allowed without restrictions.

Armed groups and political parties deliberately targeted media workers and journalists throughout the country. For example, printing presses and journalists were attacked by Maoists and their youth wing and by other smaller armed groups. The government promised action against those targeting journalists, although there were few instances where the government punished perpetrators. Impunity encouraged others to resort to threats and violence to silence journalists. The Maoists also influenced media outlets through their powerful trade unions. In the Terai and the eastern hills, armed groups coerced journalists, resulting in self-censorship and fear of personal safety. Armed groups and political parties burned newspapers that they found objectionable.

During the year one journalist was killed, one survived a shooting, and approximately 50 others were either attacked or threatened by various nonstate groups and, in a few instances, by security personnel. Police reportedly arrested three journalists, according to the Federation of Nepalese Journalists (FNJ), an umbrella association of journalists.

Three armed ethnic groups—Kirati Janawadi Workers' Party, Limbuwan, and Khambuwan—extorted money from journalists, according to the FNJ, although victims did not report these cases to police due to security concerns.

Female journalists came under particular and increasing threat. On January 11, a group of unidentified assailants killed Uma Singh, an investigative journalist based in Janakpur. A district Maoist leader and a relative were suspects, but no progress was reported on the investigation.

On January 22, in Kathmandu, a group of masked men entered the apartment of Yashoda Timsina, a journalist who reportedly was investigating the killing of Uma Singh. When they determined Timsina was not at home, they threatened her housekeeper.

On April 7, unknown persons telephoned threats to another female journalist in the Dhanusha district, Manika Jha, a correspondent from *Kantipur Daily* newspaper. She was later attacked by an unidentified group of assailants.

On December 9, an unidentified group severely beat and cut with knives a Rukum district female journalist, Tika Bista, a reporter for the Kathmandu-based *Rajdhani Daily* newspaper. She suffered lacerations and head trauma and was airlifted to Kathmandu and hospitalized for several weeks. The FNJ conducted an investigation and concluded that YCL members were responsible for the attack. The Maoists held a press conference condemning the attack and denying YCL involvement. District police made several preliminary arrests, but all detainees were later released, and police had no solid leads.

Several ethnic and political groups in the Terai seized and destroyed newspapers when the papers declined to publish and highlight protester activities, halt distribution of the newspapers during strikes, or prohibit Nepali-language content in newspapers.

Maoist activists allegedly seized and destroyed newspapers that published content they disagreed with, although they denied the allegations. For example, on June 11, copies of the *Kathmandu Post* and *Kantipur Daily* were destroyed in the Rupandehi district. On June 16, copies of *Nagarik* containing information the YCL disagreed with were destroyed. On August 23, copies of the *Kathmandu Post* and *Kantipur* were again destroyed.

On July 23, Tamsaling protesters burned copies of *Kantipur* and *The Kathmandu Post* in Dhading for "defying" a strike. Protesters burned copies of the *Annapurna Daily* and the *Himalayan Times* in Pokhara on July 22.

On August 23, activists of the Madhes Terai Forum, a splinter group of Madhesi Janadhikar Forum, burned 15,000 copies of the *Kathmandu Post*, *Kantipur*, and *Nepal* newsmagazine in the Saptari district. The group demanded a ban on all Nepali-language media in the Terai. On August 28, the FNJ issued a press release condemning the burning.

On March 21, a group of local college students vandalized Radio Mukti, an FM radio station run by a women's group in Butwal. The station management alleged that Maoist-affiliated students threatened them for broadcasting reports about student elections.

In April Radio Parbat halted transmission after receiving threats. Managers later closed the radio station when an unknown group vandalized the station and ordered the staffers to stop working.

Internet Freedom

There were no government restrictions on access to the Internet or reports that the government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail. Approximately 2 percent of the population used the Internet.

Academic Freedom and Cultural Events

There were no government restrictions on academic freedom or cultural events.

The country's media continued to report instances of abduction, extortion, and intimidation of school officials by armed groups.

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. The law authorizes CDOs to impose curfews if there is a possibility that demonstrations or riots may disturb the peace.

According to the OHCHR, the NP and APF occasionally responded to provocations and protests with excessive and lethal force. For example, on July 29 and 30, according to the OHCHR, the district administration office in Banke imposed a curfew that led to the NP arresting 29 protesters, during which 12 local residents and two police officers were injured.

The country limited freedom of expression for the Tibetan community, although the frequency and size of Tibetan demonstrations in Kathmandu decreased significantly in comparison with the previous year. Nonetheless, in March the government canceled the Tibetan community's commemoration of the 1959 Tibetan uprising. Police also terminated demonstrations and sometimes detained demonstrators. In March and June, police intercepted and released in Kathmandu groups of Tibetans who attempted a march from Kathmandu to the border with China to protest conditions in the Tibetan areas of China. On September 2, police arrested seven Tibetan refugees protesting outside a hotel where a delegation of Chinese officials was staying. Police released the detainees on September 6.

