Nepal

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Nepal is a constitutional monarchy with a parliamentary form of government and a population of approximately 28 million. Until April 27, King Gyanendra Bir Bikram Shah Dev had direct control of the government, citing the need to fight a Maoist insurgency under the emergency powers article of the constitution. After the successful popular uprising in April, the king restored parliament and ceded power to a government headed by Prime Minister Girija Prasad Koirala and run by an alliance of the seven main political parties (Nepali Congress, Nepali Congress-Democratic, Communist Party of Nepal-United Marxist Leninist, Nepal Sadbhavana Party-Anandi Devi, People's Front Nepal, Nepal Peasants and Workers Party, and the United Left Front). On November 21, the government and the Maoists signed a comprehensive peace agreement that called for an interim government, with the participation of the Maoists, to be formed by December 1. At year's end, the government and the Maoists had not yet formed an interim government. The most recent national parliamentary elections were held in 1999 and were considered generally free and fair by international observers. The king held municipal elections in February that most political parties boycotted and the international community criticized. While the king generally maintained effective control of the security forces, elements of the security forces sometimes acted independently of government authority before the popular uprising. After the April uprising, the newly formed government took over control of the security forces; however, the government has not used the security forces effectively to enforce law and order. The November 21 peace agreement called for the Nepal Police and the Armed Police Force (APF) to enforce law and order across the country. Authorities reestablished some police posts across the country, but Maoists subsequently forced many of them to close. The government ordered the police not to endanger the peace process by taking action against the Maoists.

Members of the security forces and the Maoist insurgents committed numerous grave human rights abuses during the year. Arbitrary and unlawful use of lethal force, including torture, as well as disappearances, occurred frequently. In addition, arbitrary arrest and lengthy pretrial detention, restrictions on the right to assemble, obstruction of citizens' right to change the government, and impunity for security forces remained serious problems. The government also compromised independence of the judiciary, suspended news broadcasts, restricted the Tibetan community, restricted internal travel, and discriminated against persons with disabilities and lower castes. Violence against women and trafficking in women and girls continued. Maoist acts of violence, extortion and intimidation continued throughout the year (see section 1.g.).

There has been some improvement in the human rights situation since the transition of power on April 27. Government abuses decreased substantially, while Maoist abuses, such as abduction, extortion, and violence, continued relatively unabated.

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life

Before the popular uprising in April, security forces continued to commit arbitrary and unlawful killings. According to a local nongovernmental organization (NGO), Informal Sector Service Center (INSEC), security forces killed 247 people between January 1 and November 20. Additionally, Nepal Army (NA) soldiers killed numerous others before the cease-fire declaration on April 27, including those in custody who were tortured, according to NGO sources (see section 1.c.). The National Human Rights Commission (NHRC) reported that the government and Maoists killed 43 persons between April 27 and December 31. During the year, the NA's human rights investigative cell conducted 102 new investigations involving 163 individuals. In most cases of arbitrary or unlawful killings, the security forces claimed that the victims were Maoists. After the restoration of parliament in April, NA abuses lessened substantially.

On February 8, security forces shot and killed Umesh Chandra Thapa in Dang. Thapa was shot when security forces fired on a peaceful demonstration protesting the municipal elections.

On March 8, according to INSEC, security forces shot and killed Rishiram Kumal, a civilian. Kumal met security forces while he was walking to his home in Kusundeter. Security forces were on a search operation, and when they asked Kumal where he had come from, and Kumal did not respond, security forces shot and killed him. After the incident, five security forces went to the nearby Rambhadevi Primary School and took two teachers of that school to the place of the incident. The security forces asked the teachers to identify the dead body, but the teachers were unable to recognize him. Security forces buried Kumal near Rambha Devi Primary School and did not notify Kumal's family. When Kumal's family inquired about their son, villagers and teachers of the school said that there was a shooting near the school that day. The victim's family went to the burial place and excavated the body.
During the 19-day popular uprising in April, INSEC reported that security forces killed 21 persons nationwide. Those killed included Bhimsen Dahal in Pokhara and Tulasi Chetri in Bharatpur on April 8, and Bishnu Pandey in Nawalparasi on April 12.

Security forces used excessive force against persons in custody, resulting in deaths during the year. On January 5, security forces arrested Devendra Rai in Bhokpur on suspicion of being a Maoist. The security forces beat and subsequently killed Rai. On April 26, security forces arrested Sapana Gurung on suspicion of being a Maoist. The soldiers allegedly raped and beat Gurung before they shot and killed her. At year's end, the NA had not reached a verdict on this case.

At year's end, there had been no action taken to investigate the July 2005 deaths in custody of Laxmi Yadab, Hari Prasad Yadab, Kari Kapar, and Kari Saha.

There were no developments in the 2004 killings of Rajendra Paneru, Ganesh Syangtang, Subhadra Chaulagain, Reena Rasaili, Kishori Patel Kurmi, Suresh Raut Patel, Govinda Poudel, or for any victims of the February 2004 raid in Ward 4 Handikhola VDC.

During the year there were no reports of injuries or deaths from NA-planted landmines protecting military installations and infrastructure. The Maoists used landmines in and alongside roads, killing both security forces and civilians (see section 1.g.). There were more than 117 civilian casualties, with 23 resulting in death, from accidental explosions of landmines or improvised explosive devices during the year. The November 21 peace agreement called for all landmines to be identified and located within 30 days and removed completely within 60 days. At year's end, there had been no indication that this process had started.

Maoist rebels repeatedly clashed with security forces and engaged in targeted killing of security forces, government officials, and civilians during the year. Maoist killings lessened after the cease-fire in April, but other abuses continued nearly unabated.

INSEC reported that insurgents killed 240 civilians during the year (see section 1.g.), including on January 22, when Maoists shot and killed Bijay Lal Das, a local leader of the Nepal Sadbhavana Party-Anandi Devi.

There was a notable upswing in vigilante groups, increasing the level of violence experienced by the civilian population during the year. For example, on June 30, an anti-Maoist vigilante group killed two Maoists in Kapilvastu district (see section 1.g.). The government did not penalize villagers who were involved in vigilante killings.

b. Disappearance

Before June 12, there were disappearances of persons while in the custody of security forces. In some cases, individuals disappeared, and their whereabouts remained unknown until much later when the government acknowledged that the individuals were detained under the Terrorist and Destructive Activities Ordinance (TADO) (see section 1.d.). On June 12, the government repealed TADO and released between 300 and 600 Maoists held under the act. Under TADO, suspects had to appear before a court within 60 days of their arrest, and the government could hold suspects in preventive detention for 360 days.

In May the Office of the High Commissioner of Human Rights (OHCHR) reported on the status of 49 disappeared people whom the Bhoirabnath Battalion of the NA arrested and detained at the Maharajgunj barracks in Kathmandu in 2003 on suspicion of being linked to the Maoists. The government denied knowledge of their whereabouts. While members of the Bhoirabnath battalion acknowledged arresting 137 people between September and December 2003, battalion officials claimed that prisoners were released or transferred after short periods of detention.

