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U.S. Department of State

Nepal Country Report on Human Rights Practices for 1997

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NEPAL

Nepal is a constitutional monarchy with a parliamentary form of government. In 1990 the King, formerly an absolute monarch, legalized political parties after which an interim government promulgated a new constitution. The King retains important residual powers, but has dissociated himself from direct day-to-day government activities. The democratically elected Parliament consists of the House of Representatives (lower house) and the National Council (upper house). Since 1990, Nepal has held four national elections, two for the Parliament and two nationwide elections for local government offices. International observers considered these elections to be generally free and fair. In February 1996, the leaders of the Maoist United People's Front (UPF) launched a "People's War" in mid-western Nepal, which has produced incidents in 27 of 75 districts. The insurrection has been waged through torture, killings, and bombings involving civilians, and public officials. The Constitution provides for an independent judiciary, however, the courts are susceptible to political pressure and corruption.

The National Police Force maintains internal security, assisted as necessary by the Royal Nepalese Army (RNA). Police reaction to the "People's War" insurgency led to incidents of unwarranted force against prisoners and noncombatants. The army is traditionally loyal to the King and has avoided involvement in domestic politics. However, with the continued threat from the Maoist insurgents, the RNA may take on a more active security role. The police are subject to civilian control, but local officials have wide discretion in maintaining law and order. The police committed human rights abuses.

Nepal is an extremely poor country, with an annual per capita gross domestic product of approximately

\$200. Over 80 percent of its 21 million people support themselves through subsistence agriculture. Principal crops include rice, wheat, maize, jute, and potatoes. Tourism and the export of carpets and garments are the major sources of foreign exchange. Foreign aid accounts for more than half the development budget. The economy is mixed with approximately 50 public sector firms. Many former government firms have been privatized since 1992.

Since political reform began in 1990, Nepal has made progress in its transition to a more open society with greater respect for human rights. However, problems remain, and the Government has not enforced all the Constitution's provisions regarding basic human rights. The police continue to abuse detainees, using torture as punishment or to extract confessions. The Government rarely investigates allegations of police brutality or takes action against accused police officers. There were also allegations that police killed unarmed civilians in the course of operations against the insurgents, and while these persons were held in custody. The authorities use arbitrary arrest and detention, and prison conditions remain poor. Judicial susceptibility to political pressure and corruption, long delays before trial, and lengthy pretrial detention remain problems. The Government continues to impose some restrictions on freedom of religion and expression. Lower castes and women suffer widespread discrimination. Trafficking in women and girls, violence against women, forced labor, and child labor also remain serious problems.

In July 1996, Parliament unanimously enacted a bill to establish a permanent human rights commission with the authority to investigate human rights abuses. However, the commission has not yet been established.

The Maoist insurgents continued to commit numerous abuses, including killings and bombings. They also forced the postponement of local elections in several mid-western districts.

RESPECT FOR HUMAN RIGHTS

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

a. Political and Other Extrajudicial Killing

On a number of occasions, the Government is alleged to have used unwarranted lethal force against persons suspected of involvement in the "People's War" in central Nepal. Launched in February 1996 by UPF leaders Baburam Bhattarai and Pushpa Kamal Dahal, the "People's War" is a self-declared Maoist insurgency.

In March Amnesty International (AI) reported that in 1996 that police "have repeatedly resorted to the use of lethal force in situations where such force was clearly unjustified." AI's statement was based on an investigation of 50 killings committed by police, mostly in 1996.

Violence declined somewhat in 1997. A local nongovernmental organization (NGO) reported that the police killed 19 persons in Maoist-related encounters during the year. Several of these incidents reportedly involved unarmed civilians, but others occurred during armed conflict. In August, for example, four men were killed when a police patrol came under attack. The national police department issued strict instructions to its officers not to use excessive force after some of these incidents were reported. The police conducted an inquiry into the killings, but concluded that the officers were acting within their rights. According to a local human rights NGO, three persons died during the year as a result of police torture (see Section 1.c.).

The insurgents were responsible for numerous abuses. Guerrillas, usually armed with homemade guns,

explosives, knives, and sticks, attacked landowners, civilians, government officials, and government facilities in a number of districts. For example, on January 11, Balaram Pokharel of the Chhoparak village development committee was attacked in his house by 10 suspected Maoists, who afterward dragged him outside and stabbed him to death in public. In Rolpa district a police officer was attacked and killed in front of his wife and child in October. In 1996 the Government responded to the insurgency by sending contingents of police to the affected districts. A total of 113 persons died in the violence since November 1995, most of them killed by the insurgents.

b. Disappearance

There were no reports of politically motivated disappearances.