Freedom of Association

The law provides for freedom of association, and it was generally respected.

c. Freedom of Religion

The interim constitution declares the country a secular state, and the law provides for freedom to practice one's own religion; however, the law prohibits converting others and proselytizing. A conviction for conversion or proselytizing can result in fines or imprisonment or, in the case of foreigners, expulsion from the country, but there were no incidents of arrest for conversion or proselytizing during the year.

Members of minority religions occasionally complained of police harassment. Authorities limited the location of and otherwise restricted public celebrations by the Tibetan community, especially those who supported the Dalai Lama.

The Press and Publications Act prohibits the publication of materials that create animosity among persons of different castes or religions.

On May 23, three persons were killed and 13 others injured when a bomb exploded in a Catholic church in Kathmandu. The Hindu extremist Nepal Defense Army (NDA) claimed responsibility. On June 2, the police arrested Seeta Thapa Shrestha. The May bombing followed the 2008 killing of a Catholic priest, John Prakash Moyalan, by the NDA. On September 6, police arrested the head of the NDA, Ram Prasad Mainali, and three of his associates. They were convicted for the March 2008 bombing of a mosque in Biratnagar that killed two, and they were sentenced to two years in prison for weapons violations and possession of explosives. The Office of the Attorney General did not file charges for murder or the church bombing.

In December 2008 the Maoist-led government announced plans to replace the Indian priests at Pashupatinath Temple with two Nepali priests. Following protests, the Supreme Court issued a stay order. On September 2, Prime Minister Madhav Kumar Nepal appointed two Indian priests to Pashupatinath Temple. In response, Maoist followers and others attacked two of the Indian priests at Pashupatinath Temple on September 5.

Societal Abuses and Discrimination

The law prohibits caste discrimination, but citizens experienced it in a wide variety of religious, professional, government, and social environments, and such discrimination strongly influenced society.

There are no known Jewish adherents in the country, and there were no reports of anti-Semitic acts.

For a more detailed discussion, see the *2009 International Religious Freedom Report* at www.state.gov/g/drl/rls/irf

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

The law provides for freedom of movement, except for most refugees, whose freedom of movement within the country is legally limited. Constraints on refugee movements were unevenly enforced—more often against the Tibetan than the Bhutanese refugee population. The government generally cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing protection and assistance to internally displaced persons, refugees, returning refugees, stateless persons, and other persons of concern.

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

The law prohibits forced exile, and it was not used during the year. The government allowed citizens to emigrate and those abroad to return and was not known to revoke citizenship for political reasons.

Internally Displaced Persons (IDPs)

Although the government and Maoists agreed to support the voluntary return in safety and dignity of IDPs to their homes following the 10-year civil war, in practice the agreement was not implemented. Several UN agencies, including the UNHCR, OHCHR, and UN Development Program, continued working with the government to develop an IDP policy consistent with international principles. Civil society and international organizations estimated there were between 50,000 and 70,000 IDPs in the country. The Ministry of Peace and Reconstruction has registered 52,163 IDPs through its task force. 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. 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' refusal to allow IDPs to return to their homes, and conflict with those occupying the houses and lands of IDPs. Unrest in the Terai region led to more displacement. According to Caritas, the government made little effort to aid or monitor the movement of post-conflict IDPs. According to the Nepal IDP Working Group, most of the IDPs in the country were unwilling to return to their homes, due not only to a lack of security but also to economic concerns, primarily property, housing, and employment opportunities.

On March 18, according to the UN Office for the Coordination of Human Affairs, a large group of an alleged Mahato-

affiliated group linked to UCPN-M attacked and temporarily displaced an estimated 65 families of the Sahani community. A large group of Maoists entered the Sahani community and assaulted families, vandalized houses, and looted property. Fearing persecution, the men from the Sahani community fled.

Protection of Refugees

The country is not a party to the 1951 Convention relating to the Status of Refugees or its 1967 protocol, and the laws do not provide for the granting of asylum or refugee status. The government has in place ad hoc administrative directives that provide some protection for Bhutanese and Tibetan refugees.

Since 1991 the government has provided asylum to approximately 108,000 persons who claimed Bhutanese citizenship. Almost all of these refugees lived in camps in the southeastern part of the country. The UNHCR administered the camps and monitored the condition of the refugees, and international organizations and NGOs provided for their basic needs, including food, education, and health care. The government continued to accept the refugees' presence on humanitarian grounds. Lutheran World Federation provided the infrastructure for the camps; the World Food Program provided food assistance; the Association of Medical Doctors of Asia provided medical care; and Caritas provided education assistance and coordination. The government officially restricted the refugees' freedom of movement and work, but those restrictions largely were unenforced for this population.

