

[Home](#)[Issues & Press](#)[Travel & Business](#)[Youth & Education](#)[About State Department](#)

## Nepal

### Country Reports on Human Rights Practices - [2005](#)

Released by the Bureau of Democracy, Human Rights, and Labor  
March 8, 2006

Nepal is a constitutional monarchy with a parliamentary form of government and a population of approximately 25 million. On February 1, King Gyanendra dismissed the cabinet, declared a state of emergency, and assumed direct control of the government under the emergency powers article of the constitution, citing the need to fight a Maoist insurgency. The state of emergency was lifted on April 29. Prior to February 1, the king ruled through a council of ministers that was under his chairmanship. International observers considered the most recent elections, the 1999 parliamentary elections, to be generally free and fair; however, elections have not been held since 1999 because of, according to the government, security concerns related to the Maoist insurgency, which has intensified since its inception in 1996. While the king generally maintained effective control of the security forces, elements of the security forces often acted independently of government authority.

The government's poor human rights record worsened and the government continued to commit many serious abuses, both during and after the state of emergency that suspended all fundamental rights except for habeas corpus. Members of the security forces and the Maoist insurgents committed numerous grave human rights abuses during the year. The following human rights problems were reported:

- obstruction of citizens' right to change the government
- arbitrary and unlawful lethal force, including torture
- vigilantism
- disappearances
- poor prison and detention conditions
- arbitrary arrest and lengthy pretrial detention
- impunity for security forces
- compromised independence of judiciary
- suspension of news broadcasts
- restrictions on the Tibetan community
- restrictions on internal travel
- discrimination against persons with disabilities and lower castes
- violence against women and trafficking in women and girls
- abuses of child labor
- restriction of worker's rights

In May the government welcomed the opening of the UN Office of the High Commissioner for Human Rights (OHCHR) in Kathmandu. Both OHCHR and the National Human Rights Commission (NHRC) reported improved access to detention centers and progress in locating persons listed as disappeared. In September the Supreme Court ruled that, unlike in previous years, children of unmarried women could claim citizenship under the 1990 constitution. In November the Supreme Court ruled that, unlike in previous years, women did not need permission from their husband or parents to get a passport. In December the Supreme Court ruled that women no longer needed to get the permission of their husband, son, or parents if they wished to sell or relinquish ownership of property.

During the year Maoists continued their campaign of torturing, killing, bombing, conscripting children, kidnapping, extorting, forcing closures of schools and businesses, and committing other serious and gross human rights abuses. Maoist impunity remained a significant problem. A local nongovernmental organization (NGO), Informal Sector Service Center (INSEC), estimated that during the year civilian fighting killed 1,630 persons, including 134 members of the police and Armed Police Force (APF); 203 members of the Royal Nepalese Army (RNA); 599 Maoists; and 267 civilians, including at least 30 students. Maoist actions limited press freedom and the right of assembly, constrained religious communities, prevented free movement, and stopped hundreds of thousands of children from receiving an education. Since the beginning of the insurgency in 1996, the Maoists had not credibly investigated human rights abuses committed by their forces, despite their claims to respect and uphold international conventions on human rights.

### RESPECT FOR HUMAN RIGHTS

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

#### a. Arbitrary or Unlawful Deprivation of Life

During the year security forces continued to commit arbitrary and unlawful killings. According to INSEC, security forces killed 964 suspected Maoists during the year. Additionally, RNA soldiers killed numerous others, including those in custody who were tortured, according to NGO sources (see section 1.c.). During the year the RNA's human rights investigative cell conducted nine new investigations. In most cases of arbitrary or unlawful killings, the security forces claimed the victims were Maoists.

On May 2, security forces shot and killed Rupen Rai in Ilam District. Witnesses claimed that security forces could have taken Rai into custody after the first shot, but they did not.

Human rights groups expressed concerns about a number of cases in which security forces claimed that suspects committed suicide while in government custody. For example on May 27, the RNA claimed that a Maoist insurgent, Dorje Sherpa, committed suicide by hanging himself inside his cell with a shoelace at Singha Durbar RNA barracks in Kathmandu.

Security forces occasionally used lethal force when attempting to question suspects. On July 3, plainclothes RNA forces in Kamatoli Bazaar, Jhapa, shot and killed Rama Adhikari, a farmer and mother of three children, after Maoists forced her to provide them with food. The RNA claimed she had a pistol, and threatened not to return Adhikari's body to her family unless her husband and neighbors signed a paper that confirmed she had a weapon. The RNA formed a court of inquiry to look into the matter; the NHRC recommended compensation to the victim's family.

Security forces used excessive force against persons in custody, resulting in deaths during the year. On July 6, police shot and killed Laxmi Yadab, Hari Prasad Yadab, Kari Kapar, and Kari Saha of Dhanusha, Dholbajotol, while in custody. Police stated that the four were Maoist cadres killed in crossfire. At year's end no action was taken to investigate the case, and none was expected.

On December 14, an RNA soldier fired into a crowd in Nagarkot, killing 11 civilians and injuring 19 others before killing himself. A high level judicial team appointed by the government found that the soldier acted alone and awarded immediate compensation to the victims.

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.

On March 10, an RNA court-martial sentenced an RNA major to two years in jail and dismissed him from the army because of his involvement in the 2003 Ramechhap killing of Maoist detainees.

In September an RNA court-martial sentenced an RNA colonel and two captains for serious lapses in connection with the February 2004 killing of Maina Sunuwar in Kavre District. The RNA colonel was the highest-ranking officer court-martialed in a case tied to human rights abuses.

During the year there were no reports of injuries or deaths from RNA-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.).

While Maoist rebels did not kill or injure anyone in Kathmandu during the year, they repeatedly clashed with security forces and engaged in targeted killing of security forces, government officials, and civilians. INSEC reported that insurgents killed 267 civilians during the year (see section 1.g.).

On August 3, Amnesty International (AI) reported that government-backed vigilante groups were increasing the level of terror and violence experienced by the civilian population. For example on March 13, a mob attacked and killed 12 Maoist elite in Kapilvastu District. A local human rights lawyer said that violence between vigilantes and Maoists resulted in 36 deaths, the destruction of 600 houses, and the flight of 20 thousand persons to the Indian border. On July 25, villagers in Dhading district killed seven Maoist rebels. On August 14, villagers killed at least five Maoists in Banke District after they abducted an elderly person. The government did not penalize villagers who were involved in vigilante killings.

