31 December 2020

**In behalf of**

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| **The Asia-Pacific Association of Jehovah’s Witnesses** |
| **and** |
| **The European Association of Jehovah’s Witnesses** |

*Joint Submission to the UN Human Rights Committee*

*Prior to the Adoption of the List of Issues*

*131st Session (1 to 26 March 2021)*

**NEPAL**

**Contact Information**

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| Contact address in Japan (APAJW): 5-11-2-605, Mita Minato-ku, Tokyo, 108-0073 JapanTel.: + 81-3-4565-5250 E-mail: apajw.jp@jw.org | Contact address in Europe (EAJW): Am Steinfels 1, 65618 Selters, GermanyTel.: + 49 64 83 413802 E-mail: JWitnesses.be@jw.org |

Table of Contents

[ABOUT THE SUBMITTING ORGANISATIONS 2](#_Toc59779719)

[SUMMARY OF THE SUBMISSION 3](#_Toc59779720)

[I. INTRODUCTION 3](#_Toc59779721)

[II. Violations of the provisions of the International Covenant on Civil and Political Rights (Articles 9, 18, 19, 20, 21, 22, 26 and 27) 4](#_Toc59779722)

[III. COMMUNICATION FILED WITH THE COMMITTEE 9](#_Toc59779723)

[IV. CONCLUSION AND RECOMMENDATIONS 9](#_Toc59779724)

# ABOUT THE SUBMITTING ORGANISATIONS

**The Asia-Pacific Association of Jehovah’s Witnesses (APAJW)** is a general incorporated association registered in Japan, with membership in Australia, Fiji, Guam, Hong Kong, India, Indonesia, Japan, Kazakhstan, Korea, Kyrgyzstan, Malaysia, Myanmar, New Caledonia, Papua New Guinea, Philippines, Solomon Islands, Sri Lanka, Tahiti, Taiwan and Thailand.

**The European Association of Jehovah’s Witnesses (EAJW)** is a charity registered in the United Kingdom (No. 1085157), with membership throughout the member states of the Council of Europe.

These associations work together to promote the protection of human rights and fundamental freedoms in various parts of the world, particularly when Jehovah’s Witnesses face violations of such rights. This submission is prepared and submitted jointly.

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| SUMMARY OF THE SUBMISSIONThis submission on Nepal to the Human Rights Committee (CCPR) highlights violations of the provisions of the International Covenant on Civil and Political Rights (The Covenant) prior to the adoptionof the *List of Issues* to be taken up in connection with the consideration of the 3rd report of Nepal.Jehovah’s Witnesses in Nepal, and as a worldwide organisation, respectfully request the government of Nepal to:1. Allow each Jehovah’s Witness to profess, practise, share and preserve his or her own religion according to personal conviction as protected by Article 26 of the Constitution of Nepal.
2. Ensure that the peaceful outreach ministry of Jehovah’s Witnesses is not misinterpreted and that they are not falsely accused and charged under Section 158 (1) and (2) of the National Penal Code, 2074 (2017).
3. Acknowledge that Jehovah’s Witnesses oppose forced conversions and that, as a policy, they have never forced or coerced anyone from any nationality, religion or language to convert to their religion.
4. Hold that Jehovah’s Witnesses’ practices are internationally recognised and that they are entitled to constitutional protection by the Government of Nepal as well as by its various international commitments and treaties.
5. End harassment by government officials and provide necessary protection when followers of the majority religion harass Jehovah’s Witnesses for manifesting their religious beliefs.

Abide by its commitment to uphold the fundamental freedoms guaranteed by the COVENANT for all citizens, including Jehovah’s Witnesses. |