The security situation in the camps improved as a result of the government's continued security presence in the camps. An option of third-country resettlement diminished support among the Bhutanese refugees for the small but radical anti-resettlement groups previously active in the camps. In 2007 the government agreed to permit third-country resettlement for Bhutanese refugees, and the resettlement program saw its first significant movements in 2008. By the end of the year, approximately 25,000 refugees had been resettled to seven countries.

Between 1959 and 1989, the government accepted approximately 20,000 Tibetans and recognized them as refugees. Since 1990 the government has not recognized Tibetans as refugees. Consequently, most Tibetans who arrived in the country have transited to India, although an unknown number of Tibetans arriving since 1989 have chosen to remain or returned to the country after visiting India.

Between 1990 and 2008, the number of Tibetans transiting the country to find asylum in India ranged from 2,000 to 3,000 per year. Following 2008 protests and subsequent riots in the Tibet Autonomous Region and other Tibetan areas of China, the People's Republic of China heightened security along its border. After March 2008 the number of Tibetans transiting the country dropped significantly, falling to fewer than 700 per year. There continued to be reports of harassment by Chinese border guards within Nepal's borders, including a credible report by an international observer of a joint patrol by Chinese and Nepali border officials more than 30 miles inside Nepal. There were also numerous instances of APF officers assisting and protecting Tibetan refugees found in the border region. There were no confirmed reports of refoulement, but there were unconfirmed allegations of acquiescence to the return of Tibetans found on the border.

Many of the Tibetans who lived in the country did not have legal resident status. Those who arrived after 1990 generally had neither status nor documentation. Even those with acknowledged refugee status had no legal rights beyond the ability to remain in the country. Bribery was required to obtain access to higher education, business ownership, licenses, and legal transactions, including documentation of births, marriages, and deaths. In February during the period leading to the 50th anniversary of the Dalai Lama's exile from Tibet, approximately 20 Tibetans reported that Kathmandu police extorted money and threatened them with arrest and deportation.

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. Reportedly, these checks sometimes included threats of deportation, followed by requests for bribes.

The country also hosted in Kathmandu approximately 300 refugees from other countries, including Somalia, Burma, and Pakistan. The government continued to deny these groups recognition as refugees and to require prohibitive fines to obtain permission to exit. However, the government permitted the waiver of the fines in a few instances in which there were compelling humanitarian concerns. The government also allowed the UNHCR to provide some services for these refugees.

Stateless Persons

In 1995 the government-established Dhanapati Commission estimated that 3.4 million individuals in the country were de facto stateless. Although the government acknowledged that they were Nepalis, they did not hold the citizenship certificate (issued to citizens at the age of 16), without which they could not obtain many rights of citizenship. Although the 2006 Citizenship Act allowed more than 2.6 million persons to receive citizenship certificates, NGOs estimated that approximately 800,000 de facto stateless persons remained in the country. There was no further progress during the year on this issue.

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

The law provides citizens with the right to change their government peacefully.

Elections and Political Participation

In 2008 citizens elected members for a Constituent Assembly (CA) to serve as both a legislature and constitution drafting body. Domestic and international observers found the election results credible, although there were reports of political violence, intimidation, and voting irregularities. The most recent local elections, held in 2006, were not considered free and fair.

The CA consists of 601 members, with 240 elected by a first-past-the-post system; 335 by proportional representation, quotas for Dalits, oppressed caste/indigenous ethnic groups, Madhesis, women, and other underrepresented groups; and 26 nominated by the cabinet. CA members classified as oppressed or members of minority ethnic groups constituted 35 percent of the total, and 33 percent were women. The president and vice president belong to the historically disadvantaged Madhesi ethnic community.

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

Section 4 Official Corruption and Government Transparency

The law provides criminal penalties for official corruption; however, the government did not implement the law effectively.

The Commission for the Investigation of the Abuse of Authority (CIAA), mandated to investigate official acts of corruption, claimed a 75 percent success rate concerning corruption cases it filed, but some cases involving politicians were not filed or were defeated in court. Most civil society organizations believed the CIAA was not an effective commission.

The CIAA requested the Ministry of Forest and Soil Conservation to take action against employees of the Tatopani Customs Office who allegedly aided smugglers across the Tatopani/Chinese border, but the ministry took no action.

The CIAA urged the chief secretary, prime minister, and Cabinet Secretariat to follow established legal procedures when accepting funds from international organizations, after CIAA discovered some civil servants had written false development proposals. There was no further information to the CIAA from the chief secretary, prime minister, or the Cabinet Secretariat on their implementation of the CIAA directives.

In 2007 the interim parliament passed the Right to Information Law, which mandated that public organizations provide citizens with information as quickly as possible and respond within 15 days. In practice the government generally met this requirement. If authorities deny individuals access to information, officials must provide a valid explanation. The law provides five exemptions for withholding information: to facilitate the investigation and filing of criminal cases, 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 to personal life or security.

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

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

Domestic and international human rights groups generally operated without government restriction and were able to investigate and publish their findings on human rights cases. Government officials were cooperative with and responded to their views in a few cases.