INSEC data of unresolved disappearances lists the government as responsible for the disappearance of 1,305 persons from the beginning of the insurgency in 1996 through 2005. The Maoists, according to INSEC figures, were responsible for the abduction of 46,794 persons and the disappearance of 8,715 persons in 2005. By year's end the government had not prosecuted government officials or Maoists for their involvement in disappearances.

The NHRC reported that the government was responsible for the disappearances of 2,032 people from 2000 until 2006 and had made public the whereabouts of all but 646 by year's end. The home ministry created a committee to conduct an investigation into the whereabouts of the other 646, but at year's end had not publicly released any information.

Two of the three members of the NA implicated in the 2004 death and disappearance of Maina Sunawar remained in service in the military; the other left the NA voluntarily. Details concerning the investigation conducted by the Court of Inquiry Board (CIB) indicated that the military was responsible for Maina's torture and subsequent death, and identified the geographic area in which her body was buried. The NA formed a second CIB and a court martial that handed down a verdict against a colonel and two captains in the case. Authorities sentenced the colonel to six months in prison and mandated that he not be promoted for two years. The colonel also paid a $675 (50,000 NR) fine. The two captains were given six-month prison terms, could not be promoted for one year, and were forced to pay a $338 (25,000 NR) fine.

There were no developments in the 2004 disappearance of Hari Krishna Adhikari.

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

The law prohibits torture, beating, and mutilation; however, security forces regularly engaged in such activities to punish suspects or to extract confessions, especially before the popular uprising in April. The Center for Victims of Torture (CVICT) and Advocacy Forum-Nepal, local NGOs, reported that blindfolding and beating the soles of feet were commonly used methods. Abuse of those in custody also included
beatings with plastic pipes, submersion in water, sexual humiliation, restricted movement, and prolonged sensory deprivation. Prisoners were forced to remain day and night in a prone position on a thin mat on the floor with their hands cuffed and shared one bathroom. The government failed to conduct thorough and independent investigations of reports of security force brutality and generally did not take significant disciplinary action against those involved. Citizens were afraid to bring cases against the police or the army for fear of reprisals.

On April 18, the NA arrested, abused, and killed six individuals, including Berendra Thapa and Wakil Shahi, two suspected Maoists. According to INSEC, the NA beat Thapa and Shahi before shooting Thapa in the waist, chest, and back and Shahi in the chest and mouth. The NA also took Keshab Singh and Ramebak Chaudhari from a house, tied their hands behind their backs, and assaulted them. On the same day, the NA took suspected Maoists Bibek and Rajendra to an artillery battalion, where they were abused. The NA released Rajendra on May 10. According to INSEC, authorities released Bibek afterwards.

On July 29, soldiers from the NA's Bhairabnath Battalion in Kathmandu abducted three police officers by force, allegedly beating and torturing them in the battalion's barracks. According to an October 29 press release from the NA, the General Military Court issued sentences against four NA officers and 12 non-commissioned officers involved in the attack. Ring leader Captain Rana was sentenced to one-year imprisonment and was terminated from service. Other senior NA officers involved in the attack lost potential promotion, and several officers spent 45 days in military custody.

The NA stated it had reviewed 179 cases of alleged torture presented by the UN, but the NHRC had not received information regarding disciplinary action taken by the NA in these cases.

The law provides for compensation for victims of torture. According to CVICT, from 1996 until the end of the year, the NHRC filed 200 torture cases. Of these, approximately 90 cases had been decided at year's end, and 30 of those were in favor of the torture victim. Of the 30 decisions in favor of the victim, only five torture survivors received compensation from the government. During the year two survivors received compensation, one because of a court decision and one because of a recommendation from the NHRC.

The NA soldiers involved in the 2005 Sunsari rape case did not receive a civilian court verdict but remained in a civilian jail in Biratnagar at year's end.

There were no developments in the 2005 case of Shiv Bohara.

There were no developments in the 2004 abuse case of two Tibetan refugee girls in Lukla.

There were numerous allegations of torture by Maoists insurgents. (see section 1.g.).

Prison and Detention Center Conditions

Prison conditions were extremely poor and did not meet international standards. According to the Department of Prisons, 5,580 prisoners remained in jail at year's end. Of these, 5,155 were male, 360 were female, 50 were juvenile cases, and 15 were minor children.

Due to a lack of adequate juvenile detention facilities, children sometimes were incarcerated with adults as criminal offenders or were allowed to remain in jails with their incarcerated parents due to lack of other available options.

The government generally permitted the NHRC and OHCHR to make unannounced visits to prisons and detainees in army and police custody.

d. Arbitrary Arrest or Detention

The law prohibits arbitrary arrest and detention, but arbitrary arrest continued during the year.

Role of the Police and Security Apparatus

Before the popular uprising, the NA exercised responsibility for security in the country under an operational structure referred to as the "unified command," which included elements of the police.

After the uprising, the home ministry did not give orders to any of the security forces regarding maintenance of law and order, and the unified command was dissolved in July. During peace negotiations from April to November between the Maoists and the seven-party alliance, the government instructed police not to intervene in the case of Maoist acts of violence, including intimidation, extortion and killings, for fear of compromising the peace process. The November 21 peace agreement called on the Nepal Police and the APF to enforce law and order across the country. Authorities reestablished several police posts between November 21 and year's end. Subsequently, the Maoists forced many of the re-established posts to close. At year's end, the government had again ordered police not to take any actions against Maoists for fear of endangering the peace process. The chief district officer (CDO), the highest-ranking civil servant in each of the country's 75 districts, had limited discretion in maintaining law and order under this government mandate.

Both the police and NA have human rights cells to promote human rights and to investigate cases of abuse; however, corruption and impunity remained problems. Before the April 27 cease-fire, police were generally unarmed and had the role of preventing and investigating non-terrorist related criminal behavior, while the APF were armed and deployed as riot control at checkpoints or with NA units directly engaged against Maoist insurgents. After April 27, the NA was confined to its barracks.
During the year the NA investigated 102 cases of abuse involving 163 individuals. Of the 163, 114 cases resulted in prison sentences for one month to 10 years; 60 cases resulted in discharge from service; 39 cases resulted in demotion; 47 resulted in forfeiture of grade or promotion; nine resulted in warnings in personnel files; and six resulted in payment of compensation to the victim's family.

Following the cease-fire on April 27, corruption and impunity remained a problem in the police force. Although a few police officials accused of abuses were removed from their posts because of human rights violations, human rights groups reported that these individuals were promoted or re-assigned as advisors at the home ministry. According to human rights groups, a culture of impunity continued to exist within the police. At the district level, police often operated without significant guidance from superiors, allowing vast discretion in the enforcement of laws. As in 2005, there were many reports of police abuse and bribery.

