

# POLICY BRIEF



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## Nepal

### Erosion of fundamental human rights

**Historically a Hindu kingdom, Nepal transitioned to federal democracy in 2008, ousting the 240-year-old monarchy. The constitution establishes the country as a secular state under Article 4(1) but defines secular as the “protection of religion and culture handed down from time immemorial.”<sup>1</sup> The text used in the original Nepalese version of the constitution uses the term “sanatan”, which is commonly interpreted as evidencing legislative intent to promote Hinduism.<sup>2</sup> The constitution prohibits discrimination based on religion and provides the right to freely profess, practice, and protect religion in Articles 18 and 26(1) respectively.**

Considered one of the poorest nations in South Asia, Nepal’s economy heavily relies on international aid and remittances from migrant workers abroad. The country has an 65.3% Hindu population and is also home to Buddhists, Muslims, and Christians.<sup>3</sup> Though religion-based violence has existed for years,<sup>4</sup> in recent years there has been a surge of violence after Hindutva<sup>5</sup> extremists have propagated hate and intolerance toward religious minorities, primarily targeting Christians and Muslims.<sup>6</sup> Ideologically aligned to and financed by India’s Bharatiya Janata Party<sup>7</sup> and Rashtriya Swayam Sevak Sangh (RSS) which promotes the idea of a Hindu nation,

<sup>1</sup> [ag.gov.np/files/Constitution-of-Nepal\\_2072\\_Eng\\_www.moljpa.gov.npDate-72\\_11\\_16.pdf](https://www.moljpa.gov.np/Date-72_11_16.pdf)

<sup>2</sup> [minorityrights.org/app/uploads/2023/12/sasm2022.pdf](https://minorityrights.org/app/uploads/2023/12/sasm2022.pdf)

<sup>3</sup> “Nepal: Country Dossier”, World Watch Research, March 2024, pp. 13. Available at: [opendoors.org/en-US/research-reports/country-dossiers/WWL-2024-Nepal-Full-Country-Dossier.pdf](https://opendoors.org/en-US/research-reports/country-dossiers/WWL-2024-Nepal-Full-Country-Dossier.pdf)

<sup>4</sup> [d1f1jdw69xsqx0.cloudfront.net/digitalhimalaya/collections/journals/ebhr/pdf/EBHR\\_33&34\\_04.pdf](https://digitalhimalaya.com/collections/journals/ebhr/pdf/EBHR_33&34_04.pdf)

<sup>5</sup> The primary objective of Hindutva ideology has been the (future) installation of a territorially expanded Hindu nation in which religious minorities would either reconvert to Hinduism under duress, become second-class citizens without fundamental rights in law or expelled entirely from the nation. Destructive Lies, London School of Economics, 2021, pp. 7

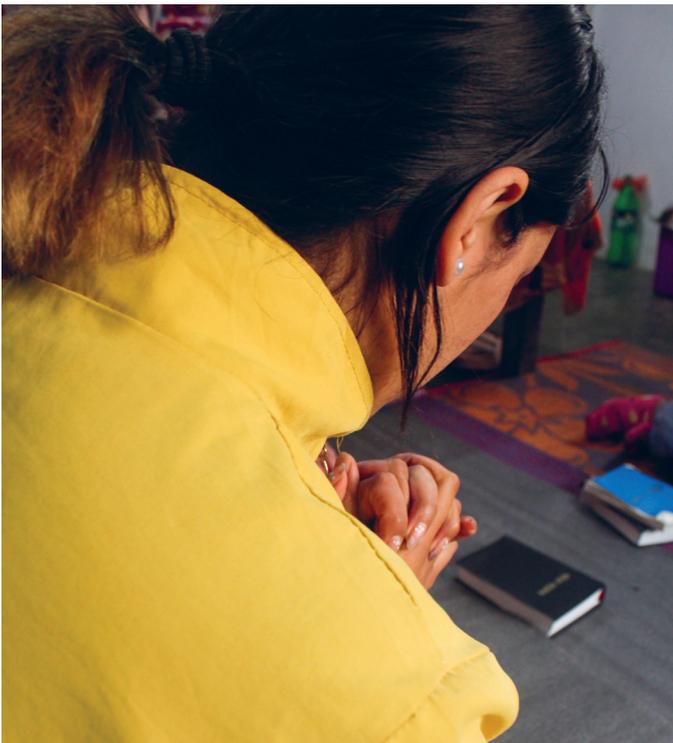
<sup>6</sup> [worldmediation.org/interfaith-conflicts-in-nepal-the-struggles-of-including-islam-and-christianity-in-a-hindu-dominated-society](https://worldmediation.org/interfaith-conflicts-in-nepal-the-struggles-of-including-islam-and-christianity-in-a-hindu-dominated-society)