There were approximately 13 independent domestic human rights NGOs, including Advocacy Forum (AF), the Human Rights Organization of Nepal, Informal Sector Service Center (INSEC), Inhured, the Human Rights and Peace Society, and Him Rights. 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.

According to the UN Office for the Coordination of Humanitarian Affairs, there were occasional credible claims that Maoists interfered with the operations of international NGOs.

The government welcomed and regularly granted visas to international NGOs and other human rights monitors, including members of Amnesty International and HRW. Authorities generally gave international observers access to barracks and places of detention. International observers were not granted access to courts martial and military investigations.

As set out in the 2006 CPA, the OHCHR continued its work with the government to formulate and implement policies and programs for the promotion and protection of human rights.

During the year the OHCHR issued 43 press releases. The media covered all reports freely.

The commissioners of the NHRC began their duties in 2007 to investigate past and current allegations of abuses. Resource constraints and insufficient manpower restricted the number of cases the commission investigated. Once the NHRC completes an investigation and makes a recommendation, the government has three months to respond. The commission received 677 complaints of human rights violations during the year. The NHRC also investigated illegal detention and arrest of acquitted persons. The NHRC reported open access to government detainees across the country.

Section 6 Discrimination, Societal Abuses, and Trafficking in Persons

The law specifies that the government shall not discriminate against citizens on grounds of race, sex, caste, or ideology; however, a rigid caste system continued to operate throughout the country in many areas of religious, professional, and daily life. Societal discrimination against lower castes, women, and persons with disabilities remained common, especially in rural areas.

Women

Under the civil code, sentencing provisions for rape depend on the age of the female victim, with the maximum possible jail sentence of 10 to 15 years if the victim is younger than 10, and the minimum possible jail sentence of five to eight years if the victim is older than 20. The victim's compensation depends on the degree of mental and physical torture. Under the 2006 Gender Equality Amendment Act, the definition of rape includes marital rape, and the husband can be jailed for three to six months.

Most incidents of rape went unreported. In 2008, for example, during a four-month period, 391 cases of rape and 75 cases of attempted rape were filed in the court, according to the women's police cell. A 2003 survey found that 39 percent of rape victims who reported the crime to police were younger than 19. Of victims who reported the crime to the authorities, 25 percent said the government arrested and convicted the perpetrator. Police and the courts were quick to respond to rape cases.

Domestic violence against women remained a serious problem that received limited public attention. There was a general unwillingness among police, politicians, citizens, and government authorities to recognize violence against women as a problem. Educational programs by NGOs for police, politicians, and the general public continued to lead to greater awareness of the problem. Police had women's cells in 41 of the country's 75 districts. Female officers in the cells received special training in dealing with victims of domestic violence and trafficking. Police also issued directives instructing all officers to treat domestic violence as a criminal offense but found the directives difficult to enforce because of entrenched discriminatory attitudes among police. Even if police made arrests, often neither the victim nor the government pursued prosecution.

The Domestic Violence (Crime and Punishment) Act 2065 imposes a fine of 3,000 to 25,000 rupees (\$40 to \$330), six months' imprisonment, or both for a person who commits domestic violence. Repeat offenders receive twice the punishment. Any person holding a position of public responsibility is subject to 10 percent more punishment than one who does not hold such a position. Pursuant to article 6 of the act, anyone who does not follow the order of the court can be charged a fine of 2,000 to 15,000 rupees (\$25 to \$200), four months of imprisonment, or both.

In September police interrogated a 14-year-old rape victim in front of a large crowd outside the Sunsari Police Station in

Dharan. One of the alleged rapists was a police officer, Suresh Kuma Sah, who offered the family 30,000 rupees (\$400) to withdraw the case against him. According to district police, the officer was arrested and was in custody.

There was no progress in the 2008 case of Laxmi Bohara, whose husband and mother-in-law forced her to swallow a fatal poison because they were upset with her activities as a women's rights activist.

Although the law prohibits polygamy, it persisted. Polygamists are subject to a two-month jail term and fine, but the second marriage is not invalidated. Between June 2008 and 2009, 170 cases of polygamy were officially reported. Violence surrounding polygamy remained a problem. Rishi Pandit killed Nirmala Thapa during a domestic dispute over this matter. According to the NP, there was a 27 percent increase in polygamy cases filed during the last half of the year.

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

In April Bishnu Bhatta of Daiji Champapur was arrested for severely beating his daughter-in-law, Laxmi Devi Bhatta, for not eliciting enough of a dowry.

In January Oshim Idris was sentenced to seven years in prison and his mother Raksana Idris to five years for causing severe burns to Hasrun Idris in 2007 because they were dissatisfied with the dowry her family had paid. The court decided not to take action against her brothers-in-law, who allegedly were accomplices, leading to concerns about Hasrun and her children's security.