Arrest and Detention

The law stipulates that, except in cases involving suspected security and narcotics violations, the 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, but security forces regularly violated these provisions (see section 1.f.).

If the court upholds a detention, the law authorizes the police to hold the suspect for 25 days to complete an investigation, with a possible extension of seven days. However, 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 the police granted access to prisoners on a basis that varied from prison to prison; however, the king's government consistently denied Maoist suspects visits from family members and lawyers. 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. Human rights groups alleged that arrest without a warrant, prolonged detention without trial, and police torture were especially evident in heavily Maoist-affected areas (see section 1.c.).

Under the Public Security Act (PSA), security forces may detain persons who allegedly threatened 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 up to 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.

Before the uprising, the government commonly applied this act in cases involving suspected Maoists and political and civil rights activists (see section 1.b.). Human rights groups alleged that the security forces used arbitrary arrest and detention to intimidate communities considered sympathetic to the Maoists.

On January 18, security forces arrested 16 political party activists under the PSA, including youth activists. The king's government later announced they would hold 15 of the prisoners in custody for up to three months as permitted by the PSA.

On April 5, the government arrested over 100 political party leaders in their homes during the early morning. The government cited fears that the Maoists would infiltrate the April 6-9 peaceful protest program of the seven-party alliance as the reason to carry out the arrests.

The king's government held hundreds of political prisoners under the PSA. On May 15, the new government arrested and held five members of the former royal government without charges under the PSA. On June 5, the Supreme Court ordered all of the detainees released.

On May 25, the government ordered the release of most Maoists held under the PSA to help move the peace process forward, although the government did not release 200 Maoists being held on criminal charges. At year's end, these persons remained in jail, pending adjudication of their cases.

Other laws, including the Public Offenses Act, permit detention without charge. This act, and its many amendments, 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 arrested many citizens involved in public disturbances, rioting, and vandalism and detained them for short periods without charge. Both before and after the popular uprising, the government routinely arrested journalists, civil society members, and politicians for trying to enter restricted areas to protest. Police released most within 24 hours of their arrest.

According to international observers, in the course of the 19-day demonstration in April, police detained more than 1,000 persons in police stations and ad hoc detention centers and held several thousand activists arbitrarily under the PSA.

Before the popular uprising, authorities occasionally detained journalists on suspicion of having ties to or sympathy for the Maoists (see section 2.a.). No journalists have been held or charged for these reasons since parliament was restored in April.

There were reports of political detainees held during the year, especially before the popular uprising. Most political leaders were either under house arrest or held in Army or APF barracks before the popular uprising in April. After the restoration of parliament, all of them were released. There were no reports of political detainees under the new government.

According to Advocacy Forum, incommunicado detention remained a problem throughout the country, although it decreased after the cease-
fire agreement on April 27.

Amnesty

On February 19, the king granted pardons to 174 persons being held in prison in Nepal. In May parliament declared that the king no longer had the power to grant pardons to criminals, and any pardons would be granted by the council of ministers after recommendation from the home minister. The cabinet pardoned an unknown number of people in October.

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 passed by parliament. Appellate and district courts were increasingly independent, although occasionally they remained susceptible to political pressures. On November 27, the parliament declared that the Supreme Court could not challenge the constitutionality of any of the parliamentary proclamations based on the mandate of the people’s movement.

The judicial system consists of three levels: district courts, appellate courts, and the Supreme Court. Before the popular uprising, the king appointed judges on the recommendation of the judicial council, a constitutional body chaired by the chief justice. Until a new constitution is formed, the judicial council nominates and confirms judges. 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 women and girls, crimes against the state, corruption, and crimes related to foreign currency. The appellate courts heard cases against suspects charged with violations under TADO until its repeal on June 12.

Delays in the administration of justice were a severe problem. As of July 2005, the Supreme Court reported a backlog of 16,293 cases, the appellate courts had 10,157, and district courts had 25,699. There was no indication that this backlog improved during the year.

Trial Procedures

While 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. Consequently, those persons unaware of their rights may be deprived of legal representation. Before TADO was repealed, police often denied suspects detained under TADO access to both attorneys and family members.

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. Military courts cannot try civilians for crimes, even crimes involving the military services; these cases are handled in civilian courts.

The 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.

In most districts, the Maoists set up "people's courts." In July, Maoist Supremo Prachanda claimed he had ordered Maoists people's courts to stop functioning in urban areas, although such courts continued to function across the country. These courts had no due process, and handled both criminal and civil cases. According to international observers, after Prachanda's July declaration, Maoists extended the people's courts into villages where they had not previously been present. For example, on September 24, Maoists established a people's court in a temple in Chandranigapur and stopped people from coming to the temple to worship. According to OHCHR, the people's courts did not provide minimum guarantees of due process and fair trial. The November 21 peace agreement called for an end to people's courts across the country, but the Maoists continued to operate these courts in most districts, including in the capital.

Political Prisoners and Detainees

There were political prisoners at the beginning of the year, but all were released after the popular uprising and the restoration of parliament. There were no reported political prisoners at year's end.

Civil Judicial Procedures and Remedies

During the year there were no reported government abuses of civil procedures.

Property Restitution

At year's end, in most cases, the Maoists had not returned previously seized property; however, on November 15, Maoists unlocked a house
in Hetauda that they had seized in 2002 and allowed the owner to return. Maoists continued to seize property after the cease-fire declaration in April.

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

Before and during the popular uprising, the king suspended the right to privacy. The government occasionally suspended all cellular telephone lines and the Internet during the popular uprising, allegedly for security concerns. Human rights activists and politicians said that when cellular telephone and Internet service was available, authorities also monitored those services before and during the popular uprising. Cellular telephones were reactivated on April 27. The government did not interrupt cellular telephone or Internet service after the popular uprising. (see section 2.a.).

Security forces routinely entered and searched houses without warrants before and during the popular uprising. This activity substantially lessened after the popular uprising.

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. However, Maoists regularly forced civilians to flee their homes in order to escape extortion, recruitment, or retaliation.

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

From January through April, there was significant internal conflict between the government and Maoist insurgents. Both parties injured and killed numerous civilians.

The NA used helicopter bombardment to attack Maoists between January and April, sometimes causing unnecessary civilian casualties. On February 28, several army helicopters dropped a mortar shell and shot at Maoists while a crowd of civilians gathered in a village square. Several people were injured and a 14-year-old boy was killed.

On March 13, Maoists killed a civilian while firing on a group of police in Nepalgunj.

According to international observers, hospitals treated over 1,350 injured protesters, including children, during the first two weeks of the April People’s Movement. According to medical personnel in one hospital, nearly one-third of the 250 protesters treated there had been struck by rubber or live bullets, and many had multiple wounds.

