

Nepal

Country:

[Nepal](#)

Year:

2016

Freedom Status:

Partly Free

Political Rights:

3

Civil Liberties:

4

Aggregate Score:

51

Freedom Rating:

3.5

Overview:

Nepal ratified its first democratic constitution on September 20, 2015, establishing a bicameral parliament with the prime minister as chief executive, and organizing the state into seven new provinces. It was approved with 507 out of 601 votes by the Nepalese Constituent Assembly (CA), with most dissent coming from pro-Hindu opponents of secularization or representatives of ethnic minorities concerned that the new provincial boundaries will weaken their political influence. The constitution is a major step forward for Nepal's stability and democracy, although several provisions potentially limit rights to freedom of expression, assembly, and movement through undefined "reasonable restrictions" on acts that may undermine national unity, sovereignty, or other national interests. In October, the moderate Communist Party of Nepal-Unified Marxist-Leninist (CPN-UML) candidates Khadga Prasad Sharma Oli and Bidhya Devi Bhandari were elected with broad support as prime minister and president, respectively.

In August and September, at least 50 people died in violent protests against the new constitution, largely in the Terai region. Protests continued through the end of the year.

On April 25, a devastating earthquake with a magnitude of 7.8 struck northwest of Kathmandu, killing and injuring thousands and razing homes and villages. The impact on communities was aggravated at the end of the year by a months-long blockade along the Nepal-India border that prevented supplies and fuel from reaching the country.

Political Rights and Civil Liberties:

Political Rights: 25 / 40 (+1) [Key]

A. Electoral Process: 9 / 12 (+1)

After a decade-long civil war between the government and Maoist rebels and an interim constitution in place since 2007, Nepal's new constitution was approved in September 2015 with the support of 90 percent of the 601-member CA. Under the new constitution, the CA was transformed into Nepal's parliament, with a term ending in January 2018. At that point, the CA parliament will be replaced by a bicameral legislature consisting of a 275-seat House of Representatives and a 59-seat National Assembly. Members of the House of Representatives are to be elected through a combination of direct vote (165 seats) and proportional representation (110 seats). In the National Assembly, 56 members are to be elected through an electoral college system that requires representation of at least three women, one Dalit, and one person with a disability or other minority. The remaining three members, including an additional woman, will be nominated by the president on the recommendation of the government. The constitution further requires that either the president or vice president be a woman, and that women should account for at least one-third of the members elected from each party in parliament. The president's duties under the new constitution are largely ceremonial. The parliamentary leader of the political party with a majority in the House of Representatives will become prime minister.

CA elections in 2013 were deemed generally free and fair by international monitors, despite violent incidents and bomb attacks in the preelection period. Some Unified Communist Party of Nepal (Maoist) (UCPN (M)) leaders alleged that fraud had been committed during the election, a contention disputed by all international monitors. The allied Nepali Congress (NC) and CPN-UML won 196 and 175 seats, respectively. The Maoists placed third with 80 seats, followed by more than two dozen smaller parties.

Political disagreements repeatedly stalled the constitution drafting process. After the April 2015 earthquake, however, the leaders of Nepal's major political parties, including the main opposition party UCPN (M), were able to sign an agreement on June 9 for moving forward. The 2015 constitution identifies a federal structure with seven provinces—a major point of contention—but leaves the names and borders to be decided by a newly formed federal commission and the provincial legislatures.

B. Political Pluralism and Participation: 11 / 16

A diverse and competitive array of political parties operates in Nepal. The 2013 elections, which resulted in the NC and CPN-UML dominating the CA, reduced instability caused by the civil war and the country's subsequent struggles to establish a democratic and inclusive government. The Maoists' decision to join the constitution drafting process further improved stability, with fewer attacks on members of other parties.

The new constitution provides for allocations and reservations for Madhesis, Dalits, and other minority groups in the legislature, and their numbers in the legislature should also be improved through the proportional representation voting system. Ethnic minorities expressed concern that the new federal structure under the constitution could weaken their political influence. Separately, a 2007 civil service law reserves 45 percent of posts for women, minorities, and Dalits, though their representation in state institutions remains inadequate, particularly at the highest levels of government.

C. Functioning of Government: 5 / 12

The second CA, elected in 2013, is now transformed under the new constitution into the country's first functioning elected parliament since a series of unstable, short-lived, or caretaker governments following Nepal's 2008 elections. A cabinet formed in early 2014 allowed Nepal to achieve greater

stability in economic affairs, foreign policy, and other areas. Elections of President Bhandari and Prime Minister Oli in 2015 further improved political stability. The two leaders received broad support despite ongoing protests over the adoption of the constitution and concerns from ethnic minority groups over how provincial boundaries will be drawn.

