

Introduction

1. This civil society stakeholder submission was composed by 21 Wilberforce and jointly submitted with a coalition of organizations dedicated to supporting the freedom of religion and belief. The information in this report is based on the research and first-hand accounts obtained by the coalition organizations.
 2. The Intellectual Muslim Association of Nepal (IMAN) is a human rights advocacy organization that works to ensure that the rights of Nepali minority communities are protected.
 3. The Nepal Christian Society (NCS) is a national umbrella organization established in 1996 that mobilizes over 53 Nepali denominations and church groups for aid work and advocacy efforts in Nepal.
 4. 21Wilberforce, Christian Solidarity Worldwide (CSW), Jubilee Campaign, and The Ethics & Religious Liberty Commission of the Southern Baptist Convention (ERLC) are international non-profit advocacy organizations that advocate for the universal right to freedom of religion or belief. CSW, Jubilee Campaign, and the ERLC hold ECOSOC consultative status.
 5. **This report highlights the degree to which Nepal has measured up to its religious freedom, rule of law, and freedom of expression commitments during the COVID-19 crisis.**
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Legal Framework

6. Nepal's new Constitution, which went into effect in 2015, guarantees in Article 26(1) that "every person has the freedom to profess, protect, and practice his religion."
7. Article 17(2) of the Constitution provides that "Every citizen shall have the . . . freedom of opinion and expression."
8. However, Article 26(3) provides that "No person shall...do or cause to be done, any act which may be contrary to public health, decency and morality or breach public peace, or convert another person from one religion to another." On the basis of this language, Nepal's penal code of 2017 enacted restrictions including a prohibition in Section 158 against the conversion

of any person from one religion to another whether or not it was forcibly induced. Violation of this prohibition carries a penalty of up to five years in jail and a fine. This language is vague and overbroad and has led to the arrest and imprisonment of individuals who are merely exercising their constitutional right to profess and practice religion, as well as simply exercising their constitutionally guaranteed freedom of speech. Neither Article 26 nor Section 158 limit the prohibition on conversion to instances of forcible inducement or coercion, which means that, under the authority of the 2017 penal code, individuals can be arrested and jailed for practicing their religion or communicating with others about it when that is deemed by the state to be promoting conversion.

9. These legal restraints and resulting practices bring Nepal into violation of its obligations under the International Covenant on Civil and Political Rights (ICCPR), which Nepal accepted by accession in 1990. Article 14 of the ICCPR enumerates the right for all to a fair trial. Article 18 recognizes the fundamental freedoms of thought, conscience, and religion and the freedom to manifest one's religion. It also guarantees the freedom for people to have or to adopt a religion or belief of their choice. Article 19 embraces the freedom to "hold opinions without interference" and to impart ideas whether orally, in writing, in print, or any other form of media.
10. Nepal's Treaty Act, 2047 (1990) commits Nepal to interpret domestic laws in line with the International Covenant on Civil and Political Rights.
11. While Nepal claimed in section 117 of the 2015 Report of the Working Group on the UPR that its 2015 Constitution guarantees freedom of religion, the Constitution's criminalization of conversion in Article 26(3) undermines this right.
12. **Nepal's Constitution provides for both the freedom of religion and the freedom of expression. However, the state has failed to protect these freedoms and the rule of law for Christian and Muslim minorities during the COVID-19 crisis. Nepal has instead utilized the global COVID-19 pandemic and the vagueness of the penal code as a cover for the arbitrary arrests and denial of fundamental rights of religious minorities.**

Targeting of Nepal's Muslim Community

13. A rising tide of animosity towards the Muslim faith in Nepal and in the greater South Asia region during the current COVID-19 crisis has been manifested in multiple cases of discrimination and physical violence by state and non-state actors towards Muslims.

14. Indian and Nepali media campaigns blaming Muslims for spreading COVID-19 have fueled hostility towards Muslims in Nepal. The vast majority of Nepal's Muslim population lives in the Southern Terai Region near the Indian border and is therefore deeply impacted by anti-Muslim Indian media campaigns. Many of these campaigns in India and Nepal have portrayed Muslims as the primary population responsible for the spread of COVID-19, and these portrayals have increased suspicion and hatred towards Muslims in Nepali communities. This uncorroborated anti-Muslim narrative has sown the seeds of a culture where violence and discrimination against Muslims can thrive.
15. On April 12, 2020 in the Saptari District of the Eastern Terai Region, police beat a 54-year-old Muslim woman to death right in front of her house as she tried to save her son from a police action.
16. On April 18, 2020, a 13-year-old Muslim boy, who is a resident of the Rajbiraj municipality of the Saptari District, was beaten by police. As of this report's submission, he is still receiving care for his critical injuries of broken ribs and penetrated lungs.
17. On April 21, 2020, four Muslim employees were expelled from a factory in the Rupandehi District of Southern Nepal on the false accusation that they were carrying COVID-19.
18. During the second week of May, a Muslim neighborhood in the Parsa District was attacked by a group of Hindus at night, and several Muslim residents sustained injuries.
19. On May 4, 2020, a young Muslim girl, a minor, was raped by a Hindu boy in the Kalika Mai Municipality of the Parsa District during the lockdown. Local police would not register the rape case against the accused Hindu boy until IMAN actively prompted the District Superintendent of Police to register the case. The accused was then taken into custody, and an investigation is ongoing.
20. IMAN has also recorded and reported to the Cyber Bureau of Nepal Police dozens of online posts and printed distributions of anti-Muslim hate messages. To date, no effective action has been taken by the police to counter this harmful propaganda.