<sup>7</sup> [kathmandupost.com/national/2023/05/18/us-report-bjp-pays-politicians-to-lobby-for-hindu-nepal](https://kathmandupost.com/national/2023/05/18/us-report-bjp-pays-politicians-to-lobby-for-hindu-nepal)

the campaign for the restoration of a Hindu state by Hindutva extremists in Nepal has gained impetus in the past few years.<sup>8</sup> Christianity is perceived as a threat. Christians are often falsely accused of proselytization and converts to Christianity generally face significant levels of discrimination in accessing basic services, as well as ostracization from the community.<sup>9</sup>

## Anti-conversion laws

Nepal's constitution, promulgated in 2015, states in Article 26(3) that to "convert another person from one



Anisha (above) and her sister Anita belong to Brahmin caste, which is considered the highest caste in Nepal. Due to this, the sisters were persecuted by their father and brother. They were kept under house arrest for six years and ultimately expelled from the house when they refused to leave their faith.

religion to another or any act that may jeopardize other's religion is punishable by law." Additionally, many sections that criminalize religious conversion were added to the Penal Code in 2017. Section 156 criminalizes the "outraging" of religious sentiments, a vaguely defined term which is easily misused. Section 158(1) criminalizes converting "any one from one religion to another" and attempting or abetting a conversion. Section 158(2) criminalizes the conversion of "anyone into another religion, whether by inducement or not, in a manner to so undermine or propagate such religion or opinion with the intention of making such conversion."<sup>10</sup> Law enforcement officers frequently misinterpret these sections, arresting and charging non-Hindu faith adherents for observing constitutionally protected religious practices.<sup>11</sup> These laws contribute to the deterioration of the right to freedom of religion or belief and freedom of expression because of its widespread abuse, ambiguous terms, and lack of precision in proper implementation. Imposing criminal sanctions on individuals if they support another individual to convert, as Nepal's Penal Code of 2017 does, is a restriction on the right to manifest the freedom of religion or belief in practice and teaching. This directly contravenes Article 18 of the ICCPR.<sup>12</sup> Article 18 of the ICCPR protects "non-coercive attempts to persuade others" to convert.<sup>13</sup> Additionally, these penal provisions also violate Article 19 of the ICCPR which gives the right to impart information and ideas of all kinds.<sup>14</sup>

Common church prayer meetings and religious ceremonies are interrupted on the allegation of being conversion rituals of non-Hindus.<sup>15</sup> Church leaders are assaulted, arrested, and charged for simply sharing their faith in public, an inherent legitimate aspect of freely professing their religion through public expression.<sup>16</sup> Hindutva extremists often use these laws as a pretext to assault members of religious minorities.<sup>17</sup> These laws are often applied unjustly against Christians only,<sup>18</sup> while frequently not applied to conversion activities of the majority Hindu groups pursuing to convert individuals to Hinduism through ceremonies often involving coercion, or inducement.<sup>19</sup>

<sup>8</sup> [blogs.lse.ac.uk/southasia/2024/04/08/the-demand-for-a-hindu-rastra-in-nepal](https://blogs.lse.ac.uk/southasia/2024/04/08/the-demand-for-a-hindu-rastra-in-nepal)

<sup>9</sup> [mfopen.mf.no/mf-xmlui/bitstream/handle/11250/3010513/1014%20Sunar%2c%20Rohit.pdf?sequence=1&isAllowed=y](https://mfopen.mf.no/mf-xmlui/bitstream/handle/11250/3010513/1014%20Sunar%2c%20Rohit.pdf?sequence=1&isAllowed=y)

<sup>10</sup> [mfopen.mf.no/mf-xmlui/bitstream/handle/11250/3010513/1014%20Sunar%2c%20Rohit.pdf?sequence=1&isAllowed=y](https://mfopen.mf.no/mf-xmlui/bitstream/handle/11250/3010513/1014%20Sunar%2c%20Rohit.pdf?sequence=1&isAllowed=y)

<sup>11</sup> [csw.org.uk/2016-nepal-charikot](https://csw.org.uk/2016-nepal-charikot)

<sup>12</sup> [uscirf.gov/sites/default/files/2023-08/2023%20Nepal%20Country%20Update.pdf](https://uscirf.gov/sites/default/files/2023-08/2023%20Nepal%20Country%20Update.pdf)

<sup>13</sup> As noted by the United Nations Special Rapporteur on freedom of religion or belief. Available at: [documents.un.org/doc/undoc/gen/n12/461/30/pdf/n1246130.pdf](https://documents.un.org/doc/undoc/gen/n12/461/30/pdf/n1246130.pdf)