Two student activists that the police took into custody in 1993 and 1994 remain missing.

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

The Constitution and criminal law prohibit torture; however, the police often use beatings and torture to punish suspects or to extract confessions. According to a local human rights NGO, three persons died during the year as a result of police torture (see Section 1.a.). For example, in February Til Bahadur Bhujel died after being beaten by police who arrested him for illegally cutting wood in Jhapa district. In Kathmandu Balajiu, a woman died of wounds inflicted by the police who came to arrest her son. The Government has failed to conduct thorough and independent investigations of reports of police brutality and has refused to take significant disciplinary action against officers involved. Police are often unwilling to investigate and discipline fellow officers, and people are afraid to bring cases against police for fear of reprisals. The Constitution provides for compensation for victims of torture, and a bill providing for such compensation was passed by Parliament in September 1996. The Government has begun human rights education for the police force.

Human rights groups have reported instances of torture in areas affected by the "People's War." Dozens of male detainees reported torture inflicted on them by police, while women in these areas have reported instances of rape and sexual abuse by the police. For example, in Kavre district, according to a local human rights NGO, five people were arrested in early October after a prominent politician was murdered in a suspected Maoist attack. These people were reportedly severely tortured while in police custody. They remained in jail at year's end.

Local and international human rights groups have also documented Maoist violence in these areas, including the severing of arms and limbs. The Maoists have most often targeted political leaders, local elites, and suspected informers, including representatives of the more moderate Communist Party of Nepal--the United Marxist Leninist party (UML). A village development leader from the UML was attacked in his house in January (see Section 1.a.), and on July 9, approximately nine Maoists tied and seriously assaulted six UML workers in Sindhuli district.

Prison conditions are poor. Overcrowding is common in prisons and authorities sometimes handcuff or fetter detainees. Women are normally incarcerated separately from men, but in similar conditions. The Government still has not implemented a provision in the 1992 Children's Act calling for the establishment of a juvenile home and juvenile court. Consequently, children are sometimes incarcerated with adults--either as criminals or with an incarcerated parent. The Department of Prisons says that there are 174 cases of children in jail/custody; approximately 30 of these persons are non-criminal dependent children of adult inmates (also see Section 5). In Rukum district, a 13-year-old boy was arrested and accused of being a Maoist. He was held for 6 months with 54 adults in a cell designed for only 15

persons, before a trial date was scheduled.

There has been some improvement in prison conditions. The authorities are more likely to transfer sick prisoners to hospitals than they were in the past. Due to the inadequacy of medical facilities in the country, the authorities sometimes place the mentally ill in jails under inhumane conditions. The Government permits local human rights groups to visit prisons.

d. Arbitrary Arrest, Detention, or Exile

The Constitution stipulates that the authorities must arraign or release a suspect within 24 hours of arrest, but the police often violate this provision. Under the Public Offenses Act of 1970, the police must obtain warrants for an arrest unless a person is caught in the act of committing a crime. For many offenses, the case must be filed in court within 7 days of arrest. If the court upholds the detention, the law authorizes the police to hold the suspect for 25 days to complete their investigation, with a possible extension of 7 days. However, the police often hold prisoners longer. The Supreme Court has on occasion ordered the release of detainees held longer than 24 hours without a court appearance.

Detainees do not have the legal right to receive visits by family members and they are permitted access to lawyers only after the authorities file charges. In practice the police grant access to prisoners on a basis that varies from prison to prison. Persons have a right to legal representation and a court appointed lawyer, but government lawyers or access to private attorneys is provided only on request. Consequently, those unaware of their rights may not have legal representation. There is a system of bail, but bonds are usually too expensive for most citizens. According to the Department of Prisons, over half of the 6,000 people imprisoned are awaiting trial. Due to court backlogs, a slow appeals process, and poor access to legal representation, it is common for persons to be held for periods longer than their sentences after conviction.

Under the Public Security Act, the authorities may detain persons who allegedly threaten domestic security and tranquillity, amicable relations with other states, and relations between citizens of different classes or religions. Persons whom the Government detains under the act are considered to be in preventive detention and can be held for 6 months without being charged with a crime. As of August, 38 people had been placed under detention in accordance with provisions of the Public Security Act as a result of Maoist-related activities. Human rights groups allege that the police have used arbitrary arrest and detention during the "People's War" to intimidate communities considered sympathetic to the Maoists. Since the insurgents began their terrorist campaigns" 1,661 Maoist-related arrests have been made. Of those arrested approximately 930 persons have been released, while 731 have been charged with crimes and are awaiting trial. Of those charged, 246 are still being held in jail.