Traditional beliefs about witchcraft negatively affected elderly rural women and widows. Shamans or other local authority figures publicly beat and physically abused alleged witches as part of an exorcism ceremony. The media and NGOs reported numerous cases of this violence during the year. For example, Kalli Kumari BK of Lalitpur district was tortured by Bimala Lama, principal of a local school, because a shaman indicated that she could be practicing witchcraft. Lama was not charged with any crime. Similar incidents occurred in other parts of the country. There was no government mechanism to prevent such abuses or to provide compensation to the abused.

In July villagers in Tengar beat and forced Patambari Devi Das to eat human excrement because they accused her of witchcraft. According to traditional beliefs, witches lose their power after this treatment.

An estimated 7,500 women were forced into commercial sexual exploitation in other countries and increasingly within the country. Forced prostitution is illegal, but there are no laws banning prostitution by choice.

Couples and individuals generally may decide freely and responsibly the number, spacing, and timing of their children, and were not subject to discrimination, coercion, and violence regarding these choices.

Contraception was available to both men and women, and 44 percent of married women used a modern contraceptive method. One in four married women (25 percent) had an unmet need for family planning.

Forty-four percent of mothers received prenatal care from a doctor, nurse, or midwife. Most births (81 percent) were at home, and 67 percent of mothers received no postnatal care.

Men and women generally were equally diagnosed and treated for sexually transmitted infections, including HIV. According to the Nepal Demographic Health Survey, 75 percent of women and more than 90 percent of men had heard of HIV and understood the methods of prevention.

Although the law provides protections for women, including equal pay for equal work, the government did not implement those provisions, even in many state industries. The law contains a provision against sexual harassment and provides penalties of as long as a one-year jail sentence and a fine of as much as 10,000 rupees (\$130). Government enforcement was weak.

In 2008 the Supreme Court upheld the right of women to equal wages for work of equal value. In its decision, the court referred to the Convention on the Elimination of all Forms of Discrimination against Women regarding the right of women to parity in remuneration, as well as constitutional protections.

Women faced systematic 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 women's right to vote or to hold property in their own names.

Citizenship may not pass through the mother, and the children of female citizens married to foreign spouses can claim citizenship only if they meet naturalization requirements. Women may register birth and death information. Women did not need permission from their husband or parents to get a passport. Unmarried, widowed, and divorced women were able to inherit parental property. Women did not need the permission of their husband, son, or parents if they wished to sell or hand over ownership of property.

Despite the 2006 Gender Equality Act, discriminatory provisions remain in the law. For example, the law on property rights favors men in its provisions for land tenancy and the division of family property. The Foreign Employment Act requires a woman to get permission from the government and her guardian before seeking work through a foreign employment agency. The law encourages bigamy by allowing men to remarry without divorcing the first wife if she becomes incapacitated or infertile.

According to the 2001 census, the most recent statistics available, the female literacy rate was 43 percent, compared with 65 percent for men. NGOs focused on integrating women into active civil society and the economy. Most political parties had women's groups that advocated for women's rights and brought women's issues before the party leadership.

Children

According to the interim constitution, citizenship is derived solely from a Nepali father. Nepali mothers who are married to foreigners or who cannot prove a child's father is Nepali can confer citizenship only if their child complies with the naturalization requirement of 15 years' residence in the country. Children found within the borders of the country without parental identity are considered citizens on the basis of lineage until the parents of the child are identified. According to a 2008 report by the Ministry of Women, Children and Social Welfare, 35 percent of births were registered.

Although the law provides for the welfare and education of children, its implementation was uneven. Education was not compulsory. Government policy provided free primary education for all children between the ages of six and 12 years. Approximately 70 to 75 percent of boys who worked went to school, compared with only 50 to 60 percent of the girls who worked. Human rights groups reported that girls attended secondary schools at a rate half that of boys. The government

reported 91.9 percent of school-age children were attending public schools but that girls were the majority of those deprived of basic education. A reported 1,058 legally registered madrassas functioned throughout the country.

The government provided basic health care free to children and adults, but government clinics were poorly equipped and few in number, and serious deficiencies remained. Some health clinics in rural areas were forced to close due to Maoist intimidation.

Violence against children rarely was prosecuted, and commercial sexual exploitation of young girls remained a serious problem.

There are no laws against discrimination against female children, and in practice there was considerable discrimination. Although the law prohibits marriage for girls before the age of 18, child brides were common, and girls were sometimes forced to marry before the onset of puberty. Social, economic, and religious values promoted the practice of child marriages. According to the Ministry of Health, girls' average age of marriage was 16 years, and boys' average age was 18. An age difference in marriage often was cited as a cause of domestic violence.

Internal displacement due to the decade-long Maoist conflict continued to be a problem, with estimates of the number displaced ranging widely. As IDPs, children faced inadequate access to food, shelter, and health care and had limited access to education.

According to the local NGO Child Workers in Nepal, 206 boys and 64 girls and two unidentified were reported missing. Many of the missing children were presumed to have been trafficked. Of the 270 missing children, police records indicated that 172 boys and 74 girls were later found.

