

Status of Human Rights in Nepal for the 2020 Universal Periodic Review

Introduction

1. The European Centre for Law and Justice (ECLJ) is an international, non-governmental organisation dedicated to promoting and protecting human rights around the world. The ECLJ holds Special Consultative Status before the United Nations Economic and Social Council. The purpose of this report is to raise concerns regarding the ban on religious conversion and proselytising in Nepal for the 2020 Universal Periodic Review (UPR).

Background

2. Nepal is home to over 28 million people, and is a majority Hindu country, with roughly 81.3% of the population practicing Hinduism. In contrast, only 1.4% of the population practice Christianity. Despite constitutional provisions that clearly state that every person has the right to profess, practice, and preserve his/her religion according to his/or her faith, Nepal was recently ranked by a human rights watch group as the 32nd worst place in the world for Christians to live¹. That ranking partially stems from a 2017 anti-conversion law and increasing persecution of Christian converts as well as Christians falsely accused of converting others as well as acts of violence carried out against religious minorities by Hindu extremists.

3. Nepal's previous UPR review was held on 4 November 2015. As a result of that review, Nepal received a total of 195 recommendations, out of which "Nepal accepted 152 recommendations and took note of the rest"². According to the previous UPR report, recommendations were made that Nepal "strike provisions that appear to curtail religious freedoms"³, and that Nepal "[e]liminate the prohibition of conversion to another religion, which undermines freedom of religion"⁴. However, while noting these recommendations, Nepal pushed back against the recommendations stating:

Nepal considers that the constitution promulgated by the elected Constituent Assembly fully ensures religious freedom to all people, and prohibits discrimination of any forms on ground of religious faith and philosophy. Every person is free to choose, adopt, profess or practice religious belief⁵.

Nepal further stated: "However, proselytism by force or undue influence or inducement is prohibited. This does not undermine freedom of religion"⁶.

4. Rather than recognizing the significant problems that anti-conversion laws create and the burdens they place upon religious practitioners, since its previous UPR cycle, Nepal has instead reinforced its position by passing a law to codify the ban on religious conversion within the criminal code⁷.

Legal Framework

5. As noted above, Article 26 of Nepal's Constitution guarantees freedom of religion, including the right to profess and practice religion, while simultaneously restricting that freedom:

(1) Each person shall be free to profess, practice, and preserve his/her religion according to his/her faith.

(2) Every religious denomination shall, maintaining its independent existence, have the right to manage and protect its religious places and religious trusts in accordance with law.

Provided that it shall not be deemed to have hindered to make law to operate and protect a religious place or religious trust and to manage trust property and regulate land management.

(3) 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 law⁸.

6. The language in subsection 3 prohibits religious practitioners, such as Christians, from practicing key components of their religious faith. It also places restrictions on the ability of individuals to freely adopt a religion.

7. These restrictions are more clearly spelled out in the in the 2017 Criminal Code Bill which was adopted by the Nepali parliament and signed into law in October 2017 by Nepali President Bidhya Devi Bhandari. According to an unofficial translation:

1. Nobody should hurt the religious sentiment of any caste, ethnic community or class by writing, through voice/talk or by a shape or symbol or in any other such manner.

2. Anyone committing the offense as per sub-clause (1) shall face up to two years of imprisonment and a fine of up to twenty thousand rupees.

Furthermore,

1. Nobody should convert the religion of another person or indulge in such act or encourage such an act.

2. Nobody should indulge in any act or conduct so as to undermine the religion, faith or belief that any caste, ethnic group or community has been observing since sanatan [eternal] times or to jeopardize it with or without any incitement to convert to any other religion, or preach such religion or faith with any such intention⁹.

Both of these clauses severely impact the ability for Nepali citizens to practice their faith, especially Christians, who can be punished simply for sharing their belief in Jesus as the Son of the one and only true God. According to the language of the law, such a statement could be determined as offending the religious sentiments of Hindus, because Hindus believe in many gods. This same statement could also be construed as offensive to practitioners of other religions who do not believe that Jesus is the son of God. This type of language is highly problematic, as a merely innocent expression of one's religion can be taken as derogatory by the adherents of another religion. The law is entirely too broad and thus easy to misuse.

8. According to Nepal’s constitution, it has an obligation “to implement international treaties, agreements to which Nepal is a party”¹⁰. On 14 May 1991, Nepal acceded to the International Covenant on Civil and Political Rights (ICCPR), Article 18 of which provides that:

Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have or to adopt a religion or belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching.

Nepal is also a party to the Universal Declaration of Human Rights (UDHR), which protects religious freedom with language identical to the found in Article 18 of the ICCPR.

9. Currently, Nepal’s domestic law does not hold to the standard set by the UDHR and the ICCPR both of by which it has committed – according to its own constitution – to abide. Although Nepal has tried to argue that the limits that have been placed on religious freedom *do not* undermine religious freedom, this report seeks to demonstrate the contrary and why Nepal’s anti-conversion laws are so egregious.