The 1991 amendments to the Public Security Act allow the authorities to extend periods of detention after submitting written notices to the Home Ministry. The police must notify the district court of the detention within 24 hours, and it may order an additional 6 months of detention before authorities file official charges.

Other laws, including the Public Offenses Act, permit arbitrary detention. This Act and its many amendments cover such crimes as disturbing the peace, vandalism, rioting, and fighting. Under this Act, the Government detained hundreds of civil servants during a 55-day antigovernment strike in 1991. Human rights monitors express concern that the Act vests too much discretionary power in the Chief District Officer (CDO), the highest ranking civil servant in each of the country's 75 districts. The Act authorizes the CDO to order detentions, to issue search warrants, and to specify fines and other punishments for misdemeanors without judicial review. Few recent instances of use of the Public

Offenses Act have come to light, since it has become more common, particularly with the Maoists, to arrest people under the Public Security Act.

Under the Public Offenses Act hundreds of people were arrested on March 18, 1996 for staging a peaceful protest of the human rights situation in China organized by Amnesty International (AI) in Kathmandu. Although most were released the same day, several AI officers and 14 Tibetans were held in jail for up to 7 days, some without charge.

The Constitution prohibits exile; it is not practiced.

e. Denial of Fair Public Trial

The Constitution provides for an independent judiciary and the Supreme Court has demonstrated independence. However, lower level courts remain vulnerable to political pressure. In addition, bribery of lower level judges and court staff is endemic.

The Supreme Court has the right to review the constitutionality of legislation passed by Parliament. It has ruled that provisions in the 1992 Labor Act and in the 1991 Nepal Citizenship Act are unconstitutional. In 1995 the Court also decided that the dissolution of the Parliament at the request of a former Prime Minister was unconstitutional, and ordered the body restored.

Appellate and district courts have become increasingly independent, although they sometimes bend to political pressure. In Rolpa, one of the districts most affected by the "People's War," human rights groups have accused the district courts of acting in complicity with CDO's in violating detainees' rights. These groups allege that arrest without a warrant, prolonged detention without trial, and police torture occur in these areas.

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 is also responsible for the assignment of judges, disciplinary action, and other administrative matters. Judges decide cases; there is no jury system.

Delays in the administration of justice are a severe problem. According to the latest statistics, 145,354 cases active throughout the country. The Supreme Court has a backlog of approximately 8,950 cases, which it expects to take 4 years to clear. A case appealed to the Supreme Court may take more than 10 years to conclude.

The Constitution provides for the right to counsel, equal protection under the law, protection from double jeopardy, protection from retroactive application of the law, and for public trials, except in some security and customs cases. All lower court decisions, including acquittals, are subject to appeal. The Supreme Court is the court of last appeal, but the King may grant pardons. The King can also suspend, commute, or remit any sentence. On the recommendation of the Government, the King often pardons up to 12 prisoners--if they have served 75 percent of their sentence and shown good behavior--on national holidays.

Military courts adjudicate cases concerning military personnel, who are immune from prosecution in civilian courts. In 1992 the Supreme Court ruled that military courts may no longer try civilians for crimes involving the military services.

The authorities may prosecute terrorism or treason cases under the Treason Act. Specially constituted

tribunals hear these trials in closed sessions. No such trials took place during the past 2 years.

There were no reports of political prisoners.

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

The Government generally respected the privacy of the home and family. Search warrants are required before search and seizure except in cases involving suspected security and narcotics violations. As amended, the Police Act of 1955 empowers the police to issue warrants for search and seizure in criminal cases upon receipt of information about criminal activities. Within 24 hours of their issuance, warrants in misdemeanor cases must be approved by the CDO. Court judges must approve them in felony cases.

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The Constitution specifies that all citizens shall have freedom of thought and expression and that the Government may not censor any news item or other reading material. Nevertheless, the Constitution prohibits speech and writing that would threaten the sovereignty and integrity of the Kingdom; disturb the harmonious relations among people of different castes or communities; promote sedition, defamation, contempt of court, or crime; or contradict decent public behavior or morality.

The Press and Publications Act provides for the licensing of publications and the granting of credentials to journalists. The Act includes penalties for violating these requirements. The Act also prohibits publication of material that, among other things, promotes disrespect toward the King or royal family; that undermines security, peace, order, the dignity of the King, or the integrity or sovereignty of the Kingdom; that creates animosity among people of different castes and religions; or that adversely affects the good conduct or morality of the public. The regulation also provides a basis for banning foreign publications. However, foreign publications are now widely available.