Corruption is endemic in Nepali politics and government. Nepal's Commission for the Investigation of Abuse of Authority (CIAA) is active, and many lawmakers have been accused or convicted of corruption in the past, but high-level officials are rarely prosecuted. 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. In Transparency International's 2015 Corruption Perceptions Index, Nepal ranked 130 of 168 countries and territories.

In 2015, concerns arose over poor governance and the use, or lack thereof, of the approximately \$4.1 billion donated by governments and aid agencies in the aftermath of the devastating April earthquake.

The Constitution Drafting Committee issued a draft constitution for public consultation and comment on July 9. Some groups protested that the open comment period for the draft constitution was too short.

Civil Liberties: 26 / 60 (-1)

D. Freedom of Expression and Belief: 9 / 16

The 2015 constitution provides for freedom of expression and prohibits prior restraints on press freedom, though these rules can be suspended in cases of national emergency. The constitution also states that the prohibition against prior restraint does not forbid restraints on the press that impose reasonable restrictions relating to national security. In practice, media workers have frequently faced physical attacks, death threats, and harassment by armed groups, security personnel, and political cadres, and the perpetrators typically go unpunished.

There are a variety of independent radio and print outlets in Nepal. Internet usage and internet media are unrestricted, and their growth has provided unprecedented access to information and public space for debate. Concerns over interference by major parties in radio and print media remain. In 2015, threats to journalist safety increased amid violent protests over the drafting and passage of the constitution, during which protesters and police were both seen attacking journalists for their attempts to cover the protests.

Like the interim constitution before it, the 2015 constitution identifies Nepal as a secular state, signaling a break with the Hindu monarchy that was toppled as part of the resolution of the civil war in 2006 (it was formally abolished in 2008). Religious freedom is protected under the new constitution, and tolerance is broadly practiced, but members of some religious minorities occasionally report official harassment. Christian groups face considerable difficulty registering as religious organizations, leaving them unable to own land. Proselytizing is prohibited.

The government does not restrict academic freedom, and much scholarly activity takes place freely, including on political topics. However, Maoist strikes have repeatedly threatened the school system. Minorities, including Hindi- and Urdu-speaking Madhesi groups, have complained that Nepali is enforced as the language of education in government schools.

Nepali security forces reportedly have spied on Tibetans inside Nepal and passed information back to Chinese intelligence.

E. Associational and Organizational Rights: 5 / 12 (-1)

Freedom of assembly is guaranteed under the 2015 constitution, but the language allows for reasonable restrictions on acts that undermine nationality, sovereignty, independence, and the indivisibility of Nepal, or that jeopardize public law and order. In the 2015 protests over the new constitution, groups were allowed to demonstrate in some cases, but were violently dispersed in others. Police clashed with protesters, and more than 50 people died in the demonstrations in the Terai region that began in August and continued through the end of the year. Testimonies included descriptions of security forces firing into crowds, and in one case a witness reported seeing an official shooting at a hospital. According to Human Rights Watch, eyewitnesses reported police breaking into homes and beating individuals, using threats and racial slurs, and taking part in unprovoked beatings in communities opposed to the new constitution. At least three of the reported deaths that occurred at the hands of police were of children.

While security forces have allowed large protests by Maoists and other political parties, Tibetan protests have been violently suppressed in the past. In certain cases, authorities detained Tibetan and Nepali monks and pressured them to sign pledges not to participate in future demonstrations.

Although the new constitution allows nongovernmental organizations (NGOs) to form and operate within the country, legal restrictions have made this difficult in practice. The District Administration Office (DAO), which is in charge of registering NGOs and associations, is often understaffed and lacks essential resources. Foreign NGOs must enter project-specific agreements with the Nepalese government.

The 2015 constitution provides for the right to form trade unions. Labor laws protect the freedom to bargain collectively, and unions generally operate without state interference. Workers in a broad range of “essential” industries cannot stage strikes. A majority of a union’s membership must vote in favor of a strike, and 30 days’ notice must be given. Several unions linked to the Maoists have been accused of using violence to threaten employers and government officials to comply with union demands during bargaining processes.

F. Rule of Law: 5 / 16

The 2015 constitution provides for an independent judiciary. Most courts suffer from endemic corruption, and in practice 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 the sentences they would face if tried and convicted.

Prison conditions fail to meet international standards and suffer from overcrowding, inadequate sanitation and medical care, and often a lack of separate housing for women and minors. The government has generally refused to conduct thorough investigations or take serious disciplinary measures against police officers accused of brutality or torture. The UN Committee Against Torture found that torture is widespread for suspects in police custody. Amnesty International has reported that torture extends to women and children.