# INTRODUCTION

* 1. The Asia-Pacific Association of Jehovah’s Witnesses is a general incorporated association registered in Japan. It supports the activities of Jehovah’s Witnesses and promotes the protection of fundamental freedoms in various parts of the world, mainly in the Asia-Pacific region.
	2. Jehovah’s Witnesses have been present in Nepal for half a century. The first family of Jehovah’s Witnesses moved from Kalimpong in the north-eastern mountains of India to Kathmandu in March 1970.
	3. The Witnesses initially held religious meetings in small groups in private homes. Despite showing respect for the law, they faced some difficulties with the authorities. However, officials realised that Jehovah’s Witnesses were no threat to public order or to the national culture. In fact, their Bible educational work had an uplifting effect, assisting people to become better citizens. Officials saw that honesty, hard work and upright moral behaviour are stressed as basic requirements for those who become adherents. There are currently approximately 2,600 Jehovah’s Witnesses in Nepal.
	4. Although the Constitution of Nepal guarantees religious freedom, officials often discriminate against Jehovah’s Witnesses. Some citizens threaten the Witnesses with violence when they peacefully share their beliefs. False accusations have been made that the Witnesses forcibly try to convert others, accompanied by demands for the police to arrest them. Officials have targeted Witnesses engaged in peaceful religious activity and have claimed that Jehovah’s Witnesses who are foreigners should limit any activities to tourism, institutional study or business.
	5. Since the National Penal Code 2074 (2017) came into effect in August 2018, the police have arrested 21 Jehovah’s Witnesses in six separate incidents for peacefully manifesting their religious beliefs.

# Violations of the provisions of the International Covenant on Civil and Political Rights (Articles 9, 18, 19, 20, 21, 22, 26 and 27)