#### b. Disappearance

Under the 2004 Terrorist and Destructive Activities Ordinance (TADO), suspects must appear before a court within 60 days of their arrest, and the government can hold suspects in preventive detention for 360 days. Nevertheless, during the year 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 TADO (see section 1.d.).

On February 15, the military confirmed that it held Krishna Khatri Chhetri, vice president of the banned All Nepal National Independent Student Union (Revolutionary) (ANNISU-R), due to its affiliation with the Maoists. Plainclothes RNA forces took Chhetri into custody in 2003 and detained him incommunicado for approximately two years. In May 2004 the Supreme Court ordered the NHRC to investigate the case, but when NHRC representatives visited the army barracks, the RNA produced three other detainees who claimed Chhetri was not in custody. The RNA confirmed his whereabouts only after the Supreme Court again ordered it to do so. The court ordered Chhetri released on September 22; however, police re-arrested him on the Supreme Court premises, and he remained in detention at year's end.

On June 23, the day after the government told the Supreme Court that Nawaraj Subedi, General Secretary of the People's Front Nepal Party, was not in its custody, the NHRC found him in the Lalitpur District Police Office. According to the NHRC, Subedi had been in police custody

for two months. No action was taken against the government, and none was expected.

On September 4, two 15-year-old girls, Radha Bhusal--first arrested on April 17--and Geeta Nepali--first arrested on May 10--were rearrested after the appellate court ordered their release. Security forces held the youths incommunicado, and allegedly beat and sexually harassed them as suspected Maoists from the date of their initial arrest until June 17 when the government transferred them to Kapilvastu prison. Police denied any knowledge of their re-arrest.

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 November 30. The Maoists, according to INSEC figures, were responsible for the abduction of 46,794 persons, and the disappearance of 8,715 persons during the year. By year's end the government had not prosecuted government officials or Maoists for their involvement in disappearances, and no prosecutions were expected.

The NHRC reported that while it had information that the government had arrested 1,697 people from 1996 until December 10 of this year, the government had yet to confirm custody of 901 of those people. The NHRC reported that 290 persons were in Maoist custody.

In March Human Rights Watch (HRW) released a report documenting 200 enforced disappearances perpetrated by the RNA, APF, and police between 1998 and 2004. In 28 of the documented cases, families of the disappeared had reliable information that security forces killed their relatives after they were taken into custody but, with only a single exception, the deaths were never officially confirmed.

The RNA set up a national registry of detainees and cooperated with the United National Working Group on Enforced or Involuntary Disappearances (WGEID) to resolve the status of 106 cases from 2004. The RNA definitively answered 98 cases and was investigating 8 other cases at year's end. The RNA released 54 persons and found that 4 persons died, 3 on the battlefield and 1 in custody. The RNA initiated a court-martial on the death-in-custody case.

The government's five-member committee, formed in 2004 to investigate disappearance claims, released reports in February, April, June, and August, cumulatively locating 580 persons previously listed as disappeared.

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

Disappearances at the hands of the Maoists continued to be a significant problem (see section 1.g.).

### 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. The Center for Victims of Torture (CVICT), a local NGO, reported that blindfolding and beating the soles of feet were commonly used methods. 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 September 16, the UN Special Rapporteur on Torture concluded that the police, APF, and RNA systematically practiced torture and ill-treatment in order to extract confessions and to obtain intelligence against Maoists. The government insisted it was committed to preventing human rights abuses and indicated that disciplinary action had been taken against the guilty. The RNA stated it had looked into 179 cases of alleged torture presented by the UN. The NHRC has not received information regarding disciplinary action taken by the RNA in these cases.

The law provides for compensation for victims of torture. According to CVICT, 9 persons filed for compensation under the act during the year, and of the 184 cases filed since the act was created in 1996, the court made a decision to award compensation in 26 cases, but at year's end, compensated only one claimant.

On July 22, the RNA, in a court martial, found six RNA soldiers guilty of sexual-related misconduct while on peacekeeping duty in the Democratic Republic of Congo. All offenders received three-month prison sentences and a reduction in rank.

On July 24, six armed plainclothes security forces took Lokendra Khadka from his house in Kathmandu with his hands tied behind his back and a hood over his head. Security forces threatened to kill him and used water torture, beatings, and electric shocks to force him to admit to being a Maoist.

On September 12, Shiv Bohora, 23, acting president of the Nepal Student Union at Mahendra Ratna Campus, Kathmandu, claimed that police beat him with batons, boots, and the butts of their rifles, causing him to lose control of his bladder and bowels, and ultimately lose consciousness after he was arrested for throwing stones in a campus protest. Police were investigating the incident, and the case remained open at year's end.

On September 12, Sunsari district court handed down a verdict against three soldiers charged with raping a 16-year-old girl in November 2004. The RNA turned the soldiers over to the civilian district court for trial.

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 poor and did not meet international standards. According to the Department of Prisons, of the 7,135 persons in jail, 3,189 had been convicted of a crime and 3,946 were awaiting trial.

On September 16, the UN Special Rapporteur on Torture highlighted overcrowding and poor sanitation of prisons and detention centers. He described the conditions in Hanumandhoka police office, Kathmandu, as inhuman. Cells were filthy, poorly ventilated, and overcrowded, with 12 persons in a three-meter by four-meter cell; there was no provision for leisure activities; and there were several 14-year-old boys detained among adults.

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 (see section 4).

The government generally permitted the NHRC and OHCHR to make unannounced visits to prisons and detainees in army and police custody. The UN Special Rapporteur on Torture reported unhindered access to places of detention during his visit; however, the International Committee of the Red Cross (ICRC) suspended visits in April citing access problems.

### 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

The RNA exercised responsibility for security in the country under an operational structure referred to as the "unified command," which included elements of the police and the APF. Chief District Officers (CDOs), the highest-ranking civil servant in each of the country's 75 districts, have wide discretion in maintaining law and order. Both the police and RNA have human rights cells to promote human rights and to investigate cases of abuse; however, corruption and impunity remained problems. 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 RNA units directly engaged against Maoist insurgents.