There are hundreds of independent vernacular and English newspapers representing various political points of view, most have a small circulation and limited impact. The Government owns the daily Language newspaper with the largest circulation. Editors and writers at the Government newspaper practice self-censorship and generally reflect government policy. Ruling political parties have influenced the editorial policy of the government newspaper to their advantage. However, despite the sensitivity of the Government to the "People's War," the press has not faced overt pressure to report on it in a particular way. Views of human rights groups, the statements of the police, and the press releases of UPF leader Bhattarai have all been reported in the local press.

The Government owns and controls the most radio and television stations, although there is now an operating private radio station, Radio Sagamatha. Television time on the government-owned television station is regularly leased to private producers. Radio reaches the greatest number of people and has the largest influence. Programming currently reflects a broader range of interests and political viewpoints than prior to the political transformation in 1990. The Government does not restrict access to foreign radio broadcasts or to the purchase of television satellite dishes that can access international news from the British Broadcasting Corporation (BBC) and the Cable News Network (CNN). A small but growing number of Nepalese also have access to foreign news through private cable networks.

The Broadcast Act of 1993 allows private parties to broadcast television and FM radio, but

implementation by the Government has been slow. There are two private cable television networks, which have been operating for close to 2 years in the Kathmandu valley. They provide mainly entertainment programming, but commentary critical of government policies occurs occasionally during publicly broadcast discussion programs.

There has been much debate about liberalizing the media and privatizing government-owned media. This debate has put pressure, so far successfully resisted, on successive governments to open the air waves and divest government-controlled printing operations.

The Government limits academic freedom to the same extent as the media. No overt efforts to enforce these limitations were reported this year.

b. Freedom of Peaceful Assembly and Association

Although the Constitution provides for freedom of assembly, this right may be restricted by law on vague grounds such as undermining the sovereignty and integrity of the State or disturbing law and order. Persons protesting Chinese human rights policy were arrested and detained in March before and during peaceful protests (see Section 1.d.).

c. Freedom of Religion

The Constitution describes Nepal as a Hindu Kingdom, although it does not establish Hinduism as the state religion. The majority of citizens are Hindu. The Constitution permits the practice of all religions and prohibits discrimination on the basis of caste except for traditional religious practices at Hindu temples, where, for example, members of the lowest caste are not permitted.

Although the Government has generally not interfered with the practice of other religions, conversion is prohibited and punishable with fines or imprisonment, the police occasionally harass members of minority religions. Some groups are concerned that the ban on proselytizing limits the expression of non-Hindu religious belief. Foreigners convicted of proselytizing can be expelled from the country.

Arrests for proselytizing are rare. The only incident to occur in the past few years was in September 1994 when 11 Christians were sentenced to 2 years in jail. The King pardoned them after they had served 3 months of their sentence.

A Seventh Day Adventist aid organization came under government scrutiny in August after a disgruntled employee reportedly spread rumors to the press and Hindu organizations that the group was proselytizing. For a period of approximately a month, the organization was the subject of slanderous and vituperative attacks by Hindu organizations. The Government convened a committee that asked Adventist Development and Relief Agency (ADRA) to confine itself to relief and welfare activities for which it was registered. While ADRA denied that it had proselytized, it did have links to an Adventist school (established for the children of Adventist workers in Nepal), which also had been accused of proselytizing. To clarify its function and role, ADRA severed all official ties with the school. The school continues to operate normally.

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

The Constitution provides for freedom of movement and residence, and the Government generally does not restrict travel abroad. However, the Government restricts travel to some areas near the Chinese border for foreign tourists and for foreign residents, such as Tibetans residing in Nepal. The Government

allows citizens abroad to return, and is not known to revoke citizenship for political reasons.

The Government has no official refugee policy and is party to neither the 1951 U.N. Convention relating to the Status of Refugees nor the 1967 Protocol. However, it does provide asylum for refugees and has cooperated with the office of the United Nations High Commissioner for Refugees (UNHCR), and with other humanitarian organizations, in assisting refugees from Bhutan and Tibet (China). The UNHCR has maintained an office in Kathmandu since 1989. Since 1959 the Government has accepted approximately 20,000 Tibetan refugees, many of whom still reside in the country. Since 1991 it has also provided asylum to more than 90,000 Bhutanese refugees, the great majority of whom are now living in UNHCR-administered camps in eastern Nepal.

Although in 1995 the Government reversed a 1960's decision to suspend the issuance of identification cards to Tibetans, there remain many Tibetans with no form of identification and no permanent status. Undocumented Tibetan residents face difficulties in obtaining basic citizens' rights and are unable to travel abroad or access such services as banking. The UNHCR donates blank resident identification cards to the Government for Tibetans, but as of August 1997, approximately 4,000 Tibetan refugees within the Kathmandu valley remained without identification cards.

