



January 2011

country summary

## Nepal

Nepal's political and peace processes remained stalled in 2010, resulting in instability, weak governance, and no progress on accountability for human rights violations. Prime Minister Madav Kumar Nepal of the Unified Marxist-Leninist party (CPN-UML) resigned on June 30, under pressure from the Maoists who demand a unity government with themselves at the helm. At this writing the parliament has failed to form a new government, despite 16 rounds of parliamentary votes. The Constituent Assembly missed the May 28 deadline to draft a new constitution. In a last-minute deal, political parties concluded a three-point agreement to extend the Constituent Assembly by another year.

The government made little progress in 2010 on realizing people's economic, social, and cultural rights through economic development. Reports of lawlessness persist in many parts of the country, especially in the southern plains of the Terai and the eastern hills. Armed groups and ethnically based organizations have been involved in killings and extortion with impunity.

### Accountability for Past Abuses

The government and political parties still fail to show the will to establish accountability for human rights violations committed during the war. No one from the security forces or among the Maoists has been held criminally responsible for abuses committed during the conflict. In many cases, those accused of violations actively receive protection from the security forces or political parties.

In October the Nepal Army extended the tenure of Colonel Raju Basnet by two years, though he was at the Maharajgunj army barracks in 2003 and 2004 when various cases of torture, arbitrary detention, and enforced disappearance took place. The National Human Rights Commission (NHRC) and the UN Office of the High Commissioner for Human Rights (OHCHR) have repeatedly requested that the government start proceedings against Basnet.

In spite of a court order, the army refused to hand over Major Niranjana Basnet, accused in 2004 of the torture, rape, and murder of 15-year-old Maina Sunwar. After Basnet was returned at the request of the UN from a peacekeeping mission in late 2009, the army took

him into its custody. In July a military tribunal, established to probe the circumstances of Basnet's return from Chad, concluded he was "innocent."

The Unified Communist Party of Nepal (Maoist) (UCPN-M) leadership has likewise failed to cooperate with criminal investigations into alleged crimes committed by Maoists during and after the conflict.

Although the Comprehensive Peace Agreement does not provide a broad amnesty for serious crimes, the government continues to discuss the withdrawal of cases deemed "political," including cases of murder. In January the Supreme Court upheld the conviction of Maoist Constituent Assembly member Balkrishna Dhungel for the 1998 murder of Ujjwal Kumar Shrestha. However, police have failed to arrest him, and Maoists claim the case is against the Comprehensive Peace Agreement and interim constitution.

In September police and the NHRC exhumed the bodies of four people in Dhanusha district. The four are believed to be among five students that security forces allegedly disappeared and killed in 2003. So far, the police have failed to question officials and claim they are waiting for DNA results to pursue further investigations.

The draft bills to establish a Truth and Reconciliation Commission and a Disappearances Commission have been tabled in parliament but await debate by the Statute Committee. While the bills are a step towards ensuring justice for war victims, several provisions remain that are inconsistent with international law.

## **Integration of Maoist Combatants**

For more than four years, 19,602 Maoist former combatants have been held in UN-monitored cantonment sites. In January 2010 the process began of discharging 4,008 of them, who were disqualified as children (2,973 of them) and as late recruits. A UN monitoring mechanism was formed to scrutinize UCPN-M compliance with its commitment to a 2009 action plan with the government and the UN representatives, including a provision on the non-recruitment of children. A special committee established in mid-2009 to address the integration of Maoist combatants into the security forces was unable to function for several months due to the continuous absence of UCPN-M from meetings.

## **Dalits**

Dalits ("untouchables") suffer from discrimination in economic, social, and cultural spheres. In September 2009 Nepal announced its support for the UN-agreed-upon guidelines on the

elimination of caste discrimination. However, Nepal has yet to implement recommendations made in 2004 by the Committee on the Elimination of Racial Discrimination, including adopting relevant statutory law to enable the National Dalit Commission—a state agency—to fulfill its mandate.

## **Sexual Orientation and Gender Identity**

The Nepal government has made significant strides towards ensuring equality for lesbian, gay, bisexual, and transgender people in recent years. The government has promised that the 2011 national census will allow citizens to identify themselves as male, female, or transgender.