In December the RNA reported that since 2001, when the RNA began to engage with the Maoists, the RNA investigated 163 cases of abuse. Of the 163, 51 cases resulted in prison sentences for 6 months to 10 years; 34 cases resulted in discharge from service; 13 cases resulted in demotion; 18 resulted in forfeiture of grade or promotion; 46 resulted in warnings in personnel files; and 1 case was sent to civil court.

### 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 7 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 7 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 not held under special antiterrorist legislation 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 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. Due to court backlogs, a slow appeals process, and poor access to legal representation, 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, 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 could be extended after submitting written notices 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. 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.

Between February 1 and the end of the state of emergency on April 29, the NHRC estimated that police arrested and detained more than 3,284 political protestors. The government arrested 25 political leaders and put 18 other prominent politicians under house arrest without due process. The NHRC reported that the police prevented them access to persons under house arrest four times. The government released all political detainees and ended all house arrests by the end of June.

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. After the lifting of the state of emergency, 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.

On September 13, police arrested over 529 leaders and party cadres for trying to enter a prohibited area in Kathmandu to protest the lack of democracy. Police released all of those detained the following morning (see section 2.b.).

Authorities occasionally detained journalists on suspicion of having ties to or sympathy for the Maoists (see section 2.a.).

There were reports of political detainees during the year, especially during the state of emergency. On March 14, police arrested over 750 persons belonging to the 5 main political parties that were demonstrating against the February 1 royal proclamation. All were released by year's end.

#### e. Denial of Fair Public Trial

The law provides for an independent judiciary, but courts remained vulnerable to political pressure. Additionally, citizens bribed judges and Maoists intimidated them.

The Supreme Court has the right to review the constitutionality of legislation passed by parliament. Appellate and district courts were increasingly independent, although sometimes they remained susceptible to political pressures.

The judicial system consists of three levels: district courts, appellate courts, and the Supreme Court. The king appoints judges on the recommendation of the judicial council, a constitutional body chaired by the chief justice. 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 hear cases against suspects charged with violations under the TADO.

Delays in the administration of justice were a severe problem. As of July 15, the Supreme Court reported a backlog of 16,293 cases, the appellate courts had 10,157, and district courts had 25,699.

#### 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, except in some security and customs cases, these rights were not equally applied. 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, but the king may grant pardons. The king also may suspend, commute, or remit any sentence.

The law provides prisoners 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. Police often denied suspects detained under TADO access to both attorneys and family members.

According to the Nepal Bar Association (NBA), authorities released lawyer Sujindra Maharjan from custody in December 2004. While no definitive proof was available, the NBA reported that former prime minister K.P. Bhattarai told them that lawyer Rajendra Dhakal, arrested in Gorkha District in 1999, was dead. At year's end there was no investigation into Dhakal's disappearance.

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 for cases of rape. 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.

TADO cases are heard in the appellate courts. Suspects may appeal verdicts to the Supreme Court.

In districts where Maoists gained some measure of administrative control, they have set up "people's courts." These courts did not generally have due process and generally decided only civil cases.

#### Political Prisoners

There were no government reported political prisoners.

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

During the state of emergency, the king suspended the right to privacy. The government suspended all land and cell phone lines and the

Internet, allegedly for security concerns. The government reactivated landline phone service on February 7, postpaid cell phones on May 1, and pre-paid cell phones on August 22. Nevertheless, human rights activists and politicians said that authorities monitored and blocked Internet and cell phone service after the lifting of the state of emergency at the end of April (see section 2.a.).

Security forces routinely entered and searched houses without warrants. Under TADO the security forces may conduct searches as long as they inform the subject of the search in advance. 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

During the year there was significant internal conflict between the government and Maoist insurgents. Both parties injured and killed numerous civilians. On May 16, 12 armed Maoist cadres in civilian dress abducted and killed Shanker Sarki, an RNA soldier who had returned home to Kailali District from Congo where he had served on a UN peacekeeping force.

On April 30, security personnel entered a university campus in Kanchanpur District and shot three students who were associated with the leftist All Nepal National Free Students Union. The wounded students were later taken to Kathmandu Army Hospital for treatment, and the NHRC recommended that the government provide free medical treatment and the equivalent of \$704 (approximately 50 thousand NPR) compensation to each student. The government had not compensated the victims at year's end.

On June 13, in Dhangadhi, Kailali District in the far-west, suspected Maoists raped and killed the wives of three APF personnel, also killing a one-year-old boy and two other civilians. The Maoists most often targeted political leaders, local elites, teachers, local-level civil servants, and suspected informers for harassment and attack (see section 1.a.).

On June 19, CPN-M Chairman Prachanda directed party members to avoid physical action against any unarmed persons, even if they were criminals. However, on June 21, Maoists killed four unarmed persons, including two Nepali congress (democratic) political party cadres in Siraha District.

On September 13, notwithstanding their three-month unilateral ceasefire, Maoists killed Navaraj Thapaliya in Gorkha District after abducting him on September 11.

Maoists were also responsible for numerous abductions during the year. INSEC reported that between February 13, 1996 and the end of the year, Maoists abducted 46,759 persons. The whereabouts of over 8,693 of those abducted remained unknown.

During the year Maoists expanded a campaign of abducting civilians, primarily students and teachers, allegedly for indoctrination programs and forced paramilitary training. From February 1 to December 6, Maoists abducted 11,397 students and 2,810 teachers from schools and bombed over a dozen schools across the country.

Maoists used landmines in and alongside roads to attack police, military, and government vehicles, injuring numerous civilians (see section 1.a.).

On April 10, a landmine blew up a passenger bus carrying security forces, killing at least 5 civilians, including a minor, and wounded 27 others in Sarlahi District in the central region. On June 6, Maoists killed 39 persons, including 3 RNA personnel, after they ignited a landmine under a passing passenger bus in the Madi area of Chitwan District in the central region. Approximately 70 others were wounded in the attack. On June 10, Maoists killed six security personnel and two civilians when they attacked a passenger bus with a landmine in Kavre District.

The ICRC on some occasions was able to convince the Maoists to release captured and detained individuals into ICRC custody. On September 14, Maoists handed 60 RNA soldiers captured on August 7 to the ICRC.

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).

