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FREEDOM IN THE WORLD

Nepal

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OVERVIEW:

Nepal's Constituent Assembly missed yet another deadline to write a constitution in 2012, and it was forced to dissolve when its mandate expired in May. However, fresh elections had still not been held at year's end, as the main political parties disagreed over who should govern in a caretaker capacity during the balloting. Meanwhile, human rights groups protested an ordinance proposed by the government in August that would allow amnesty for many of the most serious abuses during the country's long civil war.

King Prithvi Narayan Shah unified the Himalayan state of Nepal in 1769. Following two centuries of palace rule, the left-leaning Nepali Congress (NC) party won the country's first elections in 1959. King Mahendra abruptly dissolved Parliament and banned political parties in 1960, and in 1962 he began ruling through a repressive *panchayat* (village council) system. Many parties went underground until early 1990, when the Jan Andolan (Peoples' Movement) organized prodemocracy rallies that led King Birendra to establish parliamentary democracy.

In Nepal's first multiparty elections in 32 years, Girija Prasad Koirala, a veteran dissident, led the NC to victory and formed a government in 1991. Torn by intraparty conflicts, the NC was forced in 1994 to call early elections. The Communist Party of Nepal/United Marxist-Leninist, or CPN-UML, won a plurality in Parliament, but it failed to build a stable governing majority. Separately, the more militant Communist Party of Nepal (Maoist) launched a guerrilla insurgency in 1996, leading to a decade-long civil conflict that ultimately claimed some 12,800 lives. Hopes for a more stable government rose after the NC won a majority in 1999 elections.

In June 2001, King Birendra's brother Gyanendra took the throne after a palace incident in which the crown prince apparently shot and killed Birendra and nine other members of the royal family before killing himself. Gyanendra declared a state of emergency in November, and for the next several years he ruled without Parliament. Moreover, he presided over a sharp escalation in the civil conflict.

By 2005, Gyanendra's government was cracking down on political dissent and shuttering numerous media outlets and other means of communication. A seven-party alliance (SPA) of mainstream political factions entered into talks with the Maoists, yielding an agreement that called for the restoration of democracy. Facing prodemocracy protests by hundreds of thousands of people, Gyanendra in April 2006 agreed to the provisions of the SPA-Maoist pact. The restored Parliament quickly removed most of the king's powers, and the SPA announced plans to elect a Constituent Assembly (CA) that would write a new constitution.

The SPA and Maoists concluded a Comprehensive Peace Agreement (CPA) in November 2006, stipulating that the Maoists would place their weapons under UN monitoring, confine their fighters to camps, disband their parallel government, and join a new interim government alongside members of the

2013 SCORES

STATUS

Partly Free

FREEDOM RATING

4.0

CIVIL LIBERTIES

4

POLITICAL RIGHTS

4

existing Parliament. In January 2007, an interim constitution was promulgated.

After a series of delays, CA elections were finally held in April 2008, and international observers deemed them generally free and fair, with few incidents of violence on election day. However, the campaign period was marred by regular attacks on candidates and campaign workers. The Maoists won 220 of the 601 seats. Their nearest rival was the NC (110 seats), followed by the CPN-UML (103 seats); the Madhesi People's Rights Forum (52 seats), a party aiming to represent residents of the country's southern plains region; and a range of smaller parties and independents. The CA quickly voted to replace the monarchy with a republican system, and in July it chose the NC's Ram Baran Yadav as president. Maoist leader Prachanda was elected prime minister in August, and the Maoists formed a coalition government.

Frustrated by the military's resistance to integration with former Maoist fighters, Prachanda in May 2009 ordered the firing of army chief Rookmangud Katawal. However, the move drew objections from other parties, and the president, who technically controlled such decisions, ultimately rejected the dismissal. Prachanda resigned, and a new government led by the CPN-UML was formed. The Maoists subsequently mounted frequent protests and physically blockaded the CA for a time.

Continued partisan disagreement contributed to Prime Minister Madhav Kumar Nepal's decision to resign in June 2010. After months of negotiations, the CA finally chose Jhalanath Khanal of the CPN-UML as the new prime minister in February 2011. He too was forced from office in August as the major parties failed to make any progress in drafting a permanent constitution. Maoist candidate Baburam Bhattarai was chosen to lead a new coalition government.