<sup>14</sup> International Covenant on Civil and Political Rights | OHCHR. Available at: [ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights](https://ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights)

<sup>15</sup> "Nepal: Country Dossier", World Watch Research, March 2024, pp. 26-30. Available at: [opendoors.org/en-US/research-reports/country-dossiers/WWL-2024-Nepal-Full-Country-Dossier.pdf](https://opendoors.org/en-US/research-reports/country-dossiers/WWL-2024-Nepal-Full-Country-Dossier.pdf)

<sup>16</sup> *Ibid.*, pp.30

<sup>17</sup> For e.g., on 4 September, 2023, two Christians were assaulted by Hindutva mobs at Balba Tole, Janakpur, Dhanusa district, Madesh Province. They were physically assaulted, their faces were painted black and their Christian books were burned.

<sup>18</sup> Nepal: The battle for souls, BBC World Service Documentary

<sup>19</sup> [organiser.org/2024/09/02/254460/world/nepal-ghar-wapsi-vishva-hindu-parishad-aids-2000-hindus-in-returning-to-sanatan-dharma/](https://organiser.org/2024/09/02/254460/world/nepal-ghar-wapsi-vishva-hindu-parishad-aids-2000-hindus-in-returning-to-sanatan-dharma/)

## Rising levels of violence and speeches inciting discrimination and violence against religious minorities

Nepal has seen a rapid increase of violence, property destruction, speeches inciting violence and discrimination, social ostracism, and disruption of peaceful non-Hindu religious gatherings.<sup>20</sup> In particular, mob attacks against Christians where victims report severe injuries, as well as destruction of churches, are on the rise.<sup>21</sup> The police seem reluctant to take any action on the attackers and instead arrest and charge Christians, the actual victims of the assault.<sup>22</sup> Various branches or affiliates of the RSS have opened up in towns bordering India. Comprised mostly of young men, these groups promote the idea of creating hierarchies of citizenship, with Muslims and Christians as suspect members of the national community.<sup>23</sup> Hindutva extremist leaders use the online space to spread hatred, disinformation, and propaganda against religious minorities in Nepal. They openly urge their followers to attack religious minorities using militant inflammatory messages. Christians and Christian missionaries are the main targets.<sup>24</sup> The effect of their messages does not remain confined in cyberspace; in most instances they have resulted in actual violence.<sup>25</sup>

## Freedom to have or adopt one's religion

Most Christians in Nepal are converts from Hinduism and must be discreet about their faith. The consequences of converting to Christianity include prosecution, social stigma, police monitoring or intimidation.<sup>26</sup> Male converts are cast out of the community, denied inheritance to ancestral property by family members and declined the right to access their legal identity documents such as birth certificate and citizenship papers by local government officials. Female converts, on the other hand, are additionally vulnerable to physical assaults including sexual violence, divorce and losing custody of children.<sup>27</sup>



On the night of 2 March 2024, a local mob attacked a church in Nepal's Lumbini province, throwing stones and bricks to break its glass windows.

## Lack of burial space for religious minorities

There is a lack of burial grounds for Christians and Muslims in the country. As a result, Christians are forced to either cremate their dead or hide the bodies and travel long distances to a burial ground, sometimes even to India, to bury the dead at night. Christians are compelled to have a quiet funeral ritual with very few people in attendance to avoid reprisal from the local community and harassment from the local police.<sup>28</sup> Apart from areas such as Biratnagar and Butwal where the local governments have provided graveyards for Christians,<sup>29</sup> most parts of Nepal still have a shortage of space for burial grounds.

According to Open Doors, there are almost 1.5 million Christians living in Nepal.<sup>30</sup> While some churches were able to buy private land for burial grounds, in small towns and villages local communities opposed the land transaction and blocked access to the cemeteries.<sup>31</sup> In a few cases, members of the local community dug up the bodies days after burial and body parts were found lying scattered around the village, scavenged by dogs, vultures, and eagles.<sup>32</sup> The Supreme Court of Nepal, in 2011, ruled that Christian burial grounds were not the state's responsibility.<sup>33</sup>

<sup>20</sup> "Nepal: Country Dossier", *Ibid*, pp.28

<sup>21</sup> [ccprcentre.org/files/documents/INT\\_CCPR\\_ICS\\_NPL\\_43960\\_E.pdf](https://ccprcentre.org/files/documents/INT_CCPR_ICS_NPL_43960_E.pdf)