On February 14, Maoist insurgents destroyed six schools in Rukum District, accusing the students and teachers of supporting the local administration. On February 20, Maoists detonated bombs in five schools in Banke District in the mid-western region in retribution for the schools defying a Maoist-called "educational strike." The militants also exploded a powerful bomb at the main gate of Nepalgunj Medical College on the same day, wounding three civilians.

Since February 25, insurgents forced over 370 schools to close indefinitely, affecting approximately 100 thousand students in Bardia District.

On February 26, rebels set fire to an examination center in Taplejung District and on April 2, Maoists bombed another examination center in Dang District.

On April 14, hundreds of private day and boarding schools throughout the country closed after the ANNISU-R, the student wing of the Maoists, called an educational strike. The ANNISU-R demanded, often violently, the halving of tuition, curriculum changes, and banning the singing of the national anthem. In some areas Maoists demanded that schools follow a calendar devoid of religious holidays (see section 2.c.).

In May Maoists forced more than 200 schools to close in Baglung District, and 150 schools in Palpa District, after the rebels announced that they would recruit students for the purpose of indoctrination and militia training. According to local CDOs, the schools in these districts reopened within two weeks of their closure.

The Maoists regularly blocked relief organizations from reaching civilian populations in order to force NGOs to sign agreements with Maoist regional committees.

Maoists regularly extorted money from businesses and workers, as well as NGOs. When individuals or companies refused or were unable to pay, Maoist recrimination frequently was violent. For example on August 17, Maoists bombed and set fire to Jyoti Spinning Mills, destroying machinery and storehouses containing raw and processed material after the company refused to pay Maoist extortion demands.

Frequent Maoist-declared closures involving the stoppage of work in economic sectors, including transportation, were enforced through violence, which caused particular hardship to workers.

In July and August the Maoist-affiliated labor union, the All Nepal Federation of Trade Unions, imposed a transportation strike and closed tea estates in parts of the eastern region, causing losses of \$15 thousand (approximately 1 million NPR) a day, leaving 25 thousand daily laborers jobless, and causing shortages in the marketplace (see section 6).

Maoists regularly forced family members of those serving in the police or army, and thousands of civilians, including political party activists, to flee their homes (see sections 1.a., 1.f., and 2.d.).

In April Maoists shot and attacked Hari Prasad Gautam, 70, with swords, forcing him to flee Ramechhap District when he failed to capitulate to their extortion demands. Maoists reportedly killed his cattle and set his house afire. The police saved his life by arranging a rescue flight to Kathmandu.

On July 6, armed Maoists forcibly expelled Rukimi Gurung and her husband from their house in Panchthar District, telling the couple to live with their son who had recently joined the RNA. The Maoists similarly locked up the houses of over 30 security personnel in surrounding villages.

On July 25, Refugees International reported that during the year many citizens migrated to India in order to avoid the forced conscription policy enforced by the Maoists, requiring each family to provide one child to the Maoists.

## 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, the government imposed restrictions on these rights, and these restrictions increased during the state of emergency and afterward. The law prohibits speech and writing that would threaten the sovereignty and integrity of the kingdom; disturb the harmonious relations among persons of different castes or communities; promote sedition, defamation, contempt of court, or crime; or contradict decent public behavior or morality.

On October 21, the government promulgated a new media ordinance containing restrictions on the media. According to a December report by the International Commission of Jurists, a Geneva-based international rule of law and human rights NGO, the ordinance entrenches a ban on news reporting by private FM radio stations, includes vague and arbitrary prohibitions on content, such as extending the prohibition on criticism of the king to other members of the royal family, restricts dissemination of news from foreign sources, enables a government-controlled press council to recommend to the government revoking a journalist's press credential, and places new restrictions on cross-media ownership that effectively targets only the Kantipur media organization, a consistent government critic that owns newspaper, television and radio outlets. Following the issuance of the ordinance, armed authorities raided Kantipur FM and seized satellite uplinking equipment. On November 27, authorities raided Sagarmatha FM and briefly arrested five staffers and also seized station equipment. The authorities later returned seized equipment to Sagarmatha and Kantipur.

Also on October 21, the government issued a new Election Code of Conduct that seeks to limit media freedom in covering elections. For instance, the code restricts media from publishing a candidate's attack against an opponent and requires that speeches by party leaders or candidates be published verbatim. The Maoists imposed restrictions on free press through intimidation and the killing of journalists.

In addition, The Press and Publications Act prohibits publication of material that, among other things, promotes disrespect toward the king or the royal family; undermines security, peace, order, the dignity of the king, or the integrity or sovereignty of the kingdom; creates animosity among persons of different castes and religions; or adversely affects the good conduct or morality of the public. There were no reports of prosecutions under the act during the year, although in August the information and communications minister publicly threatened unspecified action against *The Kathmandu Post* and *Kantipur*, respectively sister English and Nepali newspapers (and members of the Kantipur media group), for publishing a front-page cartoon lampooning the monarchy. On several occasions police and CDOs interrogated newspaper editors about certain articles they had published, and threatened them with imprisonment.

The act also provides a basis for banning foreign publications, although foreign publications were widely available, and none were banned or censored during the year. Foreign print media operating in and reporting on the country were allowed to operate freely.

The independent media were active and expressed a wide variety of views, although opinions against the royal proclamation were not printed for several weeks after the imposition of the state of emergency. Hundreds of independent vernacular and English-language newspapers were available, representing various political points of view. The government-owned *Gorkhapatra*, a Nepali-language daily, and *The Rising Nepal*, the third-largest English-language daily, reflected government policy.

Police arrested numerous journalists, many for protesting in favor of press freedom in restricted areas. Police released most journalists within 24 hours of their arrest. On March 7, police arrested Kanak Mani Dixit and kept him in custody for four hours, inquiring about his recent trip to Delhi and asking if he had tried to meet Maoist leaders while there. On June 8, police detained more than 50 journalists conducting a peaceful rally demanding press freedom. They were charged with violating a prohibition against unlawful assembly in the capital. The government released them on June 9. In July the International Press Freedom and Freedom of Expression Mission to Nepal estimated that 1 thousand of the 10 thousand people who worked in the media sector before February 1 had lost their jobs due to decreased circulation and the drop in government ads in private media critical of the government. In August government-owned media fired approximately 70 journalists, allegedly for their political views. According to INSEC, Maoists killed 14 journalists since 1996, although authorities reported no killings during the year.