Human rights advocates have criticized Nepal for failing to punish human rights abuses and war crimes committed during the civil war from 1996 to 2006. In 2014, the Supreme Court ruled the Ordinance on Truth, Reconciliation and Disappearances bill for enacting transitional justice as unconstitutional and in violation of international human rights law. Nevertheless, the legislature passed the law without significant changes. The law grants the Commission of Inquiry on Enforced Disappearances power to recommend amnesty for all alleged perpetrators of disappearances

committed during the civil war. In February 2015, the Supreme Court again struck down the amnesty provision and required that consent of the victims be mandatory for reconciliation. The Supreme Court also noted that only the courts, and not the commissions established by the law, have the power to determine matters of criminality. The government has said that it will adhere to the decision of the court. Two additional commissions were established in February to investigate allegations of war crimes and disappearances.

The South Asia Terrorism Portal reported no fatalities due to Maoist activity in 2014 and 2015, though it noted unrest and vandalism caused by opposition members of the CA in January 2015.

The 2015 constitution declares Nepal to be a multicasite, multilingual, and multicultural country committed to eliminating discrimination. However, 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 protections and the 2012 Caste-Based Discrimination and Untouchability (Offense and Punishment) Act—which prohibits discrimination against Dalits and increases punishments for public officials found responsible for discrimination—Dalits continue to be subjected to exploitation, violence, and social exclusion. Madhesis—plains-dwelling people with close connections to groups across the border in India—receive comparatively little economic support from the government, and are often discriminated against socially and in the labor market.

The 2015 constitution enshrines rights for sexual minorities. LGBT (lesbian, gay, bisexual, and transgender) people reportedly face harassment by the authorities and other citizens, particularly in rural areas. Although the Supreme Court ordered the government to abolish all laws that discriminate against LGBT people in 2007, and gave its consent to same-sex marriage the following year, the government has yet to implement these rulings. The first passport on which the holder was permitted to select a third gender was issued in August 2015.

Although the new constitution outlines implementation of major international human rights provisions, and includes civil, political, economic, social, and cultural rights, the language of the constitution frames these rights for Nepali citizens only. This potentially leaves equal rights of noncitizens, including migrants and people who cannot prove citizenship, unprotected.

Tibetans in Nepal face difficulty achieving formal refugee status due to Chinese pressure on the Nepalese government. According to the UN High Commissioner for Refugees (UNHCR), 15,000 to 20,000 Tibetan refugees live in Nepal, but only about half are documented. Nepal does not recognize any Tibetan immigrants who arrived after 1989 as refugees. NGOs working on Tibetan issues continue to struggle under mounting pressure from the Nepali government, on behalf of Beijing, to repatriate Tibetan refugees to China before they can register with UN officials in Kathmandu or transit to India.

G. Personal Autonomy and Individual Rights: 7 / 16

Citizens generally enjoy freedom to travel throughout Nepal, though Tibetan migrants are frequently harassed by police and prevented from moving around the country. Citizens also generally enjoy choice of residence, though bribery is common in the housing market, as well as to gain admittance to universities.

Although citizens have the right to own private businesses, starting a business in Nepal often requires bribes to a wide range of local and national-level officials. Licensing and other red tape can be extremely onerous. Women face widespread discrimination when starting businesses, and customs and border police are notoriously corrupt in dealing with cross-border trade.

In 2015, the border blockade of trade routes from India caused acute shortages of essential goods. A severe fuel crisis in particular has increased unrest in the south and posed additional difficulties to earthquake recovery and access to humanitarian aid. Nepal accused India of imposing the blockade for political reasons, but the Indian government maintains that vehicles have been held at the borders because of unrest, stating that protesters have also blocked their routes.

Bhandari is Nepal's first female president. Women rarely receive the same educational and employment opportunities as men, and gender-based violence against women such as domestic violence, rape, and dowry violence continue to be major problems. The 2009 Domestic Violence Act provides for monetary compensation and psychological treatment for victims, but authorities generally do not prosecute domestic violence cases. The National Women's Commission, charged with providing reparations to women subjected to gender-based violence, has been severely criticized for failure to implement its mandate and for politicized distribution of resources. Underage marriage of girls is widespread, particularly among lower-status groups.

Trafficking of children and women from Nepal for prostitution in India is common. According to some estimates, as many as 15,000 girls are trafficked across the India-Nepal border each year. UNICEF also reported a spike in child trafficking following the April 2015 earthquake. Police rarely intervene in the kidnappings. Human Rights Watch has reported that kidnapping gangs, who abduct children to obtain small ransoms, have become rampant in recent years,

Bonded labor is illegal but remains a serious problem throughout Nepal. The legal minimum age for employment is 14 years, but 1.6 million underage children, more girls than boys, are believed to be engaged in various forms of labor, often under hazardous conditions.

Scoring Key: X / Y (Z)

X = Score Received

Y = Best Possible Score

Z = Change from Previous Year

Full Methodology

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