China and the Government of Nepal tightened control of movement across their border in 1986, but both sides have enforced these restrictions haphazardly. Police and customs officials occasionally harass Tibetan asylum seekers who cross the border from China. Border police often extort money from Tibetans in exchange for passage. With the change from a Communist Party government to a coalition government headed by the Nepal Congress Party in September 1995, the former practice of forcibly returning asylum seekers to China has stopped. There were no reports of forced expulsion of Tibetan asylum seekers in 1997.

There are approximately 92,000 ethnic Nepali refugees from Bhutan in UNHCR-administered camps in southeastern Nepal. An additional 20,000 refugees reside outside the camps in either Nepal or India. The total represents approximately one-sixth of Bhutan's estimated pre-1991 population.

The UNHCR monitors the condition of the Bhutanese refugees and provides for their basic needs. The Government accepts the refugee presence as temporary, on humanitarian grounds, but offers little more than a place to stay. The Government officially restricts refugee freedom of movement and work, but does not strictly enforce its policies. Living conditions in the camps have improved dramatically since 1992. Adequate clean water is available and health, sanitation, and nutrition standards are acceptable. Violence has sometimes broken out between camp residents and the surrounding local population. The UNHCR and other donors and relief organizations have defused tensions through a refugee affected areas assistance plan aimed at improving conditions in communities adjacent to the camps.

In 1993 the Governments of Nepal and Bhutan formed a joint committee to resolve the refugee problem and to determine different categories of refugees in preparation for future repatriation. Seven rounds of bilateral talks have been held, but with little concrete progress. A visit to Bhutan by the Nepali acting Foreign Secretary in August led to speculation that a resolution might be in sight, but no agreements were reached and no breakthrough occurred. The lack of significant progress in bilateral negotiations has led to increased frustration in the camps, and to a recent campaign of "peace marches" by refugees seeking to return to Bhutan.

Section 3 Respect for Political Rights: The Right of Citizens to Change Their Government

Citizens, through their elected representatives, have the right to amend the Constitution with the

exception of certain basic principles that they may not change--sovereignty vested in the people, the multiparty system, fundamental rights, and the constitutional monarchy.

Parliamentary elections are scheduled at least every 5 years. Midterm elections may be called if the ruling party loses its majority, loses a vote of no confidence, or calls for elections. The Constitution grants suffrage to all citizens of age 18 and over.

The House of Representatives, or lower house, may send legislation directly to the King by majority vote. The National Council, or upper house, may amend or reject lower house legislation, but the lower house can overrule its objections. The upper house may also introduce legislation and send it to the lower house for consideration.

The King exercises certain powers with the advice and consent of the Council of Ministers. These include exclusive authority to enact, amend, and repeal laws relating to succession to the throne. The King's income and property are tax-exempt and inviolable, and no question may be raised in any court about any act performed by the King. The Constitution also permits the King to exercise emergency powers in the event of war, external aggression, armed revolt, or extreme economic depression. In such an emergency, the King may suspend without judicial review many basic freedoms, including the freedoms of expression and assembly, freedom from censorship, and freedom from preventive detention. However, he may not suspend habeas corpus or the right to form associations. The King's declaration of a state of emergency must be approved by a two-thirds majority of the lower house of the Parliament. If the lower house is not in session, the upper house exercises this power. A state of emergency may be maintained for up to 3 months without legislative approval and up to 6 months, renewable only once for an additional 6 months, if the legislature grants approval.

The Constitution bars the registration and participation in elections of any political party that is based on "religion, community, caste, tribe, or region," or that does not operate openly and democratically.

There are no specific laws that restrict women, indigenous peoples, or minorities from participating in the Government or in political parties. Conservative traditions limit the roles of women and of some castes and tribes in the political process. The Constitution requires that women constitute 5 percent of each party's candidates for the House of Representatives. A royal ordinance, which has since been ratified by Parliament, also requires that 20 percent of all village and municipal level seats be reserved for female candidates. Currently, 7 of the 205 members of the lower house are women and 5 of the 60 members of the upper house are women.

In March, when local elections were scheduled across the country, Maoist violence and threats forced the postponement of voting in parts of 15 of the 75 electoral districts. Officials recorded 16 deaths, mostly civilians, from election-related violence during these elections. The Maoists' efforts to disrupt the elections caused some candidates to withdraw and voters to avoid polling stations. Since no one was elected to office in these areas, they remain without elected boards to manage district governance.