Beginning in February at the onset of the state of emergency, the government restricted publication of news against the king's proclamation by sending armed security forces to major media houses. Some of these officials reviewed and censored editorial products. This physical government presence at daily newspapers lasted approximately one week, while some weekly publications endured official visitors for approximately three weeks.

During the state of emergency, the government intimidated some media outlets to practice self-censorship. On February 5, *The Kathmandu Post* published an editorial that discussed socks, in protest of the restrictions on press freedom.

On February 23, the Kathmandu CDO summoned editors of five vernacular weeklies to inquire about blank spaces in their publications to protest government censorship.

After the lifting of the state of emergency, journalists in Kathmandu reported without significant self-censorship, although government restrictions imposed on February 1 banning reporting that encouraged the Maoists or that was contrary to the "spirit of the Royal proclamation of February 1" remained in place. Following the king's February 1 proclamation, the government stopped advertising in papers whose editorial views did not support the king, affecting revenue of some papers.

The Broadcast Act allows private television and FM radio broadcasts. The government owned two television stations--*Nepal TV* and *Nepal TV Metro*--and controlled one radio station that broadcast both shortwave AM and FM signals. There were 47 independent radio stations that reached over 90 percent of the population. Until February 1, privately owned FM stations were permitted to broadcast their own independently collected news, but they were required to broadcast government news at least once daily; however, from February 1 to August 11, the government prohibited all FM stations from broadcasting news despite a 1999 Supreme Court ruling giving broadcast journalism equal status to the print media. Stations were able to broadcast information and entertainment programs. On August 11, the Supreme Court issued a stay order preventing the government from implementing a decree to close private radio stations broadcasting news. The Supreme Court's ruling allowed the FM radio stations to resume broadcast news while awaiting a final verdict, and 17 stations resumed airing news on August 11.

The government banned airing of foreign TV and radio channels except BBC, Fox News, and CNN following February's royal takeover. On June 12, the ban was lifted for all channels except the New Delhi-based *Nepali One*, for an alleged relationship between one of the channel's reporters and the Maoists. The government did not otherwise restrict access to foreign radio broadcasts, private cable networks, or the purchase of television satellite dishes. The government censored 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.

There were three licensed private television stations operating in the country. In addition to entertainment programming, commentary critical of government policies aired during publicly broadcast discussion programs. Indian, Chinese, and Pakistani television broadcasts were readily available in many parts of the country.

On September 19, police in the mid-western district of Dailekh used TADO authority to arrest a reporter, Harihar Rathore, from a Kantipur daily, accusing him of being a Maoist accomplice. Rathore refuted such allegations, saying he was targeted both by the security personnel and the Maoists for disseminating news based on fact. Over a dozen journalists left the district alleging that local Maoist and government authorities were similarly threatening them. On September 21, the Federation of Nepalese Journalists (FNJ) and the International Federation of Journalists (IFJ) successfully negotiated Rathore's release.

On October 4, imprisoned *Rastriya Swabhimani* reporter Maheshwar Pahari died of typhoid while in custody after being denied proper medical treatment by authorities. According to the Committee to Protect Journalists, Pahari was held under an antiterrorism law that was used to jail journalists since it was introduced in 2001. Authorities released and re-arrested Pahari four times after January 2004 in order to comply with the law, which limits detention without trial to six months. In May Pahari was released from jail and arrested before he could leave the compound (see section 1.a.).

Human rights activists and politicians reported blocked or monitored Internet service during and after the lifting of the state of emergency. 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.).

There were no government efforts to curtail academic freedom during the year.

The Maoists did not allow freedom of expression and tightly restricted 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.

On January 3, in Rukum District, Maoists confiscated the belongings of a BBC-affiliated journalist and a French reporter, accused them of being spies, and threatened to kill them unless they left the area.

On May 18, Maoists attacked and damaged a transmission station of Nepal Television (NTV) in Palpa District.

On July 10, Maoists released Som Sharma, an Ilam-based journalist after abducting him and holding him for 56 days. In the same district, Maoists released a Radio Nepal correspondent, Umesh Gurung, from house arrest. The FNJ negotiated with the Maoists for their release.

Maoist groups curtailed academic freedom, regularly extorted money from private schools and teachers, and inflicted punishment on school officials. According to INSEC, from January 1 to December 6, Maoists abducted 11,397 students and 2,810 teachers from schools for indoctrination programs, and bombed over a dozen schools across the country (see section 1.g.). Despite a three-month ceasefire, the country's media continued to report on instances of abduction, extortion, and intimidation by Maoists outside the Kathmandu valley.

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

The law provides for freedom of assembly and association; however, the government restricted this right in practice. On February 1, and continuing after the state of emergency was lifted, the government continued to restrict 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.

##### Freedom of Assembly

The law provides for freedom of assembly; although some large public demonstrations were common in parts of the country, the government restricted demonstrations both during and after the state of emergency. During the year some protests turned violent, and police sometimes used baton charges to break up demonstrations.

On August 25, police controlling a student demonstration in Rajbiraj fired shots into the crowd, injuring a passer-by who was not involved in the protest. The police claimed a protestor threw rocks at the officer, causing his gun to go off accidentally. Students maintained that the firing was not accidental. Police were investigating the incident, but there were no developments at year's end.

On September 18, local human rights organizations expressed concern over indiscriminate police brutality during demonstrations organized by political parties. They claimed that police illegally entered private houses, charged at peaceful protestors with batons, and excessively used tear gas. The organizations stated that police arrested 1,563 persons between September 4 and 14 and that the organizations found 248 persons injured, including demonstrators and police during the protest.

On September 14, Kathmandu police fired teargas at protestors, causing 12 primary students in a nearby school to become unconscious. In the same incident, police chased demonstrators through a hospital, wounding six, before a doctor in an operating room told the police to leave.

On September 20, OHCHR issued a statement protesting the government's announcement of new areas outside the Kathmandu valley where demonstrations would no longer be permitted. OHCHR also registered concern over reports of excessive force by the police in their bid to quell public demonstrations and expressed concern that the demonstrators themselves were resorting to violence.

