

AMNESTY INTERNATIONAL REPORT 2012

(Nepal Entry from the Amnesty International Report 2012, Page No. 250 to 252)

NEPAL

FEDERAL DEMOCRATIC REPUBLIC OF NEPAL

Head of state:	Ram Baran Yadav
Head of government:	Babu Ram Bhattarai (replaced Jhala Nath Khanal in August, who replaced Madhav Kumar Nepal in February)
Death penalty:	abolitionist for all crimes
Population:	30.5 million
Life expectancy:	68.8 years
Under-5 mortality (m/f):	48.2 per 1,000
Adult literacy:	59.1 per cent

Nepal continued to backtrack on commitments to hold perpetrators of human rights abuses accountable before the law. Political parties in government actively subverted justice by demanding the withdrawal of criminal charges in hundreds of cases, including for serious human rights violations committed during the armed conflict. Torture and other ill-treatment in police custody remained widespread. Police increasingly suppressed Tibetan refugees' right to freedom of association and expression. Exploitation of Nepalese migrant workers abroad, including forced labour, continued. Ethnic, religious and gender discrimination and violence against women and girls went largely unchallenged.

Background

The UN Mission in Nepal, tasked with monitoring the Comprehensive Peace Agreement (CPA) of 2006, ended operations in January, but key elements of the CPA remained unfulfilled. Elected Prime Minister in February, Jhala Nath Khanal resigned on 14 August after failing to make progress on the peace process, including seeing through the drafting of a new Constitution. Baburam Bhattarai, vice chairperson of the Unified Communist Party of Nepal (Maoist) succeeded him, ultimately overseeing the extension of the mandate of the Constituent Assembly (CA) to 27 May 2012, and pledging to oversee completion of the new Constitution.

Transitional justice

Article 5 of Nepal's CPA provided for the creation of a Truth and Reconciliation Commission to investigate alleged human rights violations and crimes against humanity committed during the armed conflict. However, drafting of a bill to create the Commission had yet to be completed.

The government continued to make interim payments to families of “conflict victims”, but failed to fulfil victims’ rights to truth and justice.

Enforced disappearances

The government had yet to set up a commission to investigate thousands of enforced disappearances by parties to the conflict between 1996 and 2006, despite promising to do so by September.

Impunity

To forge political consensus before the prime ministerial elections, the Unified Communist Party of Nepal (Maoist) signed an agreement with Terai-based parties to, among other things, withdraw criminal cases lodged against political party members, including for human rights-related offences allegedly committed during the armed conflict. On 28 August, the government announced its intention to implement withdrawals, supported by public statements from the Attorney General.

- Human rights defenders opposed the appointment in May of Agni Sapkota, accused of involvement in the 2005 abduction and murder of teacher Arjun Lama, as Minister of Information and Communications. On 21 June, the Supreme Court ordered Kavre district police to report their progress in investigating the case to the court, but stopped short of ordering Agni Sapkota’s suspension.
- In July, the Supreme Court annulled an order blocking the promotion of a senior police officer accused of involvement in the 2003 “Dhanusha 5” case in which five young men, including Sanjiv Kumar Karna, were allegedly killed by security forces. Exhumations of the remains of the five victims were completed in February.
- In October, Nepal’s cabinet recommended an amnesty for Maoist CA member Balkrishna Dhungel, who had been convicted of murder and sentenced to life imprisonment in January.

Torture and other ill-treatment

Torture and other ill-treatment in police custody remained widespread. In June, the Nepal-based Centre for Victims of Torture reported that since the end of the armed conflict in 2006, the majority of incidents of torture were perpetrated by the police. Of 989 prisoners interviewed, 74 per cent reported being tortured in custody.

Torture has yet to be criminalized under domestic Nepalese law. During the first assessment of its human rights record under the UN Universal Periodic Review, Nepal denied that systematic torture took place in the country, noting that a bill incorporating provisions of the Convention against Torture was “under active consideration”.

Migrant Workers

Poverty and high unemployment prompted at least 300,000 documented workers to migrate abroad. Some labour recruiters trafficked migrant workers for forced labour, deceiving them about pay, working conditions, and substituting contracts. High interest rate loans combined with lower pay than promised, and confiscation of identity documents meant many migrants could not refuse to work. Nepal has put in place some laws to protect migrant labourers but in some

instances failed to properly monitor recruitment agencies and rarely prosecuted those who violated the Foreign Employment Act.

- 108 migrant workers stranded in Libya without pay by their employer in 2010 were awarded a partial settlement in April. In July, the Department of Foreign Employment and District Attorney General's Office in Nepal recommended the case be forwarded to the Foreign Employment Tribunal for investigation following pressure from the workers, trade unions and Amnesty International.

Freedom of assembly, association and expression

Police suppression of freedom of association and expression of Tibetan refugees increased, following pressure from China. Peaceful meetings in private buildings were disrupted by police, and people were arrested after displaying banners or slogans supporting political independence for Tibet. Tibetan activists were systematically detained before key dates.

- In March, a large group of mainly elderly Tibetan women were prevented by police from travelling by bus to a pilgrimage site.

Discrimination

Discrimination persisted on the basis of ethnicity, religion, gender, economic situation and disability. Despite promulgation on 24 May of the Caste-based Discrimination and Untouchability (Offense and Punishment) Act, Dalits continued to face social and economic exclusion. Gender discrimination continued, particularly among women from marginalized castes and ethnicities. Dalit girls and poor girls from rural areas faced discrimination in accessing education and health care, were more likely to be married as children, and experienced higher rates of child malnutrition.

Violence against women and girls

Police often refused to register complaints in cases of domestic and gender-based violence.

- In September, a woman who said she was raped by four army officers in Dailekh in 2004 attempted to lodge a complaint against her attackers, accusing them of rape and torture. But the police in Dailekh refused to comply, noting that the 35-day time limit to register a rape complaint had expired. In 2006, the Supreme Court found the time limit violated international norms and ordered parliament to change the rule; the order was not implemented.

Amnesty International visits/reports

- Amnesty International delegates visited Nepal in May.