* 1. The following information clearly highlights multiple violations of the Covenant. Jehovah’s Witnesses deplore the climate of religious hatred generated by this situation, which incites discrimination, hostility and violence against them.
	2. **Butwal City** — On 4 November 2018, police arrested four female Witnesses: Pushpa Ghimire, Tirtha Maya Ghale, Yasuko Oba and Mari Ikura (Mss Oba and Ikura are Japanese citizens). These women were peacefully sharing their religious beliefs with neighbours when the police took them into custody. On 5 November the Japanese Witnesses were escorted to the Immigration Department in Kathmandu, where they were placed in custody. On 19 November, they were deported to Japan and banned from returning to Nepal for five years. Each also paid a fine of NPR 50,000 (approximately EUR 382).
	3. Mss Ghimire and Ghale, the two Nepali Witnesses, were retained in custody. The neighbours, openly instigated by a Hindu organisation, had submitted a videotape of the Witnesses and claimed that the Witnesses had violated Article 158 of the National Penal Code, which criminalises religious conversion.
	4. On 6 November, the Rupandehi District Court ordered the Witnesses’ continued detention and extended it until 12 November, when the detention was again extended for a further ten days. On 18 November, during the bail hearing, a district court judge recorded their statements and ordered their release upon a bail payment of NPR 100,000 (approximately EUR 764). No statements by the prosecution’s witnesses were recorded.
	5. The trial of Mss Ghimire and Ghale began on 10 December. After numerous delays, additional hearings were conducted on 21 February 2019 and again on 10 June 2019. The judge interrupted final arguments, recalled witnesses who had already testified and refused to accept written submissions from the defence. The defendants filed a revision petition with the Tulsipur High Court, asking for the district court to be directed not to recall witnesses whose testimony had concluded and to consider written arguments before rendering its decision. Despite the manifest judicial bias against the women, on 22 August 2019 the high court did not nullify the district court’s order but merely admonished the court to follow the law.
	6. On 12 September 2019, the district court found Ms Ghimire and Ms Ghale guilty of ‘religious conversion.’ On 25 September, they were each sentenced to 90 days’ imprisonment, and each was fined NPR 2,500 (approximately EUR 19). They were not granted bail during the appeal process but were sent to prison immediately.
	7. On 1 October 2019, lawyers for the women filed a habeas corpus petition with the Supreme Court. The Court did not order the release of the two women. As soon as the full text of the verdict was provided, a comprehensive appeal to the high court was submitted on 31 October. The following day, the high court ordered the women’s release pending appeal, and they were finally released on 4 November. The defendants therefore spent 40 days in prison in addition to the 15 days of pretrial custody.
	8. On 3 December 2019, the high court admitted the appeal, and on 28 January 2020, it reversed the district court’s verdict and acquitted the women.
	9. On 25 April 2019, the Witnesses filed a Human Rights Complaint with the National Human Rights Commission (NHRC). The NHRC has not responded to this complaint as of yet.
	10. **Gulariya (Bardiya District)** — On 12 November 2018, two female Jehovah’s Witnesses, Katie Graham (Australian citizen) and Sweta Manandhar, were peacefully sharing their religious beliefs with others when a rowdy mob gathered and forcibly took them to the District Administration Office (DAO). Ms Graham was handed over to the Immigration Department. On 26 November, she was deported to Australia and banned from returning to Nepal for five years. She also paid a fine of NPR 50,000.
	11. It was clear to the local officials that the incident was due solely to the intolerant attitude shown by some individuals. However, rather than dismissing the case and upholding Ms Manandhar’s constitutional rights, officials directed her to call her family. Her brother, Shreejan Manandhar, arrived with two friends who are also Jehovah’s Witnesses, Dal Bahadur Tiruwa and Tej Bahadur Shahi. The four Nepali Witnesses were arrested on the spot and detained without charge for investigation. In this case a Hindu organisation was again openly involved in making the complaint against them. On 7 December 2018, after 25 days in custody, Mr Tiruwa was released on bail of NPR 300,000 (approximately EUR 2,292), while the other detainees were denied bail. The Witnesses appealed the denial of bail to the high court on 30 December 2018.
	12. On 24 January 2019, the high court ordered the release of the three men upon bail payment of NPR 350,000 (approximately EUR 2,674) each. These three persons, therefore, had spent a total of 80 days in detention.
	13. On 24 March 2019, the Bardiya District Court acquitted all four Jehovah’s Witnesses.
	14. On 22 May and 30 May 2019, the men filed a Human Rights Complaint with the NHRC. The NHRC has not yet responded to this complaint.
	15. On 20 June 2019, the prosecutor filed an appeal to the high court. On 18 November 2019, the high court summoned the respondents for further evaluation, and on 18 February 2020, it upheld the decision of the district court to acquit all of the defendants.
	16. On 2 January 2020, Ms Manandhar filed a writ petition at the Supreme Court, challenging the validity and discriminatory effect of section 158 of the Penal Code, which criminalises religious conversion.
	17. On 13 March 2020, the Constitutionality Bench rejected the admissibility of the petition on the basis of *res judicata*.
	18. On 6 October 2020, a complaint was filed with the CCPR, as all domestic remedies had been exhausted regarding this case.
	19. **Town of Saljhandi** — On 4 April 2019, two uniformed policemen and another person in civilian clothes went to the home of Dhruba Narayan Bhattarai, one of Jehovah’s Witnesses. Mr Bhattarai used the third floor of his house as a meeting place for the Witnesses and provided lodging for a Japanese Witness couple, Masahiro and Yukari Morita. Without a warrant, the officers searched the couple’s apartment. Although the Japanese couple produced valid passports and visas, they were both escorted to the Saljhandi police office. The police asked Mr Bhattarai to go with them. He complied because he wanted to help his Japanese friends.
	20. All three Witnesses were taken from the Saljhandi police office to the Butwal police office. The police did not have an arrest warrant, nor did they provide any information regarding an alleged crime. Mr Bhattarai was detained in custody in the Butwal police office and spent the night there. The Japanese couple was detained in the ward police office in Ramnagar, Butwal.
	21. On 5 April, Mr and Mrs Morita were sent to the Department of Immigration in Kathmandu. They were each fined NPR 50,000, deported to Japan on 11 April and banned from returning to Nepal for five years.
	22. A team from the Saljhandi police office returned to Mr Bhattarai’s house without a search warrant and seized religious literature from the Witnesses’ meeting place on the third floor. Mr Bhattarai was taken to the DAO in Rupandehi and was later handed an urgent warrant of arrest backdated to 4 April 2019, along with a memo ordering his detention. The warrant and memo stated that he had been charged with ‘indecent behaviour’. However, there was no information as to where, when, against whom and how he had committed the alleged crime of ‘indecent behaviour’ nor why he was accused of such a charge.
	23. Mr Bhattarai submitted a letter to the Butwal police office, requesting immediate release from custody. This request was ignored. On 9 April, his wife went to the DAO in Rupandehi to submit a similar application requesting his release and providing assurance of his cooperation with the investigation. The DAO refused even to accept this application and thus it was sent by registered mail.