Yet progress remains tenuous. According to local NGOs, there are 280 discriminatory legal provisions affecting the LGBT community. In September sexual minorities alleged that the Home Minister refused to issue citizenship cards to transgender people, contravening a Supreme Court directive three years ago. In response, dozens of LGBT individuals staged protests in the capital. Police detained some protesters without charge for several hours.

## **Women's Rights**

While women have constitutional guarantees and a strong representation in the Constituent Assembly, women and girls continue to face widespread discrimination. Violence and exploitation, including trafficking, domestic violence, dowry-related violence, rape, and sexual violence remain serious problems. Sexual violence cases are often settled in private, and even when complaints are filed, police rarely carry out effective investigations.

Female members of the Constituent Assembly have formed a caucus to pressure committees to discuss women's concerns. Some of the members' demands include for women's perspectives to be included on the issues of citizenship and property, and for the government to reserve positions for women in administration and the judiciary, and to provide dedicated public services for sexual and reproductive health.

Many women migrate to the Middle East as workers through recruitment agencies; once they arrive in these countries, they are often vulnerable to abuse and have very few legal protections.

## **Terai**

Tensions persist over the rights of the different ethnic groups, including Madheshi communities near the Indian border in the Terai, who want greater autonomy and

proportionate representation in government jobs. Public security remains a major concern in many districts of the Terai. The UN secretary-general, in his periodic report to the UN Security Council expressed concern that the extortion of officials, teachers, and business people by armed groups and ethnic organizations is on the rise despite increased police patrols.

According to human rights groups, the government's special security policy, which aims to address the deteriorating security situation, has led to increased human rights violations. For instance, OHCHR documented 57 cases of deaths as a result of the unlawful use of lethal force by security forces between January 2008 and June 2010. In several Terai districts, armed groups have recruited children as messengers for extortion notes and ransom collection, and for enforcing bandhs (strikes) called by the armed groups.

### **Tibetan Refugees**

The current administration continued to endorse the "One China Policy" and Tibetan refugees faced increased harassment by Nepali authorities in efforts to appease China. Several instances of arrests, criminalization of entry, detention, refoulement, and attempted refoulement of Tibetan refugees were reported in 2010. In June Nepali authorities forcefully deported three Tibetan new arrivals from Humla district. Two of them are believed to be in detention in China. In October police in Kathmandu confiscated ballot boxes during annual elections held by Tibetan refugees to nominate candidates for the government in exile. The Home Minister reportedly issued a statement saying the polling "violated Nepal's foreign policy and existing laws of the host country."

### **Key International Actors**

Nepal is dependent on aid and relies heavily on its traditional donors, such as Japan, the United States, the United Kingdom, India, and the European Union. It has to maintain a balance in its relations with its two powerful neighbors, India and China. In an effort to correct their heavy dependency on India, Nepali political parties—particularly the Maoist-led government—have attempted to strengthen ties with China. In December 2009 China provided military aid of about US\$3 million, including training for the Nepal Army.

In December 2009 the US president signed into law the 2010 Consolidated Appropriations Act, which includes a prohibition on assistance to the Nepal army unless, among other things, it fully cooperates with investigations and prosecutions by civilian judicial authorities of violations of internationally recognized human rights.

India played a positive role in bringing about the comprehensive peace agreement between political parties to end the Maoist conflict. But since then, India stands accused of meddling in the selection of a consensus prime minister, adding to the political instability.

The UK continues to provide military assistance to Nepal. In October Nepal's army chief, Gen. Chhatraman Gurung, visited the UK to boost military ties.

The UCPN-M remains on the US list of banned terrorist organizations. In June, the US embassy in Kathmandu denied a visa to Agni Sapkota, a senior Maoist member, for his alleged involvement in the extrajudicial killing of Arjun Bahhadur Lama during the Maoist insurgency.

Nepal continues to be a key troop-contributing country to UN peacekeeping missions.

In June the government renewed OHCHR's mandate for a year but demanded a phased closure of all offices outside Kathmandu, thus weakening human rights monitoring in the field.

The mandate of the UN Mission in Nepal is ending in January 2011. UN Under Secretary-General for Political Affairs B. Lynn Pascoe visited Nepal in October to discuss the peace process with the prime minister.