Efforts to draft a constitution in early 2012 foundered on disputes over whether the country should assume a more federal structure, with different ethnic groups having provinces of their own. Bhattarai sought to extend the CA's mandate—originally two years—yet again, but the Supreme Court rejected the move in May, ruling that any further extensions would be illegal. The CA was consequently dissolved, and Bhattarai called new elections for November. Rival parties objected to the idea that Bhattarai's caretaker government would oversee the balloting, however, and no agreement on a framework for elections had been reached by year's end.

POLITICAL RIGHTS AND CIVIL LIBERTIES:

Nepal is not an electoral democracy. The CA elections held in April 2008 were found by a European Union observation team to be "generally organized in a professional and transparent manner." However, the observers noted that the preelection period did not fully meet international standards due to restrictions on freedoms of assembly, movement, and expression.

The government is operating under a 2007 interim constitution. In addition to its task of writing a permanent constitution, the 601-seat CA serves as the interim legislature. Members were selected through a mixed system of first-past-the-post constituency races (240 seats), proportional representation (335 seats), and appointments by the cabinet (26 seats). Both the president and the prime minister are elected by a majority of the CA.

Unlike the 1990 constitution, the interim constitution has no limitation on parties formed along ethnic lines. A third of the seats in the CA are reserved for women, and substantial allocations are also made for Madhesis, Dalits, and other minority groups.

The CA repeatedly extended its initial two-year mandate after May 2010, but by the end of 2012 it had still not passed a permanent constitution. It was forced to dissolve that month, leaving government in the hands of a caretaker administration until elections could be held. The outgoing CA made little progress on finalizing the peace process and reintegrating former fighters into society. These and other unresolved problems, including proposals for an amnesty covering even the most severe human rights abuses committed during the civil war, have led to considerable political instability. Since 2008, Nepal has

had five different prime ministers.

Corruption is endemic in Nepali politics and government. While the Commission for the Investigation of Abuse of Authority is active, high-level officials are rarely prosecuted. Many members of the legislature have been accused or convicted of corruption in the past. Graft is particularly prevalent in the judiciary, with frequent payoffs to judges for favorable rulings, and in the police force, which has been accused of extensive involvement in organized crime. Nepal was ranked 139 out of 176 countries surveyed in Transparency International's 2012 Corruption Perceptions Index.

The interim constitution provides for press freedom and specifically prohibits censorship, although these rules can be suspended during an emergency. Many restrictions on the press were lifted after Parliament was restored in 2006. However, media workers frequently face physical attacks, death threats, and harassment by armed groups, security personnel, and political cadres, and the perpetrators typically go unpunished. Throughout 2012, supporters of political parties attacked journalists who wrote critical pieces about their organizations and leaders. The government maintains control of both the influential Radio Nepal, whose coverage is supportive of official policies, and the country's main television station. However, there is a variety of independent radio and print outlets. Some have come to show a strong bias toward the Maoists, partly due to intimidation, but other outlets are critical of the party.

The interim constitution identifies Nepal as a secular state, signaling a break with the Hindu monarchy. Religious tolerance is broadly practiced, but proselytizing is prohibited, and members of some religious minorities occasionally report official harassment. Christian groups have considerable difficulty registering as religious organizations, leaving them unable to own land.

The government does not restrict academic freedom. However, Maoist strikes have repeatedly threatened the school system, and a 2011 report by Human Rights Watch charged that Nepal had largely ignored the right to education of poor and disabled children. Minorities, including Hindi- and Urdu-speaking Madhesi groups, have complained at having Nepali enforced as the language of education in government schools.

Freedom of assembly is guaranteed under the interim constitution. While security forces have allowed large protests by Maoists and other political parties, Tibetan protests have been violently suppressed in recent years. In certain cases, authorities have detained Tibetan and Nepali monks and pressured them to sign pledges not to participate in future protests.

Nongovernmental organizations (NGOs) played an active role in the movement to restore democracy in 2006, and restrictions on NGO activity imposed by the king in 2005 were lifted under the interim regime. However, Maoist cadres and the affiliated Young Communist League (YCL) have at times threatened or disrupted the activities of NGOs. Groups working on Tibetan issues in Nepal report increasing intimidation by security forces due to pressure from China, a major donor of both military and nonmilitary aid to Nepal.

