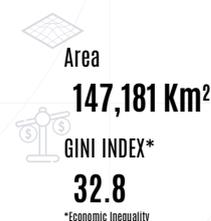
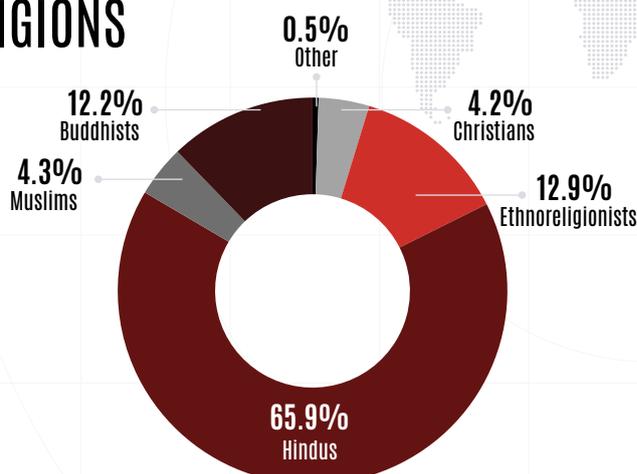




NEPAL

RELIGIONS



LEGAL FRAMEWORK ON FREEDOM OF RELIGION AND ACTUAL APPLICATION

The Constitution¹ defines Nepal as a secular state. In Article 4 (1), it stipulates that “Nepal is an independent, indivisible, sovereign and secular state.” It adds: “For the purpose of this article, the term ‘secular’ means the protection of religion and culture being practised since ancient times as well as religious and cultural freedom.”

The Constitution’s protection for religious freedom includes freedom for religious institutions. For example, Article 26 (1) declares religious freedom to be a fundamental right, and Article 26 (2) states, “Every religious denomination shall, maintaining its independent existence, have the right to manage and protect its religious places and religious trusts in accordance with the law.” However, Article 26 (3) expressly prohibits conversion and any act that might “disturb” the religion of others, stating that “no person shall... convert a person of one religion to another religion, or disturb the religion of other people. Such an act shall be punishable by law.” These provisions were strengthened in the revised penal code, which criminalises “offending the religious feelings” of others. Article 9.158 of the penal code prohibits attempts to “convert” others or “to

weaken the religion, faith or beliefs practised since ancient times (sanatan) by a community, caste or ethnic group”; it also imposes a severe penalty of up to five years in prison and a fine of 50,000 rupees (just under US\$500).²

The law stipulates that the state must protect the “Sanatana Dharma”, a term often translated as “Primordial Tradition”. This generally designates the essence of Hinduism as it has been passed down over the centuries. In addition, Article 9 (3) of the constitution affirms that the national animal is the cow, which Hinduism regards as sacred. These pro-Hindu provisions are embedded in the constitution, and can potentially legitimise and encourage religious persecution and discrimination. Such provisions and penalties, which include the vaguely worded constitutional prohibition of religious conversion, impose severe restrictions on the religious freedom of religious minority groups, leaving them vulnerable to both legal and social abuse by majority Hindus, but can also impinge on the freedom of conscience and religion of members of the majority community.

The Constitution’s anti-conversion provisions are perceived as specifically targeting Nepal’s Christian communities. Indeed, many have noted that since the Constitution’s enactment, Christians have been increasingly harassed and, in some cases, detained by local govern-

ment officials due to allegations that they were converting Hindus, especially Hindu Dalits.³ Their places of worship have also been bombed.⁴

Apart from religious hostilities, government regulations present challenges to faith-based organisations in general and Christian groups in particular; for example, registration rules impose burdensome requirements and constraints on raising funds from abroad.⁵

Apart from the Constitution and the penal code, other laws and regulations discriminate against non-Hindus. Laws currently in place mean that it is much easier to obtain legal recognition for Hindu organisations than the institutions of other faiths.⁶ For example, non-Hindu organisations face obstacles to acquiring property for institutional use.

