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Human rights situations that require the Council's attention

Joint written statement* submitted by World Evangelical Alliance, Baptist World Alliance, Christian Solidarity Worldwide, non-governmental organizations 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.

[01 June 2019]

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



Nepal: Criminalization of religious conversion translates into Police harassment of Christians

1. On 23 April 2019 at 8 a.m., the Nepalese police arrested four people in Hotel Doko, Ghorahi, Dang District. The four arrested were Mr. Dilliram Poudel, Secretary General of the Nepal Christian Society, Indian citizen Mr. Gurab Shribastav, Nepali citizen Ms. Kunsang Tamang, and a United States national, Ms. Leanna Cinquanta. Their Bibles and personal belongings, including cash and laptops, were confiscated by the police.
2. The Nepal Christian Society is an associate member of the World Evangelical Alliance.
3. The arrestees, with the exception of the American citizen, were taken to court on charges related to religious conversion and distribution of Christian material, despite the fact that they were conducting meetings and trainings with pastors on 22 April, at a local church. The arrest was made in the morning and an arrest warrant was given only in the afternoon before moving the three arrestees to the police cell. Authorities sought to deport the American citizen.
4. On 29 April, after a court hearing that lasted almost all day, all three detainees were released. The American citizen was not deported, and was released in the evening of 24 April by the immigration office in Kathmandu.
5. Similar incidents have taken place in Nepal in recent years. In June 2016, seven men and one woman were arrested and charged with trying to convert children to Christianity. The eight Christian counsellors were arrested for distributing a pamphlet about Jesus in a Christian school while helping children through the trauma of the 2015 earthquake. In December 2016, a court dropped the case against these eight Christians. This was the first case about freedom of religion following the country's new constitution that was enacted in 2015.
6. In March 2018, Sonia Chanda Thakuri was arrested with her six months old baby and accused of attempting religious conversion and destroying Hindu idols. She was released after a week and the charges were later dropped.
7. In July 2018, Deep Rai, David Limbu, Issac Tamang and Laxmi Thebe were arrested and charged under Article 158 of the Criminal Code of 'preaching' in the market of Sakranti Bazar of Aathrai city in Terthum District. They were detained for 14 days, released with a bail of 5,000 Rupees each (equivalent to USD 500). Later in August, the court cleared them of all charges.
8. In September 2018, the authorities compelled the International Nepal Fellowship's¹ health care staff to remove an inscribed stone-plaque from a government hospital in Surkhet because the plaque was inscribed with a Bible verse, while at the same time allowing other religious materials, temple and shrines of Hindu gods within the hospital premises.
9. Almost every day, social media platforms² relay hateful postings. On Christmas Day on 25 December 2018, a group burnt Bibles in Narayanghat Bazar, Chitwan District. Government authorities have failed to act to stem hateful messages and rhetoric against Christians online.
10. Despite the fact that no one has been convicted of conversion, the Nepalese constitution and criminal law criminalizes religious conversion.
11. While the first clause of Article 26 of the Constitution of Nepal enacted in 2015 protects the freedom of religion, wide and far-reaching restrictions are imposed in its third clause: "No person shall, in the exercise of the right conferred by this Article, do, or cause

¹ International Nepal Fellowship is one of the oldest Christian charity organizations in Nepal which is still actively serving in different districts. Website: <https://www.inf.org/inf-nepal/>

² An example of a Facebook group which is inciting against Christians: <https://www.facebook.com/groups/1335792223174253/>

to be done, any act which may be contrary to public health, decency and morality or breach public peace, or convert a person from one religion to another or any act or conduct that may jeopardize the religion of others and such act shall be punishable by law.” The Constitution further gives a special status to Sanatan Dharma – the religion and culture handed down from ancient times which is commonly understood as Hinduism – over and above all other religious faith and traditions.

12. The restrictions imposed in the constitution are further strengthened by the offenses related to religion in section nine of the Nepal’s Muluki Ain (Criminal Code; 2017 Act), which came into effect on 17 August 2018.

13. Article 158 of the Criminal Code denies the right to choose one’s religion in the following terms: “(1) No one should involve or encourage religious conversion; (2) No one should convert a person from one religion to another religion or profess their own religion and belief with similar intention - either by using means of attraction, or not - and disturb the religion or belief of any ethnic group or community that has been practiced from time immemorial (Sanatan).”

14. Articles 156, 157 and 159 of the Criminal Code use the vague words “hate”, “insult”, “wounding religious sentiments” and “obstacles.” These words are open to misuse. This section of the criminal code has “a chilling effect” on freedom of expression as the section fails to provide the clear boundary of what is prohibited. These clauses could be invoked against a wide range of legitimate expressions of religious faith that are protected by international law.

15. Conviction carries a custodial sentence of up to five years and a fine not exceeding fifty thousand rupees (approximately USD 500). When a foreigner is involved, the person will be deported within seven days after completing the prison sentence.

16. This legislation is in violation of international human rights norms relating to the right to freedom of religion or belief. More importantly, the legislation legitimizes police clampdown on Christian activities as well as social hostility towards Nepalese Christians.

17. In our Oral and Written Statement to the Human Rights Council in 2018, we explicitly recommended to the government of Nepal to stop arresting or intimidating members of religious minorities on the false charge of attempting to “convert” others.³

18. In September 2018, the Diplomatic Mission of Nepal responded, in a right to reply at the Human Rights Council, to one of our statements by making a clarification to the “perceived misunderstandings of the provisions relating to religious freedom contained in Nepal’s new criminal code,”⁴ saying that the Constitution of Nepal guarantees the fundamental right to freedom of religion. The Diplomatic Mission added that constitutional and legal provisions seek to maintain the sanctity of religious sites, and makes provision that seek to protect social, cultural and religious harmony and tolerance.

Recommendations to the Government of Nepal

19. Modify Article 26-1 of the Constitution on freedom of religion in line with Article 18 of ICCPR, and remove from Article 26-3 the following sentence: “convert another person from one religion to another or any act or conduct that may jeopardize the religion

³ See the following statements: Written Statement submitted to the Human Rights Council’s 39th session on 23 August 2018: <http://worldevangelicals.org/un/pdf/HRC39%20Nepal.pdf>; Oral statement during the Human Rights Council’s 39th session Item 4 General Debate http://worldevangelicals.org/un/pdf/WEAGVA_UN_2018_HRC39_OralStatement_Item4_Final.pdf; Oral statement during the Human Rights Council’s 37th session Item 4 General Debate: <http://worldevangelicals.org/un/pdf/HRC37%20item%204%20DZ%20IN%20NP.pdf> 2015 Joint Submission of a UPR stakeholders report: <http://worldevangelicals.org/un/pdf/UPR2015-The%20Human%20Rights%20Situation%20in%20Nepal.pdf>

⁴ Video of the WEA Oral Statement and consequent response by the Diplomatic Mission of Nepal: <https://www.youtube.com/watch?v=FkkEGPXreg8>

of others”. The Constitution should include the 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.

20. Amend the Criminal Code, removing Articles 156, 158 and 159.
 21. Stop arresting or intimidating members of religious minorities on the false charge of attempting to “convert” others.
 22. Combat the stigmatization of minority religious communities; take initiatives to foster community cohesion and pluralism.
 23. Make provision for the local governments at ward level to facilitate and provide funeral/burial sites for all the religious groups according to their own practices.
 24. Protect religious minorities and their places of worship, especially those that have received threats, and fully investigate cases of attacks on places of worship and on members of religious minorities.
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