On April 11, in Gongabu, a group of 15 to 20 police beat medical personnel from a Kathmandu hospital who were providing assistance during a demonstration. Later, the country’s senior superintendent of police, Madhav Thapa, refused requests from the NHRC to appear before the commission to respond to allegations of excessive use of force by security personnel.

On August 26, locals of Dhanusha district apprehended four Maoist cadres and handed them over to police. At year's end, the fate of the four cadres was unknown.

The government did not take any action to compensate the students shot in Kanchanpur District in 2005.

Maoists were also responsible for numerous abductions during the year. For example, on February 12, Maoists abducted 17 civilians, including 11 youths, from the Ramechhap District. On June 10, according to INSEC, Maoists abducted and killed a schoolboy in Sindhupalchowk. On June 15, Maoists abducted and abused two men in the Kavre District.

Before April, Maoists expanded a campaign of abducting civilians, primarily students and teachers, allegedly for indoctrination programs and forced paramilitary training. There were fewer reports of Maoist abductions of students and teachers after the cease-fire in April, although such abductions continued. For example, on July 1, Maoists abducted Satish Shukla from a village in Kapilvastu allegedly in retaliation for an anti-Maoist vigilante group’s killing of two Maoists on June 30 (see section 1.a.).

Maoists used landmines in and alongside roads to attack police, military, and government vehicles, injuring numerous civilians before the April cease-fire. The November 21 peace agreement called for all landmines to be identified within 30 days and removed within 60 days. At year's end, there was no indication that this process was underway (see section 1.a.).

Before the cease-fire, Maoists used civilians, including children, as human shields in wave attacks against fortified military positions. Both sides in the conflict used children as informants (see section 5). The November 21 peace agreement forbids the use of children under the age of 18 as soldiers in the armies of either side; however, the Maoists continued to recruit large numbers of children after signing this agreement.

On March 31, the Maoists bombed a testing center in Dailekh where a high school completion exam was taking place, injuring 11 children who were taking the test. The Maoist leadership said that the bombing was against party policy.

On July 2, a bomb blast attributed to an anti-Maoist vigilante group in the southern part of the country injured four people.
The government restricted radio and television broadcasts during the popular uprising in April. The government did not otherwise restrict access to foreign radio broadcasts, private cable networks, or the purchase of television satellite dishes. Before the uprising, the government
censored FM broadcasts of the BBC English radio service, replacing its 15-minute news service with music. BBC Nepali on shortwave, however, generally continued to be available. After the restoration of parliament, restrictions on radio and television broadcasts were removed.

The Maoists opposed freedom of expression and attempted to restrict print and broadcast media. Maoists threatened private FM radio stations to force them to broadcast Maoist propaganda, and the Maoists themselves operated small, mobile FM radio stations that broadcast propaganda. After the restoration of parliament in May, Maoist radio stations broadcast widely all over the country, including in the capital.

According to Reporters without Borders, Maoist cadres assaulted, detained, wrongly summoned or censored at least eight journalists between April and November.

On January 19, Maoists bombed a state-run television tower in Hetauda.

Internet Freedom

Human rights activists and politicians reported blocked or monitored Internet service before and during the popular uprising. The government blocked more than 20 Web sites, including the Maoist Web site, that were hosted in other countries and were not supportive of the king (see section 1.f.). After the popular uprising, there was no reported monitoring or blocking of Internet sites.

Academic Freedom and Cultural Events

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

Maoist groups curtailed academic freedom, regularly extorted money from private schools and teachers, and inflicted punishment on school officials. According to INSEC, from 2002 through 2005, Maoists abducted 18,852 students and 9,261 teachers from schools for indoctrination programs, and bombed over a dozen schools across the country (see section 1.g.). Despite the cease-fire, the country's media continued to report instances of abduction, extortion, and intimidation by Maoists outside Kathmandu valley.

b. Freedom of Peaceful Assembly and Association

The law provides for freedom of assembly and association; however, the royal government restricted this right in practice. Before and during the popular uprising, the government restricted freedom of assembly, claiming it was necessary to prevent the undermining of the sovereignty and integrity of the state or for disturbing law and order. After the popular uprising, the new government sometimes restricted freedom of assembly. On June 19, authorities arrested more than 24 female activists after a peaceful protest against lack of female representation in the newly formed government outside Singha Durbar, the main government building in the capital.

Freedom of Assembly

The law provides for freedom of assembly; although large public demonstrations were common in parts of the country, the government generally restricted demonstrations before and during the popular uprising. Under domestic law, CDOs are authorized to impose curfews if there is a possibility that peace may be disturbed as a result of demonstrations or riots. The right to assemble is protected under the International Covenant on Civil and Political Rights (ICCPR), to which Nepal is a State Party. The ICCPR requires that any restrictions on assembly are: 1) in conformity with the law; 2) for the objective of national security or public safety; and 3) necessary in a democratic society. The curfews imposed during the April People's Movement, including those on April 5 and 9 in Kathmandu, did not meet the third requirement under the ICCPR, according to the OHCHR.

INSEC reported that government security forces killed 21 people during the popular uprising in April. Police used baton charges, water cannon, rubber bullets, and live ammunition to break up demonstrations.

INSEC reported that during the popular uprising in April, security forces injured 3,723 people country-wide during pro-democracy demonstrations.

Throughout the year local authorities in Kathmandu prevented the Tibetan community from holding public celebrations, including those to venerate the Dalai Lama, although private celebrations were allowed in schools or monasteries. (see section 2.c.).

During the year Maoists deprived citizens of the right to assembly (see section 1.a.).

Freedom of Association

The law provides for freedom of association, although the government restricted these rights before and during the popular uprising. The government claimed it restricted freedom of association in order to protect the country's sovereignty; the government did not substantially restrict the freedom of association after the April uprising.

Government officials refused to register any organizations whose titles contain the words, "Jesus, Bible, Christian, or church." (see section 2.c.) These groups noted that, unless registered, such organizations could not own land, which is important for establishing churches or burial of members. These groups have been able to register their organizations and practice their faith as NGOs.
In November the government revoked the registration of the Bhota Welfare Society, a legally formed NGO created to provide humanitarian assistance to Tibetan refugees resident in Nepal. The directors on the board of the NGO were all citizens. The NGO had gone through all legal requirements for registration, and the government had issued a registration certificate and number to the NGO. The government nevertheless subsequently revoked the registration of the NGO without explanation.

c. Freedom of Religion

The law provides for freedom of religion and permits the practice of all religions, but members of minority religions occasionally complained of police harassment. Some Christian groups were concerned that the ban on proselytizing limited the expression of non-Hindu religious belief. In May the restored parliament declared the country a secular state.

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

A conviction for conversion or proselytizing can result in fines or imprisonment, or in the case of foreigners, expulsion from the country; however, there were no incidents of arrest for conversion or proselytizing during the year.