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

During the year Maoists deprived citizens of the right to assembly. On July 26, Maoists detonated a pipe bomb at a public gathering that Maoists held in Doti District, wounding 16. Enraged villagers handed four Maoists over to security forces but, fearing Maoist reprisals, almost all of the villagers, including women, children, and the elderly, fled the village for district headquarters or the nearby jungle (see section 1.a.).

##### Freedom of Association

The law provides for freedom of association, although the government restricted these rights during and after the state of emergency which began on February 1. The government claimed it restricted freedom of association in order to protect the sovereignty and integrity of the state.

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 organization could not own land, important for establishing churches or burial of

members. These groups have been able to register their organizations and practice their faith as NGOs.

### 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. The law describes the country as a Hindu kingdom, although it does not establish Hinduism as the state religion.

The Press and Publications Act prohibits the publication of materials that create 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.

On September 2, police in Kathmandu prohibited Tibetans celebrating Tibetan Democracy Day from carrying pictures of the Dalai Lama in public, a restriction that has been imposed since 2002. The government restricted to private places (school grounds or inside monasteries) all local Tibetan celebrations (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, caste discrimination was widely practiced at Hindu temples in rural areas and strongly influenced society. After a group of dalit women visited a Hindu temple in Siraha District on October 3, villagers prohibited them from entering shops or using public facilities available in the village. The villagers allowed the dalit women to shop after a few days, but continued to prohibit the women from revisiting the Hindu temple. No action was taken against the villagers.

Beginning October 16, some upper caste locals in Sarakpura VDC in Saptari District imposed a blockade on a dalit hamlet, to punish the latter for not playing drums during a local fete. Six dalit families were prohibited from using the public path and denied access to rice mills, medical shops, and public taps. A compromise was reached after a few days, and the dalits resumed playing drums during festivals.

There were regular reports of Maoists enforcing a "people's calendar" in schools that did not allow for religious holidays. According to one Christian organization, Maoists demanded the use of church grounds for their indoctrination programs in the eastern region. Maoists forced churches to close after the churches refused to meet their demands.

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

For a more detailed discussion, see the [2005 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 kingdom under the state of emergency. The government cancelled all local and international flights on February 1 and 2 and prevented many prominent human rights activists and politicians from traveling within, or in some cases leaving, the country, even after the lifting of the state of emergency. INSEC documented 40 cases where the government barred citizens from leaving the Kathmandu valley between February 5 and June 2.

On February 25, security forces prevented Laxman K.C., Vice chairman of the Afro-Asian People's Solidarity Organization, from leaving Kathmandu to participate in a conference in Cairo, Egypt.

On February 26, security forces prevented Subodh Raj Pyakurel, Chairman of INSEC, from leaving Kathmandu in order to conduct human rights training in Nepalgunj.

On September 12, security personnel stopped Madhav Kumar Nepal, General Secretary of the Communist Party of Nepal (UML), from traveling to the house of a party member in Tulsipur, Dang District. In 2001 a dawn-to-dusk curfew was imposed in Tulsipur, when Maoists walked out of the first round of peace talks and attacked an army barrack in Dang.

The government regularly restricted refugees' right to travel freely 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.).

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)

Internal displacement caused by the Maoist insurgency continued to be a problem, with estimates of the number displaced ranging widely. International organizations estimated that between 100 thousand and 200 thousand citizens may have been internally displaced. The variation existed because those displaced usually found shelter with relatives and did not register with the government or seek assistance.

The government allowed IDPs access to domestic and international humanitarian organizations and permitted them to accept assistance provided by these groups.

According to OCKENDEN International, there were six IDP camps run by different NGOs in Banke District in the mid-west. These camps, created in 2000, held approximately seven to eight thousand IDPs. NGOs provided medicine, education to children, logistics and temporary shelter.

On September 18, the CDO of Humla District took 25 female IDPs into custody for 3 hours for causing obstructions in public places after they surrounded an empty food-storage building and demanded food.

#### 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 the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees and asylees. The UNHCR maintained an office in Kathmandu and a sub-office in Damak.

Between 1959 and 1989 the government accepted as residents approximately 20 thousand Tibetan refugees, most of whom still reside in the country. Since then the government has allowed Tibetan refugees to transit the country. During the year 3,395 Tibetan arrivals registered with UNHCR for transit to India, and 3,352 reportedly departed. This was the second highest number of arrivals (largest was 3,697 in 1993) since UNHCR began assisting transiting Tibetans in 1990. Since 1991 the government has provided asylum to approximately 105 thousand persons who claim Bhutanese citizenship. The great majority of these refugees lived in UNHCR-administered camps in the southeastern part of the country. Approximately 15 thousand 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 Iraq and Sudan. The government permitted UNHCR to visit the Nepal-China border four times 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 has improved since 1999, although border police sometimes extorted money from Tibetans in exchange for passage. There were unconfirmed reports that Tibetan asylum seekers were sometimes 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; however, the government refused to allow UNHCR to profile and verify those 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 sustenance; 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 it 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 October the government stopped issuing travel documents necessary for resident Tibetan and Bhutanese refugees to leave the country, saying it had to study the issue. In November the government also stopped issuing exit permits to Tibetan refugees transiting to India, also saying it had to study the issue. However, the government allowed Tibetans to enter Nepal, and 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 government claimed the ongoing insurgency prevented the holding of elections, and since the dismissal of the elected government in 2002, the king has appointed three interim governments. On February 1, the king dismissed the cabinet, citing the emergency powers article in the constitution. At year's end parliament had not been reestablished.

#### 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. Executive power is vested in the king and the council of ministers.

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. The election commission reported that there were 128 registered political parties in the

country. 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. Seven of the largest political parties formed an alliance in May, headed by Girija Prasad Koirala, president of the Nepali Congress Party. Most larger political parties have associated youth wings, trade unions, and social organizations.

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. There were two women in the most recent cabinet appointed by the king.

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 35-member cabinet, 12 were from ethnic minority communities.

#### Government Corruption and Transparency

The law provides for an anticorruption authority, the Commission for the Investigation of the Abuse of Authority (CIAA), which is mandated to investigate official acts of corruption. In September the CIAA began investigating three cabinet ministers for their involvement in an illegal plan to profit from smuggled fertilizer subsidized by the Indian government.