Labor laws provide for the freedom to bargain collectively, and unions generally operate without state interference. A draconian labor ordinance put in place by the king's government was repealed in 2006, and restrictions on civil service members forming unions were lifted. Workers in a broad range of "essential" industries cannot stage strikes, and 60 percent of a union's membership must vote in favor of a strike for it to be legal. Bonded labor is illegal but remains a problem. Similarly, the legal minimum age for employment is 14 years, but over two million children are believed to be engaged in various forms of labor, often under hazardous conditions.

The constitution provides for an independent judiciary, but most courts suffer from endemic corruption, and many Nepalese have only limited access to justice. Rights groups in 2012 raised concerns that the government was trying to pass legislation that would make more judges political appointees, further reducing judicial independence. Because of heavy case backlogs and a slow appeals process, suspects are frequently kept in pretrial detention for periods longer than any sentences they would face if tried and convicted.

Prison conditions are poor, with overcrowding and inadequate sanitation and

medical care. The government generally has refused to conduct thorough investigations or take serious disciplinary measures against police officers accused of brutality or torture. A leading Nepali group monitoring torture, the Centre for Victims of Torture, found that 74 percent of respondents in a survey conducted by the organization said that they had been tortured while in custody. The group reported that the use of torture by police declined slightly in 2012 compared with 2011. Separately, in September 2012, rights organizations were unsuccessful in their calls on the government to halt the promotion of Kuber Singh Rana to inspector general of police due to his alleged involvement in human rights abuses during the civil war period.

Human rights groups have argued that no one has been punished for abuses during the decade-long civil war, in part because of the weakness of the judiciary and a prevailing climate of impunity. Several political parties, including the Maoists, concluded an agreement in mid-2011 stating that anyone who committed abuses during the civil war would receive an amnesty; the government in August 2012 proposed the establishment of a politically appointed commission to serve as the mechanism for issuing such amnesties. However, no such measure had been enacted by the end of 2012.

A 2007 civil service law reserves 45 percent of posts for women, minorities, and Dalits, but their representation in state institutions remains inadequate, particularly at the highest levels of government. Members of the Hindu upper castes continue to dominate government and business, and low-caste Hindus, ethnic minorities, and Christians face discrimination in the civil service and courts. Despite constitutional protections and the May 2012 passage of the Caste-based Discrimination and Untouchability (Offense and Punishment) Act, which prohibits discrimination against Dalits and increases punishments for public officials found responsible of discrimination, Dalits continue to be subjected to exploitation, violence, and social exclusion. Separately, due to pressure from China, Tibetans fleeing to Nepal on their way to India in recent years have been detained and in some cases pushed back across the border by Nepali police, though such actions do not reflect official Nepali policy.

Madhesi, plains-dwelling people with close connections to groups across the border in India, comprise 35 to 50 percent of Nepal's population, but they are underrepresented in politics, receive comparatively little economic support from the government, and—until an amendment to the citizenship law in 2006—had difficulty acquiring formal citizenship due to Nepali language requirements. In recent years, the Madhesi People's Rights Forum has organized armed cadres and mounted general strikes and protests to bolster their demands for regional autonomy and other goals, especially in the context of the drafting of the permanent constitution. Combined with attacks by more radical Madhesi groups, such activities have triggered curfews and increased violence from the state.

In 2007, the Supreme Court ordered the government to abolish all laws that discriminate against LGBT (lesbian, gay, bisexual, and transgender) people, and in 2008 it gave its consent to same-sex marriage. The government has yet to implement these rulings, though citizens can now obtain third-gender identity documents. LGBT people reportedly face harassment by the authorities and other citizens, particularly in rural areas.

Forcible evictions to make way for development projects has become a problem. In May 2012, human rights organizations warned that the Kathmandu police had begun forcibly removing residents of settlements along the Bagmati River to make way for a planned urban development project.

Women rarely receive the same educational and employment opportunities as men, and domestic violence against women continues to be a major problem. The 2009 Domestic Violence Act provides for monetary compensation and psychological treatment for victims, but authorities generally do not prosecute domestic violence cases. The commission charged with providing reparations to women subjected to gender-based violence has also been severely criticized for nonimplementation of its mandate and for politicized distribution of resources. Trafficking of young women from Nepal for prostitution in India is common. According to Human Rights Watch, kidnapping gangs have become rampant in recent years, abducting children to obtain small ransoms. Police rarely intervene in the kidnappings. Underage marriage of girls is widespread, particularly among

lower-status groups.

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