<sup>22</sup> [globalpressjournal.com/asia/nepal/despite-constitutional-protections-nepalese-christians-struggle-perform-burial-rites/](https://globalpressjournal.com/asia/nepal/despite-constitutional-protections-nepalese-christians-struggle-perform-burial-rites/)

<sup>23</sup> [jacobin.com/2024/06/nepal-hindutva-religion-constitution-india](https://jacobin.com/2024/06/nepal-hindutva-religion-constitution-india)

<sup>24</sup> [thediplomat.com/2023/09/whats-driving-hindu-nationalism-in-nepal](https://thediplomat.com/2023/09/whats-driving-hindu-nationalism-in-nepal)

<sup>25</sup> [gnet-research.org/2023/12/21/the-vitalisation-of-hindu-nationalism-in-nepal-and-social-media-as-a-tool-of-pro-hindutva-propaganda-overseas](https://gnet-research.org/2023/12/21/the-vitalisation-of-hindu-nationalism-in-nepal-and-social-media-as-a-tool-of-pro-hindutva-propaganda-overseas)

<sup>26</sup> "Nepal: Country Dossier", *Ibid*, pp.28-29

<sup>27</sup> "Nepal: Country Dossier", *Ibid*, pp.34-35

<sup>28</sup> [christianitytoday.com/2023/03/nepal-burial-funeral-christians-cremation-dead-ritual](https://christianitytoday.com/2023/03/nepal-burial-funeral-christians-cremation-dead-ritual)

<sup>29</sup> *Ibid*

<sup>30</sup> "Nepal: Country Dossier", *Ibid*, pp. 13

<sup>31</sup> [uscirf.gov/sites/default/files/2023-08/2023%20Nepal%20Country%20Update.pdf](https://uscirf.gov/sites/default/files/2023-08/2023%20Nepal%20Country%20Update.pdf)

<sup>32</sup> [globalpressjournal.com/asia/nepal/despite-constitutional-protections-nepalese-christians-struggle-perform-burial-rites/#:~:text=The%20Nepalese%20Constitution%20in%202015,still%20lack%20basic%20human%20rights](https://globalpressjournal.com/asia/nepal/despite-constitutional-protections-nepalese-christians-struggle-perform-burial-rites/#:~:text=The%20Nepalese%20Constitution%20in%202015,still%20lack%20basic%20human%20rights)

<sup>33</sup> [ucanews.com/news/columbariums-the-final-resting-place-for-nepals-christians/94768#:~:text=In%202011%2C%20Gahatraj%20filed%20a,committee%20to%20resolve%20the%20issue](https://ucanews.com/news/columbariums-the-final-resting-place-for-nepals-christians/94768#:~:text=In%202011%2C%20Gahatraj%20filed%20a,committee%20to%20resolve%20the%20issue)

# Recommendations:

To stop the continuous and severe violations of fundamental rights of Nepalis, Open Doors makes the following recommendations:

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## 1 To abolish grievous infringement of fundamental rights, and ensure the respect of freedom of religion or belief of Nepalis:

- The international community should include respect of human rights, including freedom of religion or belief, as a fundamental and mandatory pre-condition to every trade, aid, and diplomatic relations with Nepal;
- The international community should also **create a time-bound plan** with the Nepalese government concerning the improvements made on addressing freedom of religion or belief violations;
- The government of Nepal should ensure that Article 26 of the constitution is amended to truly mirror the international standards set out in Article 18 of the ICCPR and explained in General Comment 22;
- The government of Nepal should review sections 156 and 158 of the Penal Code to ensure compliance with international human rights standards. Alternatively, it could either repeal these sections entirely or amend them by ensuring that only “forceful conversion” is proscribed. This can be achieved by narrowly defining the term “inducement” and what is meant by “outraging” of religious sentiments;
- The government of Nepal should create a legal deterrence mechanism within the Penal Code to prevent and punish false accusations of forced conversion.

## 2 To address the environment of hate, intolerance and violence against religious minorities, the government of Nepal should:

- Promptly condemn and hold accountable those who commit any acts of violence and discrimination against religious minorities;
- Consider training police officials in correct interpretation and impartial implementation of the law, according to international human rights standards;
- Promote and make every effort to support local community level initiatives related to inter-faith dialogues for peace in the country, bringing together religious and interreligious actors to work on social cohesion, interfaith education, and countering inciting speech.

## 3 To ensure respect and dignified treatment of the bodies of the dead belonging to religious minorities, and to prevent the cruel, inhuman, or degrading treatment of the family of the deceased, the government of Nepal should immediately coordinate with affected religious communities and establish a commission to determine suitable sites for use as cemeteries in line with environment and development planning.