Trafficking in Persons

The law prohibits all forms of trafficking in persons; however, trafficking in women and children remained a serious problem.

The country was a source country for trafficking. Young women were the most common targets. Trafficking of boys rarely was reported, but girls as young as nine years were trafficked, primarily to neighboring countries. Although the majority of trafficking was of women and girls for sexual exploitation, men, women, and children also were trafficked for domestic service, manual or semiskilled bonded labor, work in circuses, or other purposes. Men were trafficked for involuntary servitude in Iraq by labor recruiting agencies; they generally were promised jobs in other Gulf countries but were subsequently transferred to Iraq under threat or deception. There were more reports than in previous years that men were trafficked for labor exploitation to the Middle East. Most women and girls trafficked from the country went to India, lured by promises of jobs or marriage.

An estimated 12,000 women and children were trafficked into sexual exploitation in Indian brothels, and an unspecified number were victims of internal sex trafficking. Traffickers posing as labor recruiting agencies sent women to Saudi Arabia, Malaysia, Hong Kong, the United Arab Emirates, and other Gulf states for sexual exploitation and domestic servitude.

Community Action Center, an NGO that assists female sex workers, estimated that in August there were 5,275 women working in the sex industry in the Kathmandu valley.

Internal trafficking for forced labor and sexual exploitation also occurred and appeared to increase during the year. According to studies conducted by Save the Children and Action Aid, internal trafficking likely was on the rise due to the lingering effects of the insurgency, as rural women and children left their homes to seek employment and security in urban centers. A 2007 NHRC report estimated that approximately 40,000 female workers between the ages of 12 and 30 worked in 1,200 cabin and dance restaurants and massage parlors in the Kathmandu valley. The girls reportedly had been assured jobs, primarily in the Middle East.

In May local authorities raided houses in Ghorahi and freed four girls (ages 10-16) who had been forced into indentured servitude (the *kamlari* system). The country has laws to protect against forced labor and child labor; however, the tradition of employing girls and young women as domestic workers continued in rural and remote areas of the country.

Traffickers were usually from the country or India and often had links to brothels in India, but recruiters who sought girls in villages were primarily Nepali citizens. In many cases parents or relatives sold women and young girls into sexual slavery. Corruption was also believed to facilitate trafficking, but there were few reported investigations or prosecutions of complicit government officials. The government identified 26 districts as major source areas of trafficking and established antitrafficking task forces in each of these districts. Women and youth displaced from homes as a result of the insurgency were especially vulnerable to being trafficked.

Enforcement of antitrafficking statutes improved but remained sporadic. The law prohibits the selling of persons in the country or abroad and prescribes imprisonment of as long as 20 years for infractions. Implementation of the 2007 Trafficking in Persons and Transportation Control Law was poor, reportedly due to lack of knowledge regarding provisions and the generally weak rule of law situation in the country.

Police records of trafficking cases and cases registered by NGOs did not match. Maiti Nepal, the country's largest antitrafficking NGO, registered 29 cases of trafficking in the Kathmandu district court. According to the Attorney General's Office, the government made 14 convictions for trafficking (with 19 acquittals and 59 cases pending) across the country from June 2007-08.

The government did not monitor labor recruiting agencies adequately to ensure that workers going abroad attended premigration orientation sessions or that labor contracts were honored after workers' arrived in receiving countries. Recruiters in the country who tricked workers into forced labor in Iraq despite a government ban remained largely unmonitored and unpunished.

The government had a national plan to combat trafficking and a National Rapporteur on Trafficking; however, political instability and security problems hindered the government's antitrafficking efforts.

Official corruption in identity documentation and at ports of entry continued to facilitate the illicit movement of persons across the country's borders. The National Task Force in the Ministry of Women, Children, and Social Welfare (MWCSW) continued to coordinate the response to trafficking cases. There were programs in place to train police, and the MWCSW worked closely with local NGOs to rehabilitate and otherwise assist victims. Police women's cells in 41 districts worked with NGOs to provide referral services to victims of trafficking and domestic violence.

The government provided limited funding to NGOs to assist victims with rehabilitation, medical care, and legal services. The MWCSW sponsored job and skill training programs in several poor districts with high rates of commercial sex workers. The government protected the rights of victims and did not detain, jail, or prosecute them for violations of other

laws.

The government, with NGOs and international organizations, implemented local, regional, and national public awareness campaigns on trafficking in persons; however, the government failed to provide adequate police training and resources or prompt adjudication. Government welfare agencies worked with NGOs to deliver public outreach programs and assistance to trafficking victims. Maiti Nepal stationed rehabilitated trafficking victims as guards with government officials to intercept trafficking victims at border crossings.