	24. Mr Bhattarai’s wife then filed a habeas corpus petition with the Tulsipur High Court. On 15 April, the high court declared Mr. Bhattarai’s detention illegal and ordered his release. Despite this order, on 25 April the District Attorney General charged Mr. Bhattarai with ‘indecent behaviour’, and the case against him continued with the DAO. The DAO acquitted him on 3 November 2019, as neither the prosecutor nor any of the prosecutor’s witnesses appeared for the trial.
	25. On 9 January 2020, the prosecutor filed an appeal with the Rupandehi District Court. On 28 July, the district court dismissed the appeal and upheld the acquittal by the DAO.
	26. **Pokhara (Kaski District)** — On 22 July 2019, a Japanese Witness couple, Jiro and Reiko Sekiya, were taken to the Baidam Ward Police Office. Ms Sekiya is a student at the Shiv Shakti Campus in Pokhara and has a valid student visa, while Mr Sekiya has a valid dependent visa permitting him to stay in Nepal. On that morning, the Sekiyas had simply greeted people whom they met during their morning walk. However, an unknown individual complained that they were actually trying to convert people. They were therefore arrested and detained by the police. The police searched their residence without obtaining a search warrant and seized some of their personal religious literature.
	27. The next day, the couple’s friends went to the Baidam Ward Police Office to apply for their release and provided copies of the documentation to the District Police Office in Kaski and the Immigration Office in Pokhara. The Baidam Ward Police Office refused to accept the application. Nearly 32 hours after the couple’s arrest, the police provided an arrest warrant, a detention warrant and a search warrant. The Kaski District Court granted the police request for a five-day detention and extended this for an additional five days. The police forced the couple to sign a false statement indicating that they were lawfully detained. The police also tried to insert additional false statements into the document to imply that the couple had sought to convert others forcefully.
	28. Owing to the poor sanitary conditions in the place of custody, the couple developed allergies, rashes and boils. Ms Sekiya’s health was substantially affected because she suffers from significant allergies and from asthma. Additionally, Ms Sekiya was scheduled to appear for her final examination for the second year of her bachelor’s degree. She requested permission to attend, but it was denied.
	29. A friend of the couple, Mr Chiranjibi Kumar Balami, filed a habeas corpus petition with the Pokhara High Court on 31 July. On 4 August, the court denied the petition, ruling that the warrants were properly served and that the district court had legally granted the extension of custody, despite the clear evidence submitted demonstrating that these documents were falsified.
	30. On 11 August, during the bail hearing, the Kaski District Court judge recorded the couple’s statements and ordered their release upon a bail payment of NPR 150,000 (approximately EUR 1,146) each. No statements from the prosecution’s witnesses were recorded. On 3 November 2019, both sides were able to make their submissions. This was listed to be the final day of trial, but the court ordered the retrieval of Ms Sekiya’s college records in order to confirm her status as a student and ordered the defendants to reappear before the court.
	31. On 22 January 2020, the Kaski District Court acquitted the couple. The court accepted that Ms Sekiya had been pursuing studies at the campus, as she claimed.
	32. On 7 August, the prosecutor filed an appeal to the Pokhara High Court, but on 22 September, the court rejected the appeal and upheld the district court decision.
	33. **Pokhara (Kaski District)** — On 1 February 2020, police detained four Jehovah’s Witnesses: Yam Bahadur Buduja; Mr Buduja’s wife, Kamala; Dipen Pariyar; and Archana Rokka. They were on a footpath near Fewa Lake, peacefully standing beside display carts containing Bible-based literature for the benefit of any passers-by who might be interested.
	34. On the basis of a complaint by an avowed Hindu man that the Witnesses’ activity was disturbing his religion, the police arrested them, confiscated their religious literature, took them to the Baidam Ward Police Office in Pokhara and placed them in custody without serving a warrant of any sort.
	35. On 2 February, the Kaski District Court granted a seven-day detention of the Witnesses, despite Mr Pariyar’s father filing a habeas corpus petition with the court on the same day. On 3 February, the court issued a show-cause order and directed officials to be present within 24 hours and to provide written reasons for the arrest and detention. Although the Witnesses submitted conclusive evidence of religious bias and legal procedural errors, the district court denied the habeas corpus petition on 4 February.
	36. On 6 February, Mr Pariyar’s father filed another habeas corpus petition, this time with the Supreme Court. The Court issued a show-cause order the next day and ordered officials to submit written reasons for the Witnesses’ detention within three days. Despite clear evidence of falsified documents and religious discrimination, the Court denied the petition on 17 February.
	37. The Kaski District Court extended the detention of the Witnesses three times. On 26 February, the prosecutor submitted his case, charged the Witnesses under Section 158 of the National Penal Code and demanded that each Witness receive a five-year prison sentence and be fined NPR 50,000. On 27 February, the district court ordered their release on bail payment of NPR 200,000 (approximately EUR 1,528) each. No statements from the prosecution’s witnesses were recorded. The trial is listed to continue in the Kaski District Court.
	38. **Pokhara (Kaski District)** — On 17 March 2020, police detained three Witnesses: Hugh Lee and his wife, Karam Lee (U.S. citizens), and Tek Bahadur Gurung. Two policemen in civilian clothes went to the house of Mr Gurung and enquired about the Lee couple. The police said that they had received a complaint that the couple were preaching religion and that they wanted to arrest them. Mr Gurung objected and asked the police what evidence they had that the couple were preaching or converting people. This infuriated the police, who then arrested him for the alleged crime of ‘indecent behaviour’.
	39. On 17 March, the Kaski District Court granted a five-day detention for the Lee couple, and on 18 March, the DAO of Kaski granted a seven-day detention for Mr Gurung.
	40. Because of the spread of COVID-19, on 24 March the DAO organised a hasty trial, convicted Mr. Gurung and fined him NPR 5,200 (approximately EUR 37). Mr Gurung was not even aware that a trial was in progress. He was simply forced to sign a document and then given a bill for payment. On 7 October, Mr Gurung filed an appeal at the Kaski District Court. The court denied the appeal on 14 December 2020 and upheld the conviction. On 27 March, the Lee couple were released from detention by the police on a guarantee of NPR 230,000 (approximately EUR 1,587) each. However, when they were summoned to court on 24 April, they were again detained until the bail hearing on 26 April, when the court set their bail at NPR 200,000 each. After paying this sum, they were released. Thus, they suffered twice — first at the police station and then at the court — and they were forced to pay the bail amount twice.
	41. The witness examination started on 3 November. Since none of the plaintiff’s witnesses appeared, lawyers for the Lee couple filed an application to invalidate these witnesses. Later it was found that the court had not sent notices to the plaintiff to appear on that day, and the court set 4 January 2021 for witness examination for the plaintiff, despite the defence witness examination having already concluded. This trial is ongoing.