The government restricted to private places (school grounds or inside monasteries) all celebrations by local Tibetans (Tibetan New Year, the Dalai Lama's birthday, Democracy Day, and International Human Rights Day/Celebration of the Dalai Lama receiving the Nobel Peace Prize).

Societal Abuses and Discrimination

Although prohibited by law, citizens practiced caste discrimination at Hindu temples in rural areas, and such discrimination strongly influenced society.

On March 21, upper caste locals barred dalit (lower caste) youths from entering the Saileshwori Temple in Dipayal by padlocking the temple door.

On August 30, a dalit woman filed a case against a priest alleging that she was not allowed to enter a temple during a religious celebration because the priest would only allow high caste people into the temple.

On September 7, demonstrators in Silgadhi protested the entry of dalits into the local temple. Locals demonstrated after dalits tried to enter the temple.

There were regular reports of Maoists enforcing a "people's calendar" in schools that did not allow for religious holidays. Maoists forced churches to close after the churches refused to meet their demands.

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

For a more detailed discussion, see the 2006 International Religious Freedom Report.

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

The law provides for these rights; however, the government suspended freedom of movement within the country before and during the popular uprising. The government prevented many prominent human rights activists and politicians from traveling within, or in some cases leaving, the country before and during the popular uprising. After the restoration of parliament, the government did not restrict freedom of movement.

In advance of the popular uprising in April, the home ministry released a statement instructing people not to travel to the capital unless absolutely necessary. The government prevented vehicles transporting groups of people from entering the capital during this time, citing security concerns. The restored parliament lifted these restrictions.

The government regularly restricted refugees' right to travel freely inside and outside of the country.

Maoists restricted freedom of movement within the country, including forcing transportation strikes and using landmines to target civilian transportation (see sections 1.a. and 1.g.). During the popular uprising, Maoists enforced a nationwide transportation blockade. On September 13, Maoists called a nationwide transportation strike to protest alleged importation of weapons by the government. On December 19, the Maoists enforced another nationwide transportation strike to protest the government's nomination of commissioners to the NHRC.

The law prohibits forced exile, and forced exile 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 safe and dignified return of IDPs to their homes, the agreement was not implemented. Several UN agencies, including the High Commissioner for Refugees (UNHCR), OHCHR, and the UN Development Program began working with the government to develop an IDP policy that was consistent with international principles. These agencies estimated a current population of between 100,000 and 200,000 IDPs in Nepal. The government allowed several international organizations, such as the International Committee for the Red Cross, CARITAS and Action Aid Nepal, to initiate programs to assist IDPs. The government also requested total contributions of $14 million from donor countries for IDP assistance. According to UN agencies, the main obstacle preventing IDPs from returning was fear of Maoist reprisal and refusal by local Maoist commanders to allow IDPs to return home.

Protection of Refugees

The law does not provide for the granting of asylum in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol (see section 5), but the government has established a system for providing protection to refugees. In practice, the government provided protection against refoulement, the return of persons to a country where they feared persecution, and the government generally cooperated with UNHCR and other humanitarian organizations in assisting refugees and asylees. UNHCR maintained an office in Kathmandu and a sub-office in Damak.

Between 1959 and 1989 the government accepted as residents approximately 20,000 Tibetan refugees, most of whom remained in the country. The government allowed Tibetan refugees to transit the country. During the year, 2,405 Tibetan arrivals registered with UNHCR for transit to India, and 2,946 reportedly departed. The discrepancy between arrivals and departures was due to a backlog of nearly 1,000 refugees at the end of 2005. Since 1991 the government has provided asylum to approximately 107,000 persons who claimed Bhutanese citizenship. The great majority of these refugees lived in UNHCR-administered camps in the southeastern part of the country. The government allowed UNHCR to begin conducting a census of the camps on November 15. Approximately 15,000 additional Bhutanese refugees resided in the country and in India outside of camps. The government allowed UNHCR to provide services for other asylum seekers, such as individuals from Nigeria and Pakistan. The government allowed UNHCR unrestricted access to the border areas during the year. UNHCR visited four border districts during the year.

The People's Republic of China and the government tightened control of movement across the border in 1986, but neither side consistently enforced these restrictions. Police and customs officials occasionally harassed Tibetan asylum seekers who fled China. According to UNHCR, police conduct improved since 1999, although border police sometimes extorted money from Tibetans in exchange for passage. There were unconfirmed reports that Tibetan asylum seekers occasionally were handed back to Chinese authorities after crossing the border. Maoists regularly robbed Tibetan refugees traveling from border areas to Kathmandu.

The UNHCR monitored the condition of Bhutanese refugees and provided for their basic needs, and the government agreed to allow UNHCR to conduct a census in the Bhutanese refugee camps. The government accepted the temporary refugee presence on humanitarian grounds. The UNHCR administered camps; the World Food Program (WFP) provided supplemental food assistance; and the government made a contribution to the WFP earmarked for the refugees.

The government officially restricted Bhutanese refugees' freedom of movement and work, but it did not strictly enforce its policies. Bhutanese refugees were not allowed to leave the camps without permission, but permission was consistently granted. Local authorities attempted to restrict some of the limited economic activity in the camps permitted by the central government. Violence sometimes broke out between camp residents and the local population.

In September the government agreed to allow 16 extremely vulnerable Bhutanese refugees to leave the country for resettlement abroad. At year's end, the government had only allowed three of these refugees to leave.

In May the government reversed its policy implemented in October 2005 and resumed issuing exit permits to Tibetan refugees transiting to India. The government continued to allow Tibetans to enter the country, and to apply for and receive UNHCR protection.

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; however, citizens were not afforded this right in practice. The king reinstated the 1999 parliament in April; according to the November 21 peace agreement, elections were to be held later. In May seven of the largest political parties formed a ruling alliance and chose Girija Prasad Koirala, president of the Nepali Congress Party, as the prime minister.

Elections and Political Participation

Past elections generally were held throughout the country according to schedule, and parliamentary elections are to be held every five years. International observers considered the 1999 elections, the last elections held, to be generally free and fair. The king held municipal elections in February that most political parties boycotted and the international community criticized.

The law bars the registration and participation in elections of any political party that is based on religion, community, caste, tribe, region, or that does not operate openly and democratically. Under the law, individuals may contest elections in the district in which they are on the election rolls, whether independently or with a political party. Most larger political parties had associated youth wings, trade unions, and social organizations. A new chief election commissioner was appointed in November. At year's end, three election commissioners had been appointed, and two others had been nominated to fill vacant positions. Parliament had only promulgated one new election law, allowing people to vote outside their home districts (especially for NA soldiers in barracks or Maoists in cantonments). No other election laws had
There are no specific laws that restrict women, indigenous people, or minorities from participating in government or in political parties, but tradition limited the roles of women and some castes in the political process. The law requires that women constitute at least 5 percent of each party's candidates for the House of Representatives. The law also requires that at least 20 percent of all village and municipal level seats be reserved for female candidates. Prime Minister Koirala appointed one woman to his cabinet in May.