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

There are a dozen nongovernmental (NGO) human rights organizations. These include the Human Rights Organization of Nepal (HURON), the Informal Sector Services Center (INSEC), the International Institute for Human Rights, Environment, and Development (INHURED), and the Forum for the Protection of Human Rights (FOPHUR). The Nepal Law Society also monitors human rights abuses and a number of NGO's focus on specific areas such as torture, child labor, women's rights, or ethnic

minorities. Groups are free to publish reports on human rights abuses. The Government has also allowed groups to visit prisons and prisoners. The Government rarely arrests or detains those reporting on human rights problems.

Section 5 Discrimination Based on Race, Sex, Religion, Disability, Language, or Social Status

The Constitution specifies that the State shall not discriminate against citizens on grounds of religion, race, sex, caste, or ideology. However, there is still a caste system. Discrimination against lower castes and women remains common, especially in rural areas.

Women

Violence against women is a serious problem and affects almost every citizen. There is no law against domestic violence, which is widespread. In one study, 50 percent of the respondents said that they know someone who was the victim of domestic violence. In another survey, respondents listed the perpetrators of violence in 77 percent of incidents as family members, and 58 percent reported that it is a daily occurrence. Little public attention is given to violence against women in the home; the Government makes no special effort to combat it.

Rape and incest are also problems, particularly in rural areas. There is a law against rape of non-prostitute women which imposes sentences of from 3 to 5 years. In the case of rape of prostitutes, sentences range from a fine of 500 rupees (\$9.00) to 1 year's imprisonment.

There is a general unwillingness among citizens, particularly government figures, to recognize violence against women as a problem. In a survey conducted by Saathi, a local NGO, 42 percent of the respondents said that in their experience medical practitioners were uncooperative or negligent in cases of violence against women and girls. This unwillingness to recognize violence against women and girls as unacceptable in daily life is seen not just in the medical profession, but among the police and politicians as well.

The police department has a "women's cell" in five cities, including Kathmandu. These cells are made up entirely of female officers, who receive special training in handling victims. The police have also sent out directives instructing all officers to treat domestic violence as a criminal offense that should be prosecuted. However, according to a police official, this type of directive is difficult to enforce because of entrenched social attitudes. Even though the police may arrest a man, further prosecution is seldom pursued by the woman or by the Government.

A large number of NGO's in Kathmandu work on the problem of violence against women. Saathi's assistance program includes a women's shelter and a suicide intervention center. The shelter provides housing, medical attention, counseling, and legal advocacy for the victims of violence.

Two conferences were held in the fall that focused on the problem violence against women. One was a national conference of NGO's, government officials, and parliamentarians organized by the NGO Saathi. The Government announced new initiatives at the meeting, including the formation of a new National Women's Commission

to help guide government policy. The conference participants also formulated a common strategy to unite NGO efforts in the field. There was also an international conference organized by the UNICEF regional office for South Asia.

The dowry tradition is strong, with greater prevalence in the Terai region. Killing of brides because of defaults on dowry payments is rare, but does occur. More common is the physical abuse of wives by the husband and the husband's family to obtain additional dowry or to force the woman to leave to enable the son to remarry.

Trafficking in women and girls remains a deeply ingrained social problem in several of the country's poorest areas. Estimates of the number of girls and women working as prostitutes in India range between 40,000 and 100,000. The best available data suggest that approximately 5,000 to 7,000 girls between the ages of 10 and 18 are lured or abducted into prostitution each year. Prostitution is also a problem in the Kathmandu valley. A children's human rights group in Nepal states that 20 percent of prostitutes are younger than 16 years old. In many cases, parents or relatives sell women and young girls into sexual slavery.

There is legislation to protect women from coercive trafficking, but it is not well enforced. The fear of the spread of AIDS by returning prostitutes has discouraged the Government from promoting the rehabilitation of prostitutes. Government efforts focus more on preventing prostitution and trafficking in women. The Ministry of Labor and Social Welfare sponsors job and skill training programs in several poor districts known for sending prostitutes to India. Several NGO's have similar programs.

Although the Constitution provides protections for women, including equal pay for equal work, the Government has not taken significant action to implement its provisions. Women face discrimination, particularly in rural areas, where religious and cultural tradition, lack of education, and ignorance of the law remain severe impediments to their exercise of basic rights such as the right to vote or to hold property in their own names.

Women have benefited from changes in marriage and inheritance laws. In 1994 the Supreme Court struck down provisions of the Citizenship Law that discriminated against foreign spouses of Nepalese women. However, many other discriminatory laws still remain. According to legal experts, there are more than 20 laws that discriminate against women. For example, the law grants women the right to divorce, but on narrower grounds than those applicable to men. The law on property rights also favors men in its provisions for inheritance, land tenancy, and the division of family property. In August 1995, the Supreme Court also ordered the Council of Ministers to enact legislation within 1 year giving women property rights in regard to inheritance and land tenancy equal of those of men. Legislation addressing women's issues, including property rights and rape, was introduced into the Parliament, but has not yet been passed.

