

Representatives of various faiths, members of various interfaith organizations in Nepal, would like to express their solidarity to these points mentioned below in relation to the United Nations Periodic Review 2015.

A. INTRODUCTION:

Nepal's Constituent Assembly (CA) has been unable to agree a draft of the new Constitution past various deadline as of the end of March 2015, raising fears among religious minorities that the constitutional negotiations, which also include provisions for guaranteeing full religious freedom, may collapse altogether. The CA is currently in the process of framing the new Constitution of the new secular republic of Nepal, as stipulated by the Comprehensive Peace Agreement which ended Nepal's decade-long armed conflict in 2006.

In a recent meeting of key inter-religious leaders of the main faiths present in Nepal, concern was expressed that the planned programme of demonstrations by opposition parties may lead to conflict in the streets and a police "crack-down" on demonstrators. We believe that it is vital that Nepal's new constitution is inclusive and protects the rights of all faiths, particularly minority religions. Delays in finalising a constitution which fully protects all human rights are likely to produce a unfair and uncertain future for religious minorities in the country. The present Interim Constitution does not guarantee full religious freedom (e.g.: the right to choose / change one's religion, to which Nepal is committed by the international treaties it has signed).

Though the Interim Constitution (IC) 2007 has identified Nepal as Federal Democratic Republic, this and the structure of Federalism will only be institutionalized once the new constitution drafting is complete. Until then the IC 2007 is the key legal instrument. IC 2007 has declared the nation as "a multi-ethnic, multi-lingual, multi-religious, multi-cultural"¹ This statement accepts the identity of more than one religion. Further the national census 2011 also reports the presence of various religious groups mainly Christians 1.42%, Islam 4.39%, Kirat 3.05%, Buddhist 9.04% and Hindu 81.34%². As a large portion of the population is Hindu the other religions represent the minority. These minority religions stand at a critical crossroad concerning the freedom to express and to propagate ones religion or faith. Though the IC 2007 in its article 23 a provides a certain limit to religious freedom it is in contradiction with itself ".....(only) his/her own religion as handed down to him/her from ancient times"³

Nepal is party to 20 international human rights covenants/conventions/protocols including 7 (seven) core international Human Rights Instruments. Nepal is the co-signatory of International Covenant on Civil and Political Rights (ICCPR), the Article 18 of which clearly states "ones freedom to practice ones religion". Nepal thus commits to promote religious freedom in the country. Even though, the Freedom of Religion or Belief was not deliberately reported from the Government of Nepal during the first Universal Periodic Review (2011), the treaty bodies had given intentional recommendations on the issue as⁴.

¹The Interim Constitution of Nepal, Part 1, preliminary clause 3.

²Government of Nepal, Central Bureau of Statistics, <http://www.dataforall.org/dashboard/nepalcensus>

³The Interim Constitution of Nepal, Part 3, Fundamental Rights, Clause 23: a. *Every person shall have the right to profess, practice and preserve his/her own religion as handed down to him/her from ancient times having due regards to the social and cultural traditional practices.* b. *Provided that no person shall be entitled to convert another person from one religion to another, and shall not act or behave in a manner which may jeopardize the religion of others.*

⁴First-cycle UPR Recommendations (list of contained in Section II of the working group A/HRC/17/5): **A-106.1** "Complete the new constitution on time and take into account that peaceful coexistence requires that the right to freedom of religion for all citizens be clearly included and formulated according to international standard" (Holy See). "Ensure that the new constitution fully guarantees the right to freedom of religion or belief and the right to equality and non-discrimination in line with international standards" (Italy). **A - 106.21**"Make further efforts to overcome the difficult issues of discrimination on the ground of religion, gender, race or otherwise" (Japan). Continue its efforts to end discrimination on the grounds of religion, race or gender in law and practice (Pakistan).

B. LEGAL AND INSTITUTIONAL FRAMEWORK

1. The IC 2007 Article 23 approve ideas for freedom of religion but Article 23b clearly prohibits conversion. This clearly contradicts with article 18 of ICCPR.
2. The General Code (Muluki Ain 19.1) of Nepal enforces anti-conversion law and recommends punishment of conversion attempts for 3 to 6 years.⁵
3. There are no provisions for registering minority religious bodies such as Churches and Mosques. Acts to register non-governmental and charity organizations⁶ are not suitable for registering religious bodies which function differently from these institutions.

C. PROMOTION AND PROTECTION OF HUMAN RIGHTS ON THE GROUND

1. The provision in the IC 2007 has been practically nullified by the state authority (on the ground of contradictory sub-clause B) by promoting the anti-conversion notion against the fundamental right.
2. The government is indifferent towards rights of minority religions. There are no registration requirements for religious groups but this restricts minority religions
 - To legally own land and properties of other forms. (So legally churches, mosques, Gonpa, Baha'i-Temples and synagogues do not have legal recognition as religious institutions but only as NGO or Guthi or Company.)
 - To own burial sites.
 - To get government funding support. For e.g. the government does not require mosques to register, but Madrasahs seeking government funding must register with local district administration offices and supply information about their funding sources which usually are the mosques that don't have legal identity.
3. Tibetan Buddhists are still restricted from celebrating their religious events throughout the country. Buddhist monks or Muslims are harassed by the police and bureaucrats due their appearance, language, dress
4. ICCPR 18.4 have given parents and legal guardians the liberty to ensure the religious and moral education of their children in conformity with their own convictions. But the orphanage/children home managers of Christians and other minority religious faiths are often accused of proselytizing the children under their care for teaching them to pray and participate in religious functions.

⁵No one shall propagate any religion in such manner as to undermine the religion of other nor shall cause other to convert his or her religion. If a person attempts to do such act, the person shall be liable to imprisonment for a term of Three years, and if a person has already caused the conversion of other's religion, the person shall be liable to imprisonment for a term of Six years, and if such person is a foreign national, he or she shall also be deported from Nepal after the service of punishment by him or her.

⁶NGO act 2034, Guthi Act 2033, Company Act 2063

D. RECOMMENDATIONS :

We recommend that the Government of Nepal should:

1. Ensure the equality among all religious organizations and institutions, maintaining equal protection of law, right to practice individual religion, faith, and religious activities.
2. Amend clause 23 of IC 2007 guaranteeing that every person has freedom to have or adopt a religion or belief of his/her choice and freedom to voluntary conversion, and the freedom, either individually or in community with others and in public or private, to manifest (worship, observe, practice and teach) his/her religion or belief. Also ensure this right in the new constitution which is being written.
3. Formation of a minority Religious Commission is needed. The members should be appointed by religious bodies and consists of religious leaders, religious teachers, priests, pastors, imams, lama and gurus.
4. Provide sites for funerary rites (such as burial sites) and provide security for the same where such sites are already available so that people can conduct funeral rite with dignity in a secure environment.
5. Formulate Religious Act addressing the following issues
 - Relating to laws that directly or indirectly identifies and promotes a particular religion within the state as legal subjects.
 - Relating to the right of religious organizations or institutions or bodies to maintain their independent legal existence, and matters pertaining to construction, protection or management of temples, Gumbas, mosques, churches, or other sites of religious importance.
 - Relating to religious programs that are broadcast by the state-owned radio or television and providing similar facility to all religions on an impartial and fair basis.

DATED MARCH 23, 2015 Representatives of various faiths in Nepal including Hindu, Buddhist, Muslim, Christian, Bahai, Jain, Sikh etc....religions have signed this document to show their solidarity

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