No specific laws prevented minorities from voting or restricted their participation in government or political parties on the same basis as other citizens. There were no special provisions to allocate a set number or percentage of political party positions or parliamentary seats for any minority group. Members of certain castes traditionally held more power than others. Of the current 20-member cabinet, five members are from ethnic minority communities and one is from the dalit community.

Government Corruption and Transparency

The law provides for an anticorruption authority, the Commission for the Investigation of the Abuse of Authority, which is mandated to investigate official acts of corruption.

In 2005 the king constituted another corruption investigation body, the Royal Commission for Corruption Control (RCCC), which acted as investigator, prosecutor, and judge. On February 13, the Supreme Court declared the RCCC unconstitutional, ordered it dissolved, and voided all of its decisions.

The law provides citizens with a right to information "on any matter of public importance," except in cases where secrecy is required by law; however, there is no formal legislation providing citizens with access to government information. There were no known examples of this section of the law being tested.

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

A number of 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 sometimes were cooperative and responsive to their views. Before and during the popular uprising, the government detained a number of civil society members and prevented others from leaving the country or traveling outside the capital (see section 2.d.). In addition, there were complaints of intimidation against human rights NGOs and workers by both the government and the Maoists. After the uprising, there were no reports of the government arresting human rights workers, although the Maoists continued to intimidate them.

There were approximately 10 independent, domestic human rights NGOs, including the Human Rights Organization of Nepal; INSEC; the International Institute for Human Rights, Environment, and Development; and the Human Rights and Peace Society. 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, or ethnic minorities.

The insurgency caused many NGOs to reduce their activities substantially. There were frequent credible claims that Maoists refused to allow human rights NGOs and journalists to enter certain western districts. In addition, Maoists killed and abducted some NGO workers. Even after the cease-fire and peace agreement, Maoists did not allow NGOs to function freely in most districts without their permission.

The government welcomed and regularly granted visas to international NGOs and other human rights monitors, including members of Amnesty International and Human Rights Watch. Authorities generally gave international observers access to barracks and places of detention. International observers noted that they have not been granted access to courts martial and military investigations.

OHCHR worked with the government to formulate and implement policies and programs for the promotion and protection of human rights. In the November 21 peace agreement, the government and the Maoists agreed that OHCHR should continue to monitor human rights abuses.

OHCHR released four reports during the year: the first was the report on torture at the Maharjgunj Barracks of the NA in 2003; the second was a report on Maoist atrocities committed during the cease-fire; the third was a report on excessive use of force by security forces during the popular uprising in April; and the fourth was a report on human rights abuses by the Maoists. The media covered all four reports freely.

After the restoration of parliament, the commissioners of the NHRC resigned under considerable public pressure. In December the government nominated new commissioners, but Maoist pressure caused the appointments to be suspended. At the end of the year, no commissioners had been appointed to the NHRC. While the commission continued to operate independently, it was unable to move investigations forward without effective leadership. 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 518 complaints of human rights violations during the year. The NHRC identified 646 persons who disappeared in government custody and who remained unaccounted for at year's end. According to the NHRC, the Maoists had abducted 184 persons who remained unaccounted for at year's end. The NHRC also investigated illegal detention and arrest of acquitted persons. The NHRC reported open access to government and Maoist detainees across the country.

Section 5 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 caste
system operated throughout the country in many areas of daily life. Societal discrimination against lower castes, women, and persons with disabilities remained common, especially in rural areas.

Women

Domestic violence against women was 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. Sensitizing programs by NGOs for police, politicians, and the general public have led to a greater awareness of the problem. The women’s cell of the police received 939 reports of domestic violence during the country’s fiscal year, which ended June 15. However, in the absence of a domestic violence law, police were unable, or unwilling, to file cases against the accused.

Police had 18 women’s cells in 16 of the country’s 75 districts. The female officers in the cells received special training in handling victims of domestic violence and trafficking. Police also issued directives instructing all officers to treat domestic violence as a criminal offense that should be prosecuted. Nevertheless, according to police officials, this type of directive was difficult to enforce because of entrenched discriminatory attitudes among police. Even if police made arrests, often neither the victim nor the government pursued prosecution.

More than 20 NGOs in Kathmandu worked on the problem of violence against women and on women’s issues in general, and provided shelter, medical attention, counseling, and legal advocacy for the victims of violence.

Laws against rape provide for prison sentences of 10 to 15 years for the rape of a child under the age of 10, seven to 10 years’ imprisonment for the rape of a child between 10 and 16 years old, and five to seven years for the rape of a woman 16 or older. If the victim is handicapped, pregnant, or mentally retarded, an additional five years is added to the standard sentence. A 2003 Supreme Court order prohibits spousal rape. Between 2004 and September, 178 cases of rape and 26 cases of attempted rape were filed in the court, according to the women’s police cell. A survey conducted by SAATHI, an antitrafficking NGO, found that 39 percent of rape victims who reported the crime to police were under the age of 19. Of those victims who reported the crime to the authorities, 25 percent said the government arrested and convicted the perpetrator. According to SAATHI, police and the courts were quick to respond to rape cases.

Incidents of rape continued to be a problem and went unreported in most cases.

The dowry tradition was strong in the Terai districts bordering India; however, the killing of brides because of defaults on or inadequacy of dowry payments was rare. More often, husbands or in-laws seeking additional dowry physically abused wives, or forced the woman to leave so that the man could remarry.

Traditional beliefs about witchcraft generally involved elderly rural women and widows. Shamans or other local authority figures sometimes publicly beat and physically abused suspected witches as part of an exorcism ceremony. The media or NGOs reported numerous cases of witchcraft-related violence during the year, including a case on December 6 in Rautahat in which a woman was forced to eat human feces by neighbors who accused her of practicing witchcraft. Local officials took no action against the neighbors. In 2003 the NHRC asked the government to develop a mechanism to prevent such abuses and to provide compensation to the abused. The district administration office in the district where the violence occurred handled all cases of witchcraft violence.

Trafficking in women remained a serious problem throughout the country, and large numbers of women were forced into commercial sexual exploitation in other countries (see section 5, Trafficking). Forced prostitution was illegal, but there were no laws banning prostitution by choice.

Although the law provides protections for women, including equal pay for equal work, the government did not take significant action to implement those provisions, even in many state industries. 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 the right to vote or to hold property in their own names. Unmarried, widowed, and divorced women were able to inherit parental property.

The citizenship law passed by the parliament on November 26 provides citizenship to anyone born and living in the country before April 1990. For the first time, the law allows citizenship to pass through the mother; the children of female citizens married to foreign spouses can claim citizenship.

