

AMNESTY INTERNATIONAL REPORT 2011

(Nepal Entry from the Amnesty International Report 2011, Page No. 239 to 241)

NEPAL

FEDERAL DEMOCRATIC REPUBLIC OF NEPAL

Head of state:	Ram Baran Yadav
Head of government:	Madhav Kumar Nepal (Interim since June)
Death penalty:	abolitionist for all crimes
Population:	29.9 million
Life expectancy:	67.5 years
Under-5 mortality (m/f):	52/55 per 1,000
Adult literacy:	57.9 per cent

Nepal made little progress in ending impunity, accounting for past violations or ensuring respect for human rights. Officials actively obstructed accountability mechanisms, and commitments made by political leaders as part of the peace process were not fulfilled in practice. Torture and other ill-treatment in police custody remained widespread. Ethnic, religious and gender discrimination went largely unchallenged. Violence against women and girls persisted.

Background

Under the 2006 Peace Accord, the Constituent Assembly was tasked with writing a new Constitution addressing human rights issues at the core of Nepal's political conflict. However, the Constituent Assembly's term expired on 28 May without completing a draft. Nepal failed to elect a Prime Minister after voting numerous times; the country was governed by the caretaker government of Prime Minister Madhav Kumar Nepal. Under the Public Security Act, police arrested and detained people, including peaceful Tibetan demonstrators, without any formal procedures.

Transitional justice

A long-delayed draft bill to establish a Truth and Reconciliation Commission, a requirement of the Peace Accord, was tabled in parliament in April but had not been ratified. The draft had notable shortcomings, including the proposed Commission's lack of independence from political influence and a proposal to grant it the power to recommend amnesty for perpetrators of serious human rights violations.

Enforced disappearances

A draft bill criminalizing enforced disappearances and establishing a Commission of Inquiry was pending. It incorporated proposed amendments to address some of the serious shortcomings of previous drafts. The amendments included defining enforced disappearances in certain circumstances as a crime against humanity and ensuring that punishments were proportionate to the extreme seriousness of the offence. However, families of the disappeared were dissatisfied with the draft and claimed that it was prepared without adequate consultation.

- ❖ In July, lawyers and human rights defenders working on the case of Arjun Bahadur Lama, a teacher who was abducted and killed by Maoists during the armed conflict, were threatened by Maoist supporters after a suspect in the case was refused a visa by the US embassy.
- ❖ In September, a team led by Nepal's Human Rights Commission (NHRC), including foreign forensic experts and UN observers, exhumed the remains of four bodies thought to be those of a group of men abducted by the security forces in Janakpur in October 2003. Positive identification of the remains was pending. Despite the exhumation, investigation into the case made little progress and no one was arrested.

Impunity

Impunity persisted for perpetrators of human rights abuses during the conflict. The authorities failed to implement court-ordered arrests of military personnel accused of offences involving human rights violations; police refused to file complaints or investigate such cases.

- ❖ *The Nepal Army refused to hand over Major Niranjan Basnet, charged with the torture and murder of 15-year-old Maina Sunuwar in 2004, despite a court order. Niranjan Basnet was repatriated from a UN Mission in December 2009. The army failed to hand him over to the police upon his return and in a letter to the Defence Ministry requested that the case be withdrawn. In mid-July, an internal inquiry by the Nepal Army declared Niranjan Basnet "innocent" of the charges.

Excessive use of force

Excessive use of force by the police and military, and killings of people suspected of affiliation with armed groups in faked "encounters" were reported.

- ❖ *On 13 June, 20-year-old Advesh Kumar Mandal of Janakpur was shot dead by the police. He was alleged to be a member of Janatantrik Terai Mukti Morcha (JTMM), a Terai-based armed group.

Torture and other ill-treatment

Torture and other ill-treatment of detainees by police persisted. National laws providing safeguards against torture fell short of international standards, and remained inadequately implemented.

- ❖ *On 25 May, Sanu Sunar, a Dalit aged 46, died from injuries sustained in police custody at the Kalimati Police Station after he was arrested for theft. The NHRC said Sanu Sunar died as a result of police torture and recommended legal action. On 24 June, the Kathmandu District Court ordered the detention of three policemen suspected of abuses against Sanu Sunar, but investigations made little progress.

Abuses by armed groups

Over 100 mainly Terai-based armed groups continued to commit human rights abuses, including abductions, assaults and killings. Some groups had identifiable political or religious orientations, others functioned as criminal gangs.

- ❖ *JTMM-Rajan Mukti members shot and killed Lal Kishor Jha, aged 50, an employee of the Mahottari District Education Office on 28 October in Janakinagar as he left his home. He was shot, twice from behind, for his alleged involvement in the sale of Guthi land (land given as a religious endowment) and financial irregularities at the District Education Office.

Discrimination

Dalits, Indigenous Peoples, disabled people, religious and sexual minorities suffered social exclusion, despite legal recognition of their equal rights. Legislative efforts to combat gender inequality did little to curtail discrimination against women in public and private life. Women, particularly Dalit women, faced obstacles in relation to access to justice, asset and property ownership, inheritance, income and employment conditions, and political representation.

There was some progress in the courts' approach to caste discrimination. In August, the Kanchanpur Appellate Court upheld two separate district court convictions, made in January and March respectively, of two men for attacks against Dalits that were motivated by caste discrimination.

Violence against women and girls

Nepal's quest to "end violence against women in 2010" had little visible impact. In the first half of the year, over 300 domestic violence cases were reported to police in the Kathmandu valley alone; many more went unreported. Women accused of witchcraft (typically poor, isolated or Dalit) were assaulted and tortured by community members. Legislative weakness and inadequate policing obstructed prosecution of domestic and sexual violence cases.

- ❖ *In early 2010, men from a village in Siraha district where a rape had occurred prevented staff members of the Women's Rehabilitation Centre accompanying women witnesses from reaching the court to testify; the accused was found not guilty.

Young Nepalese women sought economic opportunities abroad. Poor regulation, poor implementation of existing laws and corruption all contributed to the exploitation of those travelling abroad for work.

50
YEARS

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