Government Ban on Conversion and Proselytising

10. As stated above, Nepal’s anti-conversion law is highly problematic, and contrary to Nepal’s statement, Nepal’s constitution both undermines freedom of religion and fails to adhere to international commitments. After the adoption of Nepal’s new constitution, but prior to the passing of the anti-conversion law, Christians were targeted under Article 26 of the constitution for practicing their faith. For instance, in 2016, seven Christians were arrested for distributing Bible handbooks to students within the Dolakha district, which the government claimed is prohibited under the Constitution¹¹. In response to these arrests, International Christian Concern’s (ICC), a human rights organization, stated:

Today, Nepalese Christians have seen their fears realized with seven Christians being put through “hell” simply for sharing their faith. No one should fear arrest and imprisonment for sharing their faith. ICC calls for the immediate release of these seven Christians and for Nepal to review and amend Article 26 of their constitution as it clearly violates the religious liberty of all citizens of Nepal¹².

Also in 2016, a Christian social worker who ran a children’s home in Nepal was arrested and accused of forcing children to take part in Christian prayer services¹³. In fact, reports state that “the government announced to leaders of Christian orphanages and boarding schools in Kathmandu that it would impose huge fines, close them down, and confiscate possessions should they find *just one Christian booklet* in their institution”¹⁴. Such an announcement clearly points to governmental discrimination and undermining of religious freedom under the pretext of constitutional law. Christian-run organizations will most expectedly use Christian materials. In fact, the elements of freely practicing one’s religion include the ability to manifest that religion in private **or** in public, individually **or** in community with others. In the Christian faith, sharing the gospel through Christian booklets or through the distribution of Bibles is common. Further, reading one’s Bible is a common daily practice for Christian believers. Thus, the Nepali government would undoubtedly find Christian material at a Christian-run organization, even if that material happened to be one individual’s personal

Bible. In one case, police arrested a Christian couple after searching their house and finding a copy of the Bible. That couple was providing food, shelter, and education to eight children¹⁵.

11. Since the passage of the 2017 anti-conversion law, Christians have been increasingly targeted because of their faith by emboldened Hindu extremists who are using Nepal's anti-proselytising/conversion law extrajudicially.

12. In May 2018 four churches were attacked over a five day period by suspected Hindu extremists¹⁶. On May 9, a church in the Hilihang Rural Municipality, Panchthar was set on fire late night resulting in minor damages. The next day a church in the Doti region was set on fire while the Pastor was inside the back of the church and contacted local authorities after noticing the front of the church was on fire. Firefighters were able to put out the fire, but not after significant damage had already been done. On May 11 a church in Kanchanpur was set on fire late at night resulting in major structural damage. Similarly, on May 13 at 11pm, an unknown assailant tossed a bomb through the window of church in Dhangadhi¹⁷. And in November 2018, a Christian church was forced to shut down after two months of harassment and disruption from "high-caste Hindus" in western Nepal's Palpa District¹⁸.

13. In March of 2019, suspected Hindu extremists abducted Christian Pastor Dhruk Kumar Pariyar and accused him of taking money to spread Christianity¹⁹. They demanded that he give them the money he had received and when he said that he had no money they beat him with their fists and with wooden sticks. They further threatened him with death if he continued to share his Christian faith²⁰.

14. In April of 2019 four Christians were arrested on suspicion of proselytising. Police seized their Bibles as well as money to use as evidence that they were enticing others to convert to Christianity²¹. One of the Christians arrested, a United States Citizen, was deported. Then, in August 2019 a South Korean Christian was arrested and charged with "attempting to convert" by distributing religious leaflets and Bibles²². He has since been released on bail²³.

15. In July 2019, a Christian hospital dedicated to treating leprosy was "invaded by the hardliner Hindu political party Shiv Sena Nepal. The group accused the hospital of proselytising and converting people to Christianity in exchange for free treatment. During the attack, they openly burned around 30 bibles"²⁴.

16. One Nepali Christian pastor has been forced by Hindu extremists to go into hiding because of a video of a "restricted audience-interview" he gave that included his testimony²⁵. In the video, which was intended for a strictly Christian audience, the pastor discussed belief systems in Nepal, including statements about certain Hindu gods. Once the video was leaked, the pastor received death threats and "has been unable to return home from ministry travels . . ." ²⁶.

17. These are but a few examples of the escalating violence against and harassment of Christians that is occurring in Nepal as Hindu extremists feel emboldened to target religious minorities since the passage of the anti-proselytising law. The increase of such extrajudicial acts was foreseeable, and Nepal was cautioned against the passage of such a law. Such laws do not protect religious sentiment but instead "they serve as a tool for religious persecution and a means to settle personal disputes through false accusations"²⁷.