Maiti Nepal provided transit homes for girls rescued from trafficking. Transit homes were located in border towns of eight districts through which many girls were trafficked into India. During the year 2,673 children and women stayed at the transit homes after authorities intercepted them while they were being trafficked. At the Maiti Nepal Rehabilitation and Protection Home, children and women could stay as long as six months and learn income-generating skills. At year's end, 341 children and women were residing in Maiti Nepal's rehabilitation home in Kathmandu. Other NGOs also provided transit homes.

During the year Maiti Nepal's head office rescued and repatriated 118 children and women from India and the Gulf countries. Many had been expelled from their brothels after contracting sexually transmitted diseases or tuberculosis. Most were destitute, and according to estimates by Maiti Nepal and ABC Nepal, 50 percent were HIV-positive. Maiti Nepal operated a hospice for HIV-positive trafficking victims and their children.

The Department of State's annual *Trafficking in Persons Report* can be found at www.state.gov/g/tip.

Persons with Disabilities

The law does not prohibit discrimination against persons who have physical and mental disabilities, and there was such discrimination in employment, education, access to health care, and in the provision of other state services. The law mandates access to buildings, transportation, employment, education, and other state services, but these provisions generally were not enforced. The government did not implement effectively or enforce laws regarding persons with disabilities. The MWCSW was responsible for the protection of persons with disabilities. 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 that each community has the right to operate schools at the primary level in its native language. In practice the government generally upheld these provisions.

There were more than 75 ethnic groups who spoke 50 different languages. In remote areas school lessons and radio broadcasts often were in the local language. In urban areas education was almost exclusively offered in Nepali or English.

Discrimination against lower castes and some ethnic groups, particularly Madhesis and Janajatis, was especially common in the Terai and in rural areas in the western part of the country, even though the government outlawed the public shunning of Dalits and made an effort to protect the rights of disadvantaged castes. Better education and higher levels of prosperity, especially in the Kathmandu valley, were slowly reducing caste distinctions and increasing opportunities for

lower socioeconomic groups. Better-educated, urban-oriented castes continued to dominate politics and senior administrative and military positions and to control a disproportionate share of natural resources.

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

Resistance to intercaste marriage (upper and lower caste) remained high.

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

The country has no laws that specifically criminalize homosexuality; however, government authorities, especially police, sometimes harassed and abused homosexual persons. According to Blue Diamond Society, an indigenous NGO, harassment of such persons was common by both government and citizens.

In 2008 the Nepal Army Court upheld the NA's 2007 decision to fire Sergeant Bhakti Shah for being a lesbian while serving as an instructor at the military academy. On September 26, Shah filed an appeal before the Supreme Court. The Supreme Court hearing was initially scheduled for November 30 but did not occur during the year.

As a result of the 2007 Supreme Court decision that sexual minorities are natural persons, transgender individuals may be issued third-gender identification cards. In 2008 the first transgender individual received a citizenship certificate. The court also directed the government to eliminate discriminatory laws and policies for sexual and gender minorities. Other than issuing the certificates, the government made no progress on complying with the Supreme Court's order.

Other Societal Violence or Discrimination

In 2007 the Supreme Court directed the government to enact laws to protect lesbian, gay, bisexual, transgender, and intersex (LGBTI) fundamental rights, enable third-gender citizenship, and amend all laws that are sexually discriminatory. At year's end the court order had not been implemented. Many mainstream political parties included pro-LGBTI legislation in their party manifestos.

In 2008 the Supreme Court instructed the government to form a committee to examine same-sex marriage. The committee was formed and began its work during the year. NGOs working on LGBTI issues reported that police harassment of sexual minorities occurred in rural areas of the country, especially in the Terai.

There was no official discrimination against those who provided HIV prevention services or against high-risk groups likely to spread HIV/AIDS, although there was societal discrimination against these groups.

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Section 7 Worker Rights

a. The Right of Association

The law grants workers, including noncitizens, the freedom to establish and join unions and associations, but the

government protected these rights unevenly in practice. The law permits the banning of unions only in cases of subversion, sedition, or similar conditions. Members of the armed forces and the police are not permitted to form a union, and members of the management of private or public enterprises are not permitted to take part in union activities. In the public sector, employees under the level of undersecretary can join a union. Trade unions developed administrative structures to organize workers, bargain collectively, and conduct worker education programs. The three largest trade unions were affiliated with political parties.

Only 10 percent of the total work force was in the formal sector; the remaining 90 percent worked in the informal sector. Of the formal sector work force, 75 percent participated in unions. The law contains enabling regulations; however, the government did not fully implement acts projecting trade unions or combating and regulating child labor. The law 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, and prohibits employers from discriminating against trade union members or organizers.

The government enforced some barriers to the participation in union federations through minimum required thresholds for the formation of trade union federations and confederations. The government did not restrict unions from joining international labor bodies. Several trade federations and union organizations maintained a variety of international affiliations.