According to the 1991 census, the female literacy rate is 26 percent, compared with 57 percent for men. Human rights groups report that girls attend secondary schools at a rate half that of boys. There are now many NGO's focused on integrating women into society and the economy. These NGO's work in the areas of literacy, small business, skills transfer, and against trafficking in women and girls.

There are a growing number of women's advocacy groups and nearly all political parties have their own women's group. Members of Parliament have begun working for the passage of tougher laws for crimes of sexual assault, but have had little success so far.

Children

Although education is not compulsory, the Government provides free primary education for all children between the ages 6 and 12, but many families cannot afford school supplies or clothing. Schools charge fees for further education. Free health care is provided through government clinics, but they are poorly

equipped and too few in number to meet the demand. Community-based health programs assist in the prevention of childhood diseases and provide primary health care services. Due to poor or nonexistent sanitation in rural areas many children are at risk from severe and fatal illnesses.

The Child Act of 1992 provides legal protection for children in the workplace and in criminal proceedings. Although it calls for the establishment of child welfare committees and orphanages, the Government has established few such facilities. The Labor Act of 1992 prohibits employment of minors under 14 years of age, but employers, particularly in the informal sector or agriculture, widely ignore the law.

Children under the age of 16 work in all sectors of the economy. Children's rights groups estimate that up to half of all children work. As recently as early 1994, the carpet industry employed large numbers of children, an estimated 23,000, nearly one-third of all workers in that industry. Due to negative publicity in consumer nations, children now account for approximately 5 percent of the carpet industry's employees, about 6,000 workers (see Section 6.d.). In 1996 a consortium of carpet manufacturers is moving to establish a certification system for carpets made without child labor. The Ministry of Labor is increasing its efforts to monitor the use of child labor.

Prostitution and trafficking in young girls remain serious problems.

Social attitudes view a female child as a commodity, to be bartered off in marriage, or as burden. Some people, in fact, consider marrying a girl before menarche an honorable, sacred act that increases one's chances of a better afterlife. As a result, child-brides are common. According to the UNICEF's Regional Office for South Asia, 40 percent of all marriages are consummated with a girl under 14 years of age. The age difference in marriage is often cited as one cause of domestic violence.

Approximately 140 to 144 children considered delinquents or accused for public offenses are incarcerated with adults because the Government has not established juvenile homes. Another 30 children are in jails as non-criminal dependents of incarcerated adults. Some of the allegedly delinquent children are as young as 9 years old, even though, under the law, children under 18 cannot be charged with crimes (see Section 1.c.).

People with Disabilities

The disabled face widespread discrimination. Families often are stigmatized by and ashamed of disabled family members, who may be hidden away or neglected. Economic integration is further hampered by the general view that the disabled are unproductive. The mentally retarded are associated with the mentally ill. Sometimes, mentally ill and retarded persons are placed in prisons due to the lack of facilities or support.

The Government has long been involved in providing for the disabled, but the level of government assistance has not met the needs of the disabled. The 1982 Disabled Persons Protection and Welfare Act and additional 1994 rules mandate accessibility to buildings, transportation, employment, education, and other state services. However, despite government funding for special education programs, the Government does not implement or enforce laws regarding the disabled. A number of NGO's working with the disabled receive significant funding from the Government, but persons who are physically or mentally disabled rely almost exclusively on family members to assist them.

National/Racial/Ethnic Minorities

Nepal has over 75 ethnic groups speaking 50 languages. The Constitution provides that each community "shall have the right to preserve and promote its language, script, and culture." It further specifies that each community has the right to operate schools up to the primary level in its mother tongue.

Discrimination against lower castes is especially common in the rural areas of western Nepal. Although the Government has outlawed the public shunning of "untouchables," an exception was retained for traditional practices at Hindu religious sites. Economic, social, and educational advancement tend to be a function of historical patterns, geographic location, and caste. Better education and higher levels of prosperity, especially in the Kathmandu valley, are slowly reducing caste distinctions and increasing opportunities for lower socioeconomic groups. Better educated urban-oriented castes (Brahmin, Chhetri, and certain elements of the Newar community traditionally dominant in the Kathmandu valley) continue to dominate politics, senior administrative and military positions, and to control a disproportionate share of natural resources in their territories.