Conclusion

17. The 2020 Working Group on the UPR must address the egregious violation of religious freedom and urge the government of Nepal to reform its Constitution as well as its Criminal Code to ensure that both are in line with international treaties, such as the ICCPR and the UDHR. Nepal is subject to both of and has committed, in its own constitution, to abide by the standards set by these important documents. Thus, the Nepali government must work to ensure that its constitution and domestic law truly protect the human right to religious freedom for *all* of its citizens. Further, the Nepali government must not discriminate against its citizens, and must ensure that those who act on their own volition outside of the law are held accountable for targeting, harassing, and harming other because of their religious beliefs. Christians and other religious practitioners should be able to openly and freely practice the tenants of their faith without the fear of being attacked or having their places of worship destroyed.

¹ *World Watch List: Nepal*, OPEN DOORS, <https://www.opendoorsusa.org/christian-persecution/world-watch-list/nepal/> (last visited 22 Feb. 2019).

² Report of the Human Rights Council on Its Thirty-First Session, A.HRC/31/2 at 114 (22 July 2016).

³ *Database of Recommendations – Nepal*, UPR-INFO, https://www.upr-info.org/database/index.php?limit=0&f_SUR=9&f_SMR=All&order=&orderDir=ASC&orderP=true&f_Issue=All&searchReco=&resultMax=300&response=&action_type=&session=&SuRRgrp=&SuROrg=&SMRRgrp=&SMROrg=&pledges=RecoOnly (last visited 19 Mar. 2020).

⁴ *Id.*

⁵ *Id.*

⁶ *Id.*

⁷ *Nepal: Bill Criminalises Religious Conversion*, CSW (21 Aug. 2017), <https://www.csw.org.uk/2017/08/21/press/3676/article.htm>.

⁸ CONSTITUTION OF NEPAL 2015, art. 26, *available at* https://www.constituteproject.org/constitution/Nepal_2015.pdf.

⁹ *Nepal: Bill Criminalises Religious Conversion*, *supra*.

¹⁰ 51(b)(3) <http://www.lawcommission.gov.np/en/archives/979>

¹¹ *Christians Arrested in Nepal for Spreading the Gospel*, CHRISTIAN POST, (16 Jun. 2016), <https://www.christianpost.com/news/christians-arrested-in-nepal-for-spreading-the-gospel.html>.

¹² *Id.*

¹³ *Nepalese Christian Jailed over Religious Conversion*, UCANEWS.COM (22 July 2016), <https://www.ucanews.com/news/nepalese-christian-jailed-over-religious-conversion/76652>.

¹⁴ Vishal Arora, *Christians Win Nepal's First Anti-Evangelism Case*, WORLD WATCH MONITOR (6 Dec. 2016, 1:46 PM), <https://www.christianitytoday.com/news/2016/december/christians-win-nepal-first-anti-evangelism-case-constitutio.html> (emphasis added).

¹⁵ *Nepalese Christian Jailed over Religious Conversion*, *supra*.

¹⁶ *Nepal: Four Churches Targeted in Arson Attacks*, CSW (15 May 2018), <https://www.csw.org.uk/2018/05/15/press/3974/article.htm>.

¹⁷ *Id.*

¹⁸ *Church in Nepal Forced to Shut Down*, MORNING STAR NEWS (16 Nov. 2018), <https://morningstarnews.org/2018/11/church-in-nepal-forced-to-shut-down/>.

¹⁹ *Pastor Severely Beaten by Unknown Assailants in Southeastern Nepal*, INTERNATIONAL CHRISTIAN CONCERN (29 Mar. 2019), <https://www.persecution.org/2019/03/29/pastor-severely-beaten-unknown-assailants-southeastern-nepal/>.

²⁰ *Id.*

²¹ *Foreign Christians Arrested on Charges of “Converting” in Nepal*, CHRISTIAN HEADLINES, (8 Aug. 2019), <https://www.christianheadlines.com/blog/foreign-christians-arrested-on-charges-of-converting-in-nepal.html>.

²² *Id.*

²³ *Id.*

²⁴ Lindy Lowry, *Nepal: Where Talking About Your Faith Gets You Fined, Jailed, Attacked*, OPEN DOORS (2 July 2019), <https://www.opendoorsusa.org/take-action/pray/nepal-where-talking-about-your-faith-gets-you-fined-jailed-attacked/>.

²⁵ *Social Media Backlash Reflects New Era of Hostility in Nepal: Pastor Receives Death Threats for Sharing His Spiritual Journey*, MORNING STAR NEWS (16 Sept. 2019), <https://morningstarnews.org/2019/09/social-media-backlash-reflects-new-era-of-hostility-in-nepal/>.

²⁶ *Id.*

²⁷ Letter to His Excellency Dr. Arjun Kumar Karki, Ambassador of Nepal to the United States, from the American Center for Law and Justice (8 Dec. 2017), *available at* http://media.aclj.org/pdf/LTR-Karki-Nepal-12.8.17_Redacted.pdf.