The law provides the right to strike except by employees in essential services, and workers exercised this right in practice. The government used the legislation to ban strikes in sectors, including several that go beyond international standards for essential services, such as banking, hotels, and restaurants. The law empowers the government to halt a strike or to suspend a union's activities if the union disturbs the peace or if the strike adversely affects the nation's economic interests. The process for conducting a legal strike is cumbersome, as 60 percent of a union's membership must vote in favor of a strike in a secret ballot, and the union is required to give notice 30 days before a strike.

b. The Right to Organize and Bargain Collectively

The law provides for collective bargaining, but the government did not effectively enforce these provisions. Collective bargaining agreements covered an estimated 10 percent of wage earners in the organized sector. Labor leaders faced challenges in reaching collective bargaining agreements due to political infighting among trade unions, and the government did not effectively enforce protections regarding antiunion retaliation due to legal obstacles to striking, insufficient capacity, and employer resistance. According to the General Federation of Nepalese Trade Unions, collective bargaining was not effective in new factories and industries, but it was successful in some of the well-established factories and industries. Workers often faced threats or dismissal for attempting to organize a union, and the government did not effectively enforce protections regarding antiunion retaliation.

There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor

The law prohibits forced or compulsory labor. In practice there were reports that forced labor occurred, especially in domestic servitude, food services, and the sex industry.

Bonded labor remained a problem primarily in the agricultural sector as well as the small formal sector, which included

brick and kiln works and food services such as tea shops and restaurants. Enforcement of the Kamaiya Prohibition Act of 2002 by the government was uneven, and social integration of the Kamaiyas--former bonded laborers--was difficult. During the year the government rehabilitated an additional 4,870 Kamaiyas, bringing the total rehabilitated to 20,402 of a total 27,570, mostly living in Dang, Banke, and Kanchanpur districts. Most unrehabilitated Kamaiyas lived in Bardiya and Kailali districts.

The Ministry of Labor enforced laws against forced labor only in the small formal sector.

d. Prohibition of Child Labor and Minimum Age for Employment

The law establishes a minimum age for employment of minors at 16 years in industry and 14 years in agriculture, and it mandates acceptable working conditions for children. Employers must maintain records of all laborers between the ages of 14 and 16. The law also establishes specific penalties for those who unlawfully employ children, but regulations to enforce the law have not been fully implemented. The law stipulates that children shall not be employed in factories, mines, or 60 other categories of hazardous work and limits children between the ages of 14 and 16 years to a 36-hour workweek (six hours a day between 6 a.m. and 6 p.m. and six days a week). The Child Labor Act of 2000 applies only to formal sectors of the economy, such as tourism, cigarette or carpet factories, and mines.

Child labor was a significant problem, particularly in the large informal sector, including agriculture, domestic service, portering, rag picking, and rock breaking. The agricultural sector accounted for an estimated 95 percent of child laborers. Children working in textiles and embroidery faced hazards, as they were confined to small, poorly ventilated rooms where they worked with sharp needles. Resources devoted to enforcement were limited. According to the International Labor Organization (ILO), the agricultural sector accounted for less than 40 percent of child laborers. According to the National Leaving Standard Survey of 2004, which was the most recent survey available, 1.8 million children, most of them girls, participated in the labor force. Of those, 1.17 million children worked full time. According to the ILO and the Ministry of Labor, inspectors found no children working and no legal action taken in the formal sector. At the same time, an estimated 60 percent of children who worked also attended school.

The Ministry of Labor, responsible for enforcing child labor laws and practices, had a mixed enforcement record. According to the ministry, there were 10 labor inspectors employed during the year. The ministry reported it carried out 1,198 labor inspections across the country during the 12-month period ending in July. The Home Ministry raided restaurants and brothels and rescued and rehabilitated 75 children.

e. Acceptable Conditions of Work

The minimum wage for unskilled laborers was approximately 4,600 rupees per month (approximately \$65). The wage for semiskilled workers was set at 4,650 rupees (\$66), for skilled workers at 4,760 rupees (\$67), and for highly skilled workers at 4,950 rupees (\$70). None of these minimum wages was sufficient to provide a decent standard of living for a worker and family. It is possible to increase this wage through a tripartite mechanism comprising representatives of the government, the employer, and the employee. Wages in the informal service sector and in agriculture ranged from 100 to 190 rupees per day (\$1.28 to 2.43). The law calls for a 48-hour workweek, with one day off per week and one-half hour of rest per eight hours worked, and it limits overtime to 20 hours per week with 50 percent overtime pay per hour. In practice these laws were effectively enforced. Labor regulations also apply to foreign and migrant workers.

The government sets occupational health and safety standards, and the law establishes other benefits such as a provident

fund and maternity benefits. Implementation of the law was slow, as the government did not create the necessary regulatory or administrative structures to enforce the law's provisions. Workers did not have the right to remove themselves from dangerous work situations without fear of losing their jobs. Although the law authorizes labor officers to order employers to rectify unsafe conditions, enforcement of safety standards remained minimal.