Following the February 1 proclamation, the king constituted another corruption investigation body called the Royal Commission for Corruption Control (RCCC), which acted as investigator, prosecutor, and judge. On July 26, the RCCC ordered a jail sentence of two years and a fine of over \$500 thousand (approximately 36 million NPR) on both former prime minister Sher Bahadur Deuba and former minister Prakash Man Singh for irregularities associated with the awarding of a contract for the Asian Development Bank (ADB)-funded Melamchi Water Supply Project. The RCCC would not accept into evidence an ADB report that found no irregularities in the awarding of the contract.

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, investigating and publishing their findings on human rights cases. Government officials sometimes were cooperative and responsive to their views. After the state of emergency was declared on February 1, 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 being used against human rights NGOs and workers by both the government and the Maoists.

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 substantially their activities. 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.

On May 15, four foreign aid agencies suspended operations in Kalikot District because Maoists extorted money and seriously assaulted one male and one female staff member of an NGO they supported. Maoists tried to force the woman to dig her own grave but her injuries were too serious to allow her to complete digging. On September 21, the aid agencies resumed operations in Kalikot, acknowledging that they had obtained an understanding with the Maoists, who agreed not to use aid for military, political or sectarian purposes.

The government welcomed and regularly granted visas to international NGOs and other human rights monitors, including members of AI and HRW.

In April the government and OHCHR signed an agreement to establish an office in the country to assist the government in formulating and implementing policies and programs for the promotion and protection of human rights.

On August 19, OHCHR released its first two reports. The first report focused on two Maoist attacks on civilian transport buses being used by the military (see section 1.g.). OHCHR emphasized the primary responsibility of the Maoists for the killing of civilians, but also found that the RNA failed to "take precautions" to protect the civilian population by repeatedly using public transportation. In response to OHCHR's findings, the RNA demoted two officers for poor judgment. The second report focused on the abduction and murder of family members of APF personnel (see section 1.a.). OHCHR could not clearly identify the perpetrators, but called on the Maoists to investigate the incident. Local media freely reported on these two OHCHR reports.

From April 13 to 22, the representative of the UN Secretary-General on the human rights of internally displaced persons visited the country to

assess the situation of IDPs. The representative concluded that IDPs were largely overlooked and neglected (see section 2.d.).

From September 10 to 17, the UN Special Rapporteur on Torture visited the country and concluded that security forces systematically practiced torture and ill-treatment. He also noted evidence of torture and mutilation carried out by the Maoists (see section 1.c.).

On May 26, the government, through a royal ordinance, amended the 1997 act that created the NHRC, appointed four new commissioners, and reappointed the chair. While the commission was to operate independently, 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. Since its establishment in 1997, the commission has received 3,365 complaints of human rights violations. The NHRC investigated and gave a decision on compensating in 72 cases, of which the government acted on eight cases, awarding 18 people compensation. The government was reviewing nine other cases for possible compensation. The NHRC identified that the government had arrested 1,697 people reported to NHRC as disappeared. While a number of people were subsequently released, the NHRC maintains that the government continues to hold 901 persons secretly. The NHRC identified the Maoists as abducting 290 persons who are still missing. The NHRC also investigated illegal detention and arrest of acquitted persons.

On August 11, the government dissolved three human rights organizations functioning under different government ministries and agencies and constituted a central committee and two sub-committees to manage and address human rights issues raised by the NHRC and other human rights organizations.

#### Section 5 Discrimination, Societal Abuses, 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 730 reports of domestic violence during the country's fiscal year, which ended on June 15. However, in the absence of a domestic violence law, police were unable to file cases against the accused.

Police had 18 women's cells in 16 of the country's 75 districts, with female officers who received special training in handling victims of domestic violence and trafficking. Police also sent out directives instructing all officers to treat domestic violence as a criminal offense that should be prosecuted. Nevertheless, according to a police official, this type of directive was difficult to enforce because of entrenched discriminatory attitudes among police. Even though police may make an arrest, 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 raping a child between 10 and 16 years old, and 5 to 7 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. During 2004 and through 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.

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 common was physical abuse of wives by husbands and in-laws seeking to obtain additional dowry, or to force the woman to leave so that the man might 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. According to INSEC, there were 13 victims of witchcraft-related violence during the year. In 2003 the NHRC asked the government to develop a mechanism to prevent such abuses and to provide compensation to the abused. During the year the government awarded compensation to 13 victims of witchcraft-related violence that took place in 2003. The district administration office in the district where the violence occurred now handles all cases of witchcraft violence.

Trafficking in women remained a serious problem throughout the country, and large numbers of women were forced to work against their will as prostitutes in other countries (see section 5, Trafficking). Prostitution was illegal.

Although the law provides protections for women, including equal pay for equal work, the government had not taken 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.

In September the Supreme Court passed a verdict allowing all children whose father was unknown to have citizenship "until the father of the child is traced." However, the citizenship law still denies citizenship to the children of female citizens married to foreign spouses, even if those children were born in the country.

Also in September the Supreme Court declared unconstitutional a clause in the Birth and Death Record Act of 1976, which permitted only a male to record birth and death information in government offices. Women may now register birth and death information. The court ordered the government to enact a law abolishing the practice of *chhaupadi*, which required a woman to stay in a cow-shed for four days during her menstrual periods.

In November the Supreme Court ruled that, unlike in previous years, women did not need permission from their husband or parents to get a passport.

In December the Supreme Court ruled that women no longer needed to get the permission of their husband, son, or parents if they wish to sell or hand over ownership of property.

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.

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. There were also a growing number of women's advocacy groups. Most political parties have women's groups that advocate for women's rights and bring women's issues before the party leadership.

## Children

The government is committed to the welfare and education of children, but implementation of laws and programs has been uneven, in part due to violence resulting from the ongoing insurgency. Education is not compulsory. However, government policy was to provide free primary education for all children between the ages of 6 and 12 years. The quality of education provided was 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 work go to school, compared with only 50 to 60 percent of the girls who work. 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 finding that one-quarter of elementary school-aged girls remained deprived of basic education. The government claims that 92 percent of school-age children are attending public schools, not attending students at madrassas or non-registered schools.

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.

