

## FREEDOM IN THE WORLD

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# Nepal

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## OVERVIEW:

After a delay of roughly seven months, the Constituent Assembly in February 2011 chose Nepal's fourth prime minister in three years. However, political instability and violence continued, and the temporary legislature missed its latest deadline to adopt a permanent constitution. The new prime minister, Jhalanath Khanal, consequently resigned in August, and was replaced by Maoist candidate Baburam Bhattarai. Meanwhile, in addition to more recent abuses, human rights groups criticized the ongoing impunity for crimes committed during the 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, which it lost to the Communist Party of Nepal/United Marxist-Leninist, or CPN-UML. The Communists, however, failed to secure a majority in Parliament. 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 bizarre 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 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 captured 220 of the 601 seats. Its nearest rival was the NC (110 seats), followed by the CPN-UML (103 seats), the Madhesi People's Rights Forum (52 seats), 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

## 2012 SCORES

STATUS

# Partly Free

FREEDOM RATING

# 4.0

CIVIL LIBERTIES

# 4

POLITICAL RIGHTS

# 4

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.

Ongoing Maoist obstruction contributed to Prime Minister Madhav Kumar Nepal's decision to resign in June 2010. After months of disagreement, 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, but his pledges to promote interparty reconciliation and pass a constitution had yet to bear fruit at year's end.

## **POLITICAL RIGHTS AND CIVIL LIBERTIES:**

Nepal is not an electoral democracy. The CA elections held in April 2008 were found to be "generally organized in a professional and transparent manner" by a European Union observation team. However, the observers noted that they 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.

In May 2010, the CA amended the constitution to extend its tenure for an additional year, but by the end of 2011 the legislature had still not passed a permanent constitution. It has also made little progress on finalizing the peace process and reintegrating former fighters into society. These and other unresolved problems have led to considerable political instability. Since 2008, Nepal has had five different prime ministers.

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 were also made for Madhesis, Dalits, and other minority groups. A 2007 civil service law reserves 45 percent of posts for women, minorities, and Dalits, but their representation in state institutions remains inadequate.

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 154 out of 183 countries surveyed in Transparency International's 2011 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 2011, supporters of several 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 Maoists.

The 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.

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. 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, allegedly 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. 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.

Human rights groups argued in 2011 that no one had 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 during the summer stating that anyone who committed abuses during the civil war would receive an amnesty, though no such legislation was passed by year's end.

Members of the Hindu upper castes dominate government and business, and low-caste Hindus, ethnic minorities, and Christians face discrimination in the civil service and courts. Despite constitutional provisions banning caste-based discrimination, Dalits continue to be subjected to exploitation, violence, and social exclusion. Separately, Nepal has provided asylum to tens of thousands of Bhutanese refugees since the early 1990s. In recent years, due to pressure from China, Tibetans fleeing to Nepal on their way to India 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 homosexuals, 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. Homosexuals reportedly face harassment by the authorities and other citizens, particularly in rural areas.

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. 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.

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