# COMMUNICATION FILED WITH THE COMMITTEE

* 1. On 6 October 2020, a CCPR submission was filed on behalf of Sweta Manandhar and four others. The submission alleges that in the course of violating the complainants’ rights under Articles 18 (1) and 19 (1) of the Covenant, Nepal also violated Articles 9, 14, 26 and 27. Nepal arrested the complainants because a group of strangers took exception to Sweta’s peaceful religious discussion with a lady on the street. Nepal’s administrative authorities directed the police to arrest the complainants. They were arbitrarily detained for 80 days. Although they were eventually acquitted, the arrest, prosecution and investigative detention resulted from the State’s criminalisation of religious offences and an inadequate criminal procedure. This resulted in a lengthy period of custody that effectively constituted punishment for lawful, peaceful religious activity that should have been protected by the Constitution and the Covenant. Neither the courts nor the NHRC would consider the violation of human rights or the systemic defects in the Nepal Constitution and criminal law. The situation remains capable of repetition and evasive of domestic redress.

# CONCLUSION AND RECOMMENDATIONS

* 1. Jehovah’s Witnesses in Nepal, and as a worldwide organisation, express concern at the various violations of their fundamental rights as protected by the Constitution of Nepal and the Covenant. They respectfully request the government of Nepal to take the necessary steps to:
1. Allow each Jehovah’s Witness to profess, practise, share and preserve his or her own religion according to personal conviction as protected by Article 26 of the Constitution of Nepal.
2. Ensure that the peaceful outreach ministry of Jehovah’s Witnesses is not misinterpreted and that they are not falsely accused and charged under Section 158 (1) and (2) of the National Penal Code, 2074 (2017).
3. Acknowledge that Jehovah’s Witnesses oppose forced conversions and that, as a policy, they have never forced or coerced anyone from any nationality, religion or language to convert to their religion.
4. Hold that Jehovah’s Witnesses’ practices are internationally recognised and that they are entitled to constitutional protection by the Government of Nepal as well as by its various international commitments and treaties.
5. End harassment by government officials and provide necessary protection when followers of the majority religion harass Jehovah’s Witnesses for manifesting their religious beliefs.
6. Abide by its commitment to uphold the fundamental freedoms guaranteed by the COVENANT for all citizens, including Jehovah’s Witnesses.
	1. The APAJW will consider submitting an additional complementary submission with the CCPR after the adoption of the *List of Issues*.