Targeting of Nepal's Christian Community

21. Christian Pastor Keshav Raj Acharya was arrested by the Kaski District Police on March 22nd, two days before the pandemic lockdown order from the Government, for a prayer at his church that was uploaded on YouTube on February 22, 2020. In the video, Pastor Acharya

- prayed that the Corona virus would “go away and die” in Jesus’ name.
22. Pastor Acharya was arrested, charged, and imprisoned for a violation of the public health and peace order, even though the place he was praying was inside his church and was before the lockdown restrictions were in place. The district court ordered a fine and released him on March 29th.
 23. However, the police immediately re-arrested him on new charges. The police filed charges that Pastor Acharya engaged in “conversion activities” in violation of section 158 of Nepal’s criminal code. The police released a memo alleging that Pastor Acharya was proselytizing by spreading false information and charged him with “outraging religious feelings” and “attempting to convert others.” While the right to share one’s faith with others should be protected under Nepal’s ICCPR Article 18 obligations, in this case his prayer for the elimination of COVID-19 included nothing related to attempts at conversion.
 24. In a flagrant violation of the rule of law, the police created a duplicate case against Pastor Acharya in the remote Dolpa District and transferred him to that location, taking him far away from his legal counsel, home, and family. The Nepal Christian Society mobilized a team of lawyers and a writ of habeas corpus was filed with an appeals court, but the appeals court upheld the unjust acts of the Kaski District Police, and the district court by cancelling the writ.
 25. The Nepal Christian Society registered an appeal to Nepal’s National Human Right Commission on behalf of Keshav, but the commission failed to take any action.
 26. Pastor Acharya was released again on bail on June 30th, 2020 and is awaiting trial at the time of this report.
 27. The charges of endangering public health during COVID-19 and engaging in “conversion activities” show the unjust animus of the police and multiple Nepali courts towards Pastor Acharya’s religious beliefs. Pastor Acharya’s prayer was an expression of religious belief that was made prior to the official lockdown, did not spread false information, nor contained any attempt at forced conversion. The arrests of Pastor Acharya show the failure of multiple levels of the Nepali government and Constitution to protect a legitimate expression of religious belief.
 28. The use of the prayer, recorded on YouTube, against Pastor Acharya exemplifies a troubling suppression of the right to the general freedom of expression.
 29. This case also shows a clear lack of the rule of law. The multiple arrests and removal of Pastor Acharya to a remote prison, making access to legal representation difficult, violated his rights to a fair trial. The police, the district court, the appeals court and the National Human Right

Commission failed to provide justice for Pastor Acharya.

Recommendations

30. At the previous 2015 Review, the Federal Democratic Republic of Nepal supported recommendations 121.16 and 122.40 to implement the new Constitution and ensure the rights of minority populations in Nepal. In order to comply with its obligations under international law, we therefore urge the state of Nepal to amend Article 26(3) of its Constitution and Section 158 of its penal code by the next reporting period to clarify that proselytization is allowed and that only forcible conversion is prohibited. These actions will serve as a benchmark in achieving full equality for religious minorities and removing discrimination in line with the previous recommendations given in section 124.16 of the 2015 Report of the Working Group on the UPR.
31. We call on Nepal's Ministry of Law, Justice and Parliamentary Affairs to create and implement a plan by the next reporting period to ensure that Nepali courts respect all freedoms of conscience, belief, and expression consistent with the international treaty obligations of the country.
32. We recommend the Nepali authorities work with civil society from minority communities to create, distribute, and encourage utilization of training material for police and judges to help them better implement the Nepali laws and Constitution in line with the international human rights obligations of Nepal. This aligns with the supported recommendation 122.38 to ensure an inclusive dialogue with all Nepalese minority groups.
33. We recommend Nepal invite the UN Special Rapporteur on Freedom of Religion or Belief to visit Nepal during the next reporting period.