During the period under review, there were both improvements in some areas and setbacks in others. Christian and Muslim minorities can now more easily buy land to establish their cemeteries or enlarge existing ones.⁷ In the area of the family, however, marriages involving couples of different religions remain difficult, mainly for cultural or social reasons.⁸

With respect to Christian holidays, there was little change. Despite protests by Christians, Christmas was not reinstated as a public holiday. After the civil war it had been made a statutory holiday in 2008 only to be repealed in 2016. Christians protested but the Ministry of Home Affairs argued there were too many public holidays (83) already and that “(T)his measure is in no way directed against Christians.”⁹

A prominent Protestant leader, Rev. Tanka Subedi criticised Hindu leaders for saying that secularism was a Trojan horse introduced by Christians to subvert Nepal’s Hindu identity.¹⁰ In his view, the country’s rulers should behave in a more “neutral” manner, noting that “the rulers do not believe in any religion, yet they organise official events to celebrate Hindu festivals while persecuting members of religious minorities as if they had broken the law. This gives the impression that we are still living under the old one-party Panchayat political system.”¹¹

INCIDENTS AND DEVELOPMENTS

Following the adoption of the new Constitution in 2015 and the new penal code outlawing proselytising and efforts to convert others, which took effect in August 2018, Nepal has witnessed an increase in legal and social pressure on Christians.

In June 2019, the Bardiya District police arrested a US

citizen and his Nepali associate on charges of possessing Christian literature and conducting “conversionary” activities. The US citizen was released after 12 days in detention and a court hearing, and later left the country.¹² In April, four Christians, including a woman from the US, were arrested on similar charges of conversion by allurement.¹³

In September 2019, a pastor in Chitwan was forced into hiding by Hindu extremists as a result of an interview in which he witnessed about his journey to Christ that was posted on social media. The pastor and his family subsequently received death threats.¹⁴

With the advent of the COVID-19 pandemic in early 2020, religious minority communities, including Christians, Muslims, and Buddhists, have reportedly suffered increased discrimination, harassment and persecution.

A nationwide lockdown was issued in March. It ended in July, but certain restrictions and other health regulations remained limiting the size of gatherings.¹⁵ Religious leaders have criticised the lockdowns and forced scaled-back festivals and rituals, claiming that “divine anger” would lead the country into catastrophe.¹⁶

Amidst the pandemic, police arrested two pastors on charges of holding worship services in violation of the country’s anti-COVID-19 lockdown. Media accounts report that, on separate occasions, the two clergymen were on church grounds with their families, counselling illiterate church members who were unaware of the government’s COVID-19 orders.¹⁷

Several Hindu temples were also closed down, and worshippers were unable to participate in centuries-old rituals.¹⁸

In July 2020, after the authorities lifted COVID-19 lockdown restrictions, members of a Church in the Baglung District renewed construction of a temporary structure with the capacity for 50 people on rented land. Some local non-Christian residents had petitioned the church to stop building and vacate the land. When this did not happen, they turned to local municipal and police authorities.¹⁹

For Mukunda Sharma, executive secretary of the Nepal Christian Society, Nepalese law is not clear when it comes to Churches and their buildings, a situation that Hindu extremists exploit to level accusations at Christians. Hitherto building permits have not been required for places of worship and prayer. Now, however, religious institutions carrying out charity and philanthropic activities must be registered and need a permit from district administration and

revenue officials to conform with the latest amendments to the Nepal National Code, which was itself changed in accordance with the new Constitution.

Such a multi-tiered registration procedure places significant burdens on religious communities, particularly on small religious organisations.²⁰

PROSPECTS FOR RELIGIOUS FREEDOM

While the Constitution is nominally secular and guarantees the right to profess and practise one's religion, it also expressly prohibits converting people from one religion to another and bans religious behaviour that might disturb the religious beliefs of others and challenge the established religious and cultural order.

Nepali social structures are still in many ways based on the traditional values, norms, customs, and rituals of the Hindu religion. The overwhelming majority of people in Nepal profess Hinduism, and the Constitution of Nepal defines secularism in a way that obligates the state to protect the country's "immemorial" and indigenous religious traditions, i.e., Hinduism.

With an unclear constitutional and legal framework, the latitude for accusations and tensions generated by some Hindu groups are an additional factor undermining the prospects for religious freedom in Nepal.

Under these circumstances, the religious freedom of the country's Christians, Muslims, Buddhists, and other religious minorities is likely to face significant legal and social challenges and limitations in the coming years. The prospects for the right of religious freedom remain negative.

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