Women may register birth and death information. Women did not need permission from their husband or parents to get a passport. Women did not need the permission of their husband, son, or parents if they wished to sell or hand over ownership of property.

On March 30, the Supreme Court ruled that the provision in the civil code allowing men to divorce women on the grounds of a woman’s infertility was contrary to the constitutional guarantee to equality. Under the old law, a married man could seek divorce after 10 years of marriage if a government medical board proved his wife was infertile.

Many other discriminatory laws remain. According to legal experts, there were more than 50 laws that discriminated against women. 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 women to get permission from the government and their guardian before seeking work through a foreign employment agency. The law encourages bigamy by allowing men to remarry without divorcing their first wife if she becomes crippled or infertile.

The November 21 peace agreement called for the rights of women to be protected in a special way. It was unclear at year’s end what that would mean in practice.
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

Although the law provides for the welfare and education of children, its implementation was uneven, in part due to violence resulting from the ongoing insurgency. Education was not compulsory. However, government policy provided free primary education for all children between the ages of six and 12 years. The quality of education was often inadequate, and many families could not afford school supplies and clothing. Schools did not exist in all areas of the country. Approximately 60 percent of the children who worked also attended school. However, 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. In 2003 the Department of Education issued a report that one-quarter of elementary school-aged girls were deprived of basic education. The government claimed that 86 percent of school-age children were attending public schools. There were a reported 1,500 madrassas functioning 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 was rarely prosecuted, and abuse primarily manifested itself in trafficking of children. Commercial sexual exploitation of young girls remained a serious problem (see section 5, Trafficking).

Societal attitudes in parts of the country viewed a female child as a commodity to be bartered in marriage, or as a burden. Some persons considered marrying a girl before menarche an honorable, sacred act that increased one's chances of a better afterlife. As a result, although the law prohibits marriage for girls before the age of 18, child brides were common. Social, economic and religious values promoted the practice of child brides. According to the Ministry of Health, girls' average age of marriage was 16 years of age, and boys' average age was 18. An age difference in marriage often was cited as one cause of domestic violence.

Maoists abducted teenagers and some younger children to serve as porters, runners, cooks, and armed cadre. Most children abducted from their schools for political education sessions were returned within a few days, but some remained with the Maoists, either voluntarily or under compulsion. The Maoists denied recruiting children. The NA estimated that 30 percent of Maoist guerillas were under the age of 18, and some were as young as 10 (see section 1.g.). The November 21 peace agreement expressly forbade the recruitment of children into the armed forces of either side, but the Maoists continued to recruit children in large numbers.

There were reports of children held in jail or in custody as suspected Maoists; however, all of them were released when TADO was repealed.

There were at least nine cases of female infanticide reported to the police women's cell during the year. Six of these were reported between August and November.

Internal displacement due to the conflict, including of children, continued to be a problem, with estimates of the number displaced ranging widely. According to a 2005 report by CARITAS, approximately 40,000 children had been displaced due to the armed conflict in the last ten years. As IDPs, children faced inadequate access to food, shelter, and health care, and had limited access to education.

Trafficking In Persons

The law prohibits trafficking in persons and prescribes imprisonment of up to 20 years for infractions; however, trafficking in women and children remained a serious problem. During the year enforcement of antitrafficking statutes improved but remained sporadic. The law prohibits selling persons in the country or abroad.

The country was a source country for trafficking. Young women were the most common targets. Trafficking of boys for commercial sexual exploitation rarely was reported, but girls as young as nine years of age were trafficked, primarily to neighboring countries. While the vast majority of trafficking was of women and girls for sexual exploitation, men, women and children were trafficked for domestic service, manual or semi-skilled bonded labor, work in circuses, or other purposes. Men were also trafficked for involuntary servitude in Iraq by use of deception and fraud; they generally were promised jobs in other Gulf countries, but were subsequently transferred to Iraq under threat or deception. Most women and girls trafficked from the country went to India, lured by promises of good jobs or marriage. Internal trafficking for forced labor and sexual exploitation also occurred. Save the Children and Action Aid conducted research linking conflict, migration, and employment. The studies indicated that internal trafficking likely was on the rise due to the insurgency, as rural women and children left their homes to seek both employment and security in urban centers. Despite the cease-fire, many women and children were afraid to return home due to Maoist pressure and intimidation.

The government has a national plan to combat trafficking and a National Rapporteur on Trafficking. However, political instability and security problems associated with the Maoist insurgency hindered the government's antitrafficking efforts.

According to the Attorney General's office, the government filed 203 trafficking cases in the district attorneys' offices across the country for one year following July 2005. By July 14, of the 203 cases, 60 resulted in full or partial convictions, 35 in acquittal, and 108 remained under investigation.

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 sent women to Saudi Arabia, Malaysia, Hong Kong, the United Arab Emirates, and other gulf states for sexual exploitation and domestic servitude.

In 2003 the government lifted a ban on female domestic labor leaving the country to work in Saudi Arabia and other countries in the gulf. The government did not monitor adequately labor recruiting agencies to ensure that workers going abroad attended pre-migration orientation sessions, or that labor contracts were honored after worker arrival in receiving countries. Recruiters in the country who used deception to trick workers into forced labor in Iraq despite a government ban remained largely unmonitored and unpunished.

Hundreds of women and girls returned voluntarily or were rescued and repatriated to the country after having worked as commercial sex workers in India. Many had been expelled from their brothels after contracting sexually transmitted diseases or tuberculosis. Most were destitute and, according to estimates by local NGOs Maiti Nepal and ABC Nepal, 50 percent were HIV-positive when they returned. Maiti Nepal, the country’s largest antitrafficking NGO, operated a hospice for HIV-positive trafficking victims and their children.

Trafficers were usually from the country or India, and had links to brothels in India, but recruiters who sought girls in villages were primarily citizens. In many cases, parents or relatives sold women and young girls into sexual slavery. NGOs’ unverified estimates suggested that 50 percent of victims were lured to India with the promise of good jobs and marriage, 40 percent were sold by a family member, and 10 percent were kidnapped. Corruption was also believed to facilitate trafficking, but there were few reported investigations or prosecutions of complicit government officials. The government identified 26 high-priority districts as source areas of trafficking and established antitrafficking task forces in nine districts of the country. Women and youth displaced from homes as a result of the insurgency were especially vulnerable to being trafficked.

While the government lacked both the resources and institutional capability to address effectively its trafficking problem, the government established a National Task Force at the Ministry of Women, Children and Social Welfare (MWCSW) with personnel assigned to coordinate the response. 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 18 districts worked with NGOs to provide referral services to victims of trafficking and domestic violence. Official corruption related to identity documentation and at ports of entry continued to facilitate the illicit movement of persons across the country’s borders.

