



# General Assembly

Distr.: General  
27 August 2019

English only

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## Human Rights Council

Forty-second session

9–27 September 2019

Agenda item 3

**Promotion and protection of all human rights, civil,  
political, economic, social and cultural rights,  
including the right to development**

### **Written statement\* submitted by Jubilee Campaign, a non- governmental organization in special consultative status**

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[21 August 2019]

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\* Issued as received, in the language(s) of submission only.



## **Arbitrary detentions in Nepal regarding anti-conversion laws**

Jubilee Campaign would like to draw the attention of the Human Rights Council to the religious freedom situation in Nepal. Human Rights violations have been enabled by the enactment of laws that severely regulate religious practice, conversion, and proselytization. Accounts of arbitrary detentions of Christians as a result of these provisions are also addressed.

In 2008 the Hindu monarchy yielded power to federalism and democracy, paving the way for secularism and religious freedom. Nepal is a complex nation however, with religion deeply interwoven in its political and social infrastructure. Social structures in Nepal remain dominated by Hinduism as Hindus constitute 81.3 percent of the population, Buddhists 9 percent, Muslims 4.4 and Christians 1.4 percent. This coupled with radical nationalism has allowed for a number of instances of violence against minority religious groups.

### **Controversial provisions concerning Freedom of Religion**

The Constitution of Nepal, enacted in 2015, declared Nepal a secular state and provided protection for the rights of persons to profess, practice, and preserve his or her religion. The provision concerning the freedom of religion or belief (section 26 of the Nepali Constitution) however, was enacted along with concerning exceptions. Moreover, the Constitution of Nepal stipulates that ‘Sanatana Dharma’ – the Hindu faith – will be protected by the state.

Section 26 of the Constitution is concerning for several reasons. First, the scope of the right is narrower than currently accepted by international standards, as it does not incorporate and protect the right to choose and change religion. Second, section 26.3 places significant limits on the practice and manifestation of religion or belief.

#### ***Section 26.3 of the Constitution stipulates:***

“While exercising the right as provided for by this Article, no person shall act or make others act in a manner which is contrary to public health, decency and morality, or behave or act or make others act to disturb public law and order situation, or convert a person of one religion to another religion, or disturb the religion of other people. Such an act shall be punishable by law.”

This section prohibits anyone, while exercising his right to freedom of religion, to behave or act or make others act in a way that disturbs public law and order. The reference in this section to “acts contrary to public decency or morality” is vague and makes it possible to place restrictions upon religious practices that are not accepted by the religious majority.

Furthermore, section 26.3 prohibits religious conversion or even the act of “disturbing” the religion of others. This makes it possible to place prohibitions on sharing or explaining one’s own faith to others of different faiths, which information the listener may disagree with and declare offense to. Thus, the individual’s ability to speak about his or her religion to others is chilled and entails a ban on proselytizing.

In August 2017, Parliament passed a new criminal code bill to bring the criminal law in accordance with the new Constitution and incorporate the section 26 Constitutional restrictions on the right to freedom of religion. Section 9.156 of the new criminal code bill criminalizes the “hurting of religious sentiment”, and section 9.158 prohibits religious conversion and undermining or jeopardizing religions or faiths. The offence triggers a punishment of up to five years in custody and a fine of up to 50,000 rupees (the equivalent of \$488). The offence also carries other consequences, for example, deportation if the offender is a foreigner.

These provisions have come to be interpreted as criminalizing non-coercive proselytizing. The broad language of these provisions in effect bans all conversions, rendering the spirit of their Constitutional enactment meaningless. The change in the criminal code has led to a

significant increase in persecution of religious minorities, including Christians, in the country.

### **Implementation and consequences of provisions**

The law of Nepal is also inconsistently implemented throughout the country. Arbitrary detention is widely practiced. Those of the Hindu religion are able to proselytize without fear of consequences. whereas prosecutions have been brought against Christians for sharing their faith.

In April 2019 that five Christians, including a citizen from the United States of America, were arrested on faith-based charges. They were scheduled to attend a Christian conference and were arrested for attempting to induce conversions. All five Christians have been released, but still face court proceedings in connection to the proselytization charges. The citizen from the USA was later deported.

In June 2019 a citizen from the United States of America, Bradley Navarro Anagaran, was arrested, when police found him in possession of leaflets containing Christian teaching. When pastor Singh Sunar went to the police for information, he was also arrested. Both Christians were taken to court, charged with attempting to induce conversion to Christianity. After the initial order for a week's remand ended, police kept them in custody while extending investigation arbitrarily, they were later released on bail.

In August 2019 a Christian from the Republic of Korea, Cho Yusang, was arrested in Nepal on charges of "attempting to convert". Police arrested Cho for allegedly distributing leaflets and Bibles in the Barachi area of Kaski District. The recovery of some Bibles and Christian literature from Cho's personal belongings was projected as an offense. Religious Liberty Forum Nepal (RLFN) reported that the health of Cho deteriorated after he was incarcerated, and he has been hospitalized.

These accounts show that freedom of religion in Nepal is deteriorating and that the situation for Christians in the country is becoming more difficult. Moreover, the mere possession of Christian religious materials can also lead to arrest and arbitrary detention under miserable conditions. This should not be and must not be a criminal offense since it is the exercise of article 18 and thus an arbitrary deprivation of liberty according to the Working Group on Arbitrary Detention.

### **Dangerous sliding scale**

Jubilee Campaign notes with deep concern the increasing reports of arbitrary detentions on faith-based charges. Anti-conversion laws as introduced in Nepal are susceptible to and are frequently abused by extremists who seek to prevent anyone leaving the majority religion. In India and Pakistan, for example, vague and discriminatorily enforced anti-conversion and blasphemy laws have contributed to rising numbers of hate crimes and false accusations against members of minority groups. The minority groups' right to freedom of religion and its manifestation will always give way whenever it offends or upsets a member of the majority religion. The current situation in Nepal seems to push the country in this concerning direction.

The new criminal law provisions need an urgent response from the international community. These laws can be used by extremists and majority religious groups as tools to intimidate and prevent religious minorities from exercising their right to freedom of religion. The manner in which the government interprets both the Constitution and the restrictive provisions on the freedom to express one's faith have the potential to create deep religious divides in the country between its religious and ethnic populations.

### **Recommendations to the Human Rights Council**

- Urge Nepal to repeal or amend its Constitution and legal provisions on religious conversions to bring them into compliance with international religious freedom

standards. Nepal must abolish their broad exceptions to the right of expression and freedom of religious speech.

- Urge Nepal to accept international intervention and supervision in the reformation of its political and security system in order to comply with international standards and prevent future acts of violence against its citizens.
- The international community needs to open a dialogue with Nepal and discuss the human rights protections required to ensure that Constitutional protection of the right to freedom of religion aligns with international human rights standards.
- Support an open dialogue with Nepal to discuss the human rights protections required to ensure that the Constitutional protection of the right to freedom of religion aligns with international human rights standards.

## **Recommendations to Nepal**

Jubilee Campaign urges Nepal to:

- Repeal the anti-conversion law and amend 26.3 of the Constitution as they both curtail the right to freedom of religion or belief and undermine the commitments made by Nepal under international law.
  - Take effective measures to ensure the right to freedom of religion and do more to protect religious minorities and promote religious freedom.
  - Respect the due process of law and follow legitimate procedure in enforcing law.
  - Cease the arbitrary arrest and detainment of those who share their faith in a non-violent and non-coercive manner in accordance with international human rights standards.
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