Violence against children was rarely prosecuted, and abuse primarily manifested itself in trafficking of children. Forced prostitution and trafficking in young girls remained serious problems (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. In September to counter this notion, the government launched a program in Kalikot District to provide rice to any family that had recently given birth to a girl. 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 promote 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 home within a few days, but some remained with the Maoists, either voluntarily or under compulsion. The Maoists denied recruiting children. In September the RNA estimated that 30 percent of Maoist guerrillas were under the age of 18, and some were as young as 10 (see section 1.g.).

There were reports of children held in jail or in custody as suspected Maoists. The NGO Children Workers in Nepal (CWIN) reported that several months ago a 17-year-old girl had been abducted by the Maoists for 2 months and had her toe cut off. Her abduction ended when police arrested her and subsequently tortured her as a suspected Maoist. She was released by the police and stayed at a CWIN transit center.

There were six cases of female infanticide reported during the country's fiscal year, but the problem was not thought to be widespread.

Internal displacement due to the conflict, including of children, continued to be a problem, with estimates of the number displaced ranging widely. The International Labor Organization estimated that 10 to 15 thousand children were displaced during the year. As IDPs, children faced inadequate access to food, shelter, and health care, and had limited access to education.

A number of effective NGOs work in the field of children's issues, including Save the Children, the Sahara Group, Child Workers in Nepal Concerned Centre, CVICT, Ray of Hope, Terre des Hommes, Maiti Nepal, ABC Nepal, the Forum for Women, Law and Development, Rugmark, and World 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 government has a national plan of action 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.

Nepal 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 of age were trafficked. While the vast majority of trafficking was of women and girls for sexual exploitation, women and girls sometimes were trafficked for domestic service, manual or semi-skilled bonded labor, work in circuses, or other purposes. 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 may be on the rise due to the insurgency, as rural women and children left their homes to seek both employment and security in urban centers.

According to the 2004 annual report of the Attorney General's office, 133 trafficking cases were filed in district attorneys' offices across the country. At the end of 2004, of the 133 cases, 32 resulted in full or partial convictions, 18 in acquittal, and 83 remained open. At year's end the Attorney General's office had not released its latest report.

Local NGOs combating trafficking estimated that 25 thousand to 200 thousand women and girls were lured or abducted annually into India and subsequently forced into prostitution; however, these numbers were not consistent, and NGOs continued to seek better estimates. Women were also trafficked 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 workers' arrivals in receiving countries.

Hundreds of women and girls returned voluntarily or were rescued and repatriated to the country annually after having worked as commercial sex workers in India. 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.

Traffickers were usually from the country or India, and had links to brothels in India. In some 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. During the year 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 (MOWCSW) with personnel assigned to coordinate the response. There were programs in place to train police, and the MOWCSW 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.

The government provided limited funding to NGOs to give assistance to victims with rehabilitation, medical care, and legal services. The MOWCSW sponsored job and skill training programs in several poor districts with high rates of commercial sex workers who are 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.

Planete Enfants, an EU-funded NGO, collaborated with the government on campaigns to educate girls about trafficking in 19 districts. UNIFEM, in coordination with the government, conducted campaigns to target potential victims and deter traffickers by advertising the potential 20-year punishment for trafficking. These efforts resulted in the interception and rescue of potential victims and in eroding the stigma associated with being a trafficking victim.

Cultural attitudes toward returned victims of trafficking were often negative. There were more than 50 NGOs combating trafficking, several of which had 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 or enforce laws regarding persons with disabilities. The MOWCSW is 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. On January 27, the National Dalit Commission relaunched a nationwide campaign to eradicate untouchability.

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. On August 17, a Maoist raped a dalit woman and harassed three others in Saptari District. After word spread of the incident, INSEC reported that the local Maoist leadership apologized to the victims, and killed the rapist (see section 1.a.).

## **Other Societal Abuses and Discrimination**

The country does not have any laws that specifically criminalize homosexuality; however, government authorities, especially police, sometimes harassed and abused homosexuals. For example, on April 13, police attacked 18 metis (a traditional term for males who dress and identify as women) who were walking toward a festival in Kathmandu, according to the Blue Diamond Society, a Nepali NGO that works to protect against discrimination against the lesbian, gay, bisexual, and transgendered communities.

## 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. On July 14, the government promulgated the Civil Service Act, which prohibits government employees from forming an umbrella employee's organization; however, certain government employees may form organizations on the basis of professional affiliation, such as a lawyers' or medical doctors' association.

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.

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

The Labor Act provides for collective bargaining, although the organizational structures to implement the act's provisions had not been 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 inexperience.

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 disturbs 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--bonded laborers--was difficult. By 2004, according to the ILO, 12,019 Kamaiyas had received land, 7,149 families each had received approximately \$143 (10 thousand NRS) for building homes, and about 3 thousand had received timber to build houses. The government set up temporary camps for approximately 14 thousand other Kamaiyas still awaiting settlement. As of September, according to the ILO, a remaining 14 thousand persons who re-registered as bonded laborers in 2004 had not received land and money, and were forced to take land in several far-western districts.

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 (6 hours a day and 6 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 most child laborers, an estimated 95 percent.

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 years 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 14-16 at approximately \$22 (1,558 NRS) per month, with additional allowances of roughly \$5 (360 NRS) per month for food and other benefits. Roughly 60 percent of children who worked also attended school.

There were credible reports that the 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, the number of labor inspectors declined from 14 to 10 in 2004. However, these inspectors were able to achieve their annual goal of 500 inspections (out of 10 thousand registered companies) to ensure that no child labor was present. The ministry reported that no children under the age of 14 were found working in the factories inspected. In 2004 the government conducted four public awareness programs in various regions of the country to raise public sensitivity to the problem of child labor.

#### e. Acceptable Conditions of Work

In 2003 the government raised the minimum monthly wage for unskilled labor to approximately \$27 (1,894 NRS). The law also defined monthly minimum wages for semi-skilled labor at approximately \$28 (1,944 NRS), skilled labor at approximately \$29 (2,054 NRS), and highly skilled labor at approximately \$32 (2,244 NRS). Additional allowances for food and other benefits totaled just over \$7 (500 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 was 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.



State Department. External links to other Internet sites should not be construed as an endorsement of the views or privacy policies contained therein.

[FOIA](#) | [Privacy Notice](#) | [Copyright Information](#) | [Other U.S. Government Information](#)