In remote areas, school lessons and national radio broadcasts are often in the local language. However, in areas with nearby municipalities, education at the primary, secondary, and university levels is conducted almost exclusively in Nepali, which is constitutionally mandated as the official language of the State. Human rights groups report that the languages of the small Kusunda, Dura, and Meche communities are nearly extinct and that non-Hindu peoples are losing their culture.

Section 6 Worker Rights

a. The Right of Association

The Constitution provides for the freedom to establish and join unions and associations. It permits restriction of unions only in cases of subversion, sedition, or similar conditions. Despite the political transformation in 1990, trade unions are still developing their administrative structures to organize workers, bargain collectively, and conduct worker education programs. The prior UML government "automatically" registered its own affiliated unions but interfered in the registration of unions associated with the Nepali Congress Party's labor organization.

Union participation in the formal sector is significant, but it accounts for only a small portion of the labor force. In 1992 Parliament passed the Labor Act and the Trade Union Act, and formulated enabling regulations. However, the Government has not yet fully implemented the laws. 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.

The law permits strikes, except by employees in essential services such as water supply, electricity, and telecommunications. The law empowers the Government to halt a strike or suspend a union's activities if the union disturbs the peace or if it adversely affects 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.

The Trade Union Act prohibits employers from discriminating against trade union members or organizers. There have been few reports of discrimination against union members.

The Government does not restrict unions from joining international labor bodies. Several trade federations and union organizations maintain 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 have not been established. Collective bargaining agreements cover an estimated 20 percent of wage earners in the organized sector. However, labor remains widely unable to use collective bargaining effectively due to inexperience and employer reluctance to bargain.

There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor

The Constitution prohibits slavery, serfdom, forced labor, or traffic in human beings in any form. The Department of Labor enforces laws against forced labor in the small formal sector, but remains unable to enforce the law outside that sector.

Large numbers of women are still forced to work against their will as prostitutes (see Section 5). Bonded labor is a continuing problem, especially in agricultural work. Bonded laborers are usually members of lower castes. An estimated 100,000 persons are forced to work under the "Kamaiya" or bonded labor system in the southern Terai region. These "Kamaiyas" generally are agricultural workers who work for the same landlords their family may have served for many generations. The Government has not yet enacted legislation or taken other significant steps to address the problem.

The Nepal Labor Act specifically prohibits forced or bonded child labor, but enforcement of this law is inadequate. Forced child labor exists in many sectors of the economy.

d. Status of Child Labor Practices and Minimum Age for Employment

The Constitution stipulates that children shall not be employed in factories, mines, or similar hazardous work. The law also establishes a minimum age for employment of minors at 16 years in industry and 14 years in agriculture. The Constitution limits children between the ages of 14 and 16 years to a 36-hour work week. The law also mandates acceptable working conditions for children. However, both the resources and the commitment devoted to the enforcement of these provisions are limited and child workers are found in many sectors of the economy (see section 5). Although the law prohibits forced or bonded labor children, it exists in many sectors (see Section 6.c.).

Up to half of all children work, mostly in agriculture. In 1996 a certification system for carpets made without child labor was established. Of the 207 carpet factories that export, approximately 30 have signed on to this or a similar agreement (see Section 5). Partially as a result of this initiative, and of consumer pressure, children now reportedly constitute only 10 percent of the work force in the export-oriented carpet industry. However, children's rights activists say that, in the smaller factories, children are still a large part of the work force. Few or no children work in the garment industry.

The Ministry of Labor's enforcement record is improving. In the urban formal sector, it has had some success in enforcing laws relating to tenure, minimum wage, and holidays. Government inspectors are also increasing their monitoring of the use of child labor in carpet factories.

e. Acceptable Conditions of Work

In August legislation was passed that raised the minimum wage for unskilled labor to \$22 (1,300 rupees) per month up from \$19 (1,150 rupees). The law also defined monthly minimum wages for semi-skilled

labor at \$23 (1,350 rupees), skilled labor at \$25 (1,460 rupees), and highly-skilled labor at \$ 28 (1,650 rupees). The minimum wage for children ages 14 to 16 was set at \$17 (1,025 rupees). These wages are sufficient only for the most minimal standard of living. Wages in the unorganized service sector and in agriculture are often as much as 50 percent lower.

The Labor Act calls for a 48-hour work week, with 1 day off per week, and limits overtime to 20 hours per week. Health and safety standards and other benefits such as a provident fund and maternity benefits are also established in the act. Implementation of the new Labor Act has been slow, as the Government has not created the necessary regulatory or administrative structures to enforce its provisions. Workers do not have the right to remove themselves from dangerous work situations. Although the law labor officers to order employers to rectify unsafe conditions, enforcement of safety standards remains minimal.

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