The government provided limited funding to NGOs to give assistance to 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 who were sent to India. The government protected the rights of victims and did not detain, jail, or prosecute them for violations of other laws.

The government, together with NGOs and international organizations, implemented local, regional, and national public awareness campaigns on trafficking in persons; however, the government failed to budget for adequate police training and resources, and the courts were overburdened. Government welfare agencies worked with NGOs to deliver public outreach programs and assistance to trafficking victims.

Cultural attitudes toward returned victims of trafficking were often negative. There were more than 50 NGOs combating trafficking, several of which provided rehabilitation and skills training programs for trafficking victims. With the government’s endorsement, many NGOs created outreach campaigns using leaflets, comic books, films, speaker programs, and skits to convey antitrafficking messages and education in urban, cross-border, and rural areas. Maiti Nepal, which stationed rehabilitated trafficking victims as guards with government officials to intercept trafficking victims at border crossings, reported that some of their female border guards had been attacked because of their work.

Persons with Disabilities

The law does not prohibit discrimination against persons with physical and mental disabilities, and there was discrimination against persons with disabilities 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. Despite government funding for special education programs, the government did not implement effectively nor enforce laws regarding persons with disabilities. The MWCSW was responsible for the protection of those 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 that 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 was especially common 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 the disadvantaged castes.

Economic, social, and educational advancement tended to be a function of historical patterns, geographic location, and caste. 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, including barring access to temples, is illegal; however, dalits were occasionally barred from entering temples. Progress in reducing discrimination was more successful in urban areas.

Other Societal Abuses and Discrimination

The country has no laws that specifically criminalize homosexuality; however, government authorities, especially police, sometimes harassed and abused homosexuals. According to Blue Diamond Society (BDS), an indigenous NGO that worked to protect against discrimination against the lesbian, gay, bisexual, and transgender communities, harassment of homosexuals did not stop after the popular uprising.

On March 14, according to BDS, police arrested 26 transgender people and HIV/AIDS outreach workers in the Thamel and Durbar Marg areas of Kathmandu. They were charged reportedly with "creating a public nuisance" and were taken to Hanoman Dhoka police station in Kathmandu. Several members of the group were later moved to Kalimati police station. They were not permitted to speak to a lawyer for several days.

Section 6 Worker Rights

a. The Right of Association

The law provides for the freedom to establish and join unions and associations, and these rights were protected in practice. The law permitted the restriction of unions only in cases of subversion, sedition, or similar conditions. Trade unions developed administrative structures to organize workers, to bargain collectively, and to conduct worker education programs. The three largest trade unions were affiliated with political parties.

Union participation in the formal sector accounted for approximately 10 percent of the formal work force. The Labor Act of 1992 and the Trade Union Act of 1992 formulated enabling regulations; however, the government had not fully implemented these acts. 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, and prohibits employers from discriminating against trade union members or organizers.

The government did not restrict unions from joining international labor bodies. Several trade federations and union organizations maintained a variety of international affiliations.

The Maoist trade union organized workers and intimidated businesses extensively after the announcement of the cease-fire in May. On November 1, Maoists captured the building of the government-owned Hetauda Textiles Industry and established a party office in the building without permission from the government administration. On November 15, Maoist-affiliated trade union members locked up six officials of the Gorkha Brewing Company, demanding that they raise salaries and pay a tax on their product to the Maoists. In December the Maoist-affiliated trade union forcefully closed down many hotels and restaurants in the tourist destination of Pokhara, demanding permanent positions and a raise in salaries and benefits.

b. The Right to Organize and Bargain Collectively

The Labor Act provides for collective bargaining, but the organizational structures to implement the act's provisions were not established. The government allowed unions to operate freely and without interference. Collective bargaining agreements covered an estimated 10 percent of wage earners in the organized sector; however, in general, labor remained widely unable to use collective bargaining effectively due to legal obstacles to striking and inequality on the part of labor leaders.

The law provides the right to strike except by employees in essential services, and workers exercised this right in practice. The law empowers the government to halt a strike or to suspend a union's activities if the union disturbed the peace or if it adversely affected 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.

There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor

The law prohibits forced or compulsory labor, including by children; however, there were reports that such practices occurred (see sections 5 and 6.d.). The Department of Labor enforced laws against forced labor in the small formal sector, but remained unable to enforce the law outside that sector.

Enforcement of the Kamaiya Prohibition Act by the government was uneven, and social integration of the Kamaiyas—former bonded laborers—was difficult. By 2004, according to the International Labor Organization, 12,019 Kamaiyas had received land, 7,149 families had received approximately $143 (10,00 NRS) for building homes, and approximately 3,000 had received timber to build houses. The government set up temporary camps for approximately 14,000 other Kamaiyas awaiting settlement.
The Maoists regularly used forced labor to build roads and carry out other projects. Forced labor by children occurred during the year (see section 6.d.).

d. Prohibition of Child Labor and Minimum Age for Employment

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 and six days a week, between 6 a.m. and 6 p.m.). The Child Labor Act applies only to formal sectors of the economy, such as tourism, cigarette or carpet factories, and mines.

Child labor is a significant problem, particularly in the large informal sector, which included such businesses as portering, rag picking, and rock breaking. Resources devoted to enforcement were limited, and NGOs estimated that 2.6 million children, most of them girls, participated in the labor force. Of that number, 1.7 million children worked full time. The agricultural sector accounted for an estimated 95 percent of child laborers.

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 established specific penalties for those who unlawfully employ children. However, the necessary implementing regulations have not been passed. In 2003 the government established the minimum wage for children aged 14 to 16 at approximately $22 ($1,580 NRS) per month, with additional allowances of roughly $5 ($359 NRS) per month for food and other benefits. Roughly 60 percent of children who worked also attended school.

Maoists forcibly recruited children, including girls, as soldiers, human shields, runners, and messengers (see section 5).

The Ministry of Labor, responsible for enforcing child labor laws and practices, had a mixed enforcement record. According to the ministry, there were ten labor inspectors employed during the year.

e. Acceptable Conditions of Work

The minimum monthly wage for unskilled labor has not increased since 2003, when the government raised it to $27 (1,940 NRS). The law also set monthly minimum wages for semi-skilled labor at approximately $28 (2,011 NRS), skilled labor at approximately $29 (2,084 NRS), and highly skilled labor at approximately $32 (2,299 NRS). Additional allowances for food and other benefits totaled just over $7 (503 NRS) per month. Wages in the unorganized service sector and in agriculture often were as much as 50 percent lower. The law calls for a 48-hour workweek, with one day off per week, and limits overtime to 20 hours per week. None of these minimum wages were sufficient to provide a decent standard of living for a worker and family.

The government set occupational health and safety standards, and the law established other benefits such as a provident fund and maternity benefits. Implementation of the Labor Act was slow, as the government had not created the necessary regulatory or administrative structures to enforce its 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.