

## **Report on IPPFoRB visit to Nepal, 9 – 12 October 2017**

### **Summary**

1. The International Panel of Parliamentarians for Freedom Religion of Religion conducted a fact finding and solidarity mission to Nepal, 9 - 12 October 2017. After the mission to Myanmar in 2016, this was the second country visit by a small IPPFoRB delegation.

2. The visit, organized in collaboration with the newly established IPPFoRB Chapter Nepal, served a double scope: to learn more about the political and parliamentary reality in Nepal and how it affects freedom of religion or belief, and to support the Nepali IPPFoRB Chapter as the only political force standing out against the recent provisions in the new constitution and legislation that criminalizes religious conversion and the “hurting of religious sentiment”.

### **Participants**

3. The IPPFoRB delegation consisted of 5 MPs: Chair of the IPPFoRB Steering Group David Anderson (MP, Canada), Nqabayomzi Kwankwa (MP, South Africa), Mercy Barends (MP, Indonesia), Edison Urriola (MP, Panama), Daniel Toft Jacobsen (MP, Denmark).

4. The IPPFoRb supporting staff, Ed Brown and Mar’yana Haydanka, provided logistical and administrative support. Dr. Charles Reed coordinated with the IPPFoRB Nepal Chapter the questions relating to the programme during the preparatory stage.

### **Background to visit**

5. The visit took place at an interesting and significant point in Nepal’s constitutional and political life. After a fierce civil war, Nepal has recently transitioned from a Hindu monarchy to a secular democratic republic. While the new constitution, promulgated on 20 September 2015 established Nepal as a secular state, there are certain provisions such as Article 26(3) that infringes the right to freedom of religion or belief. Article 26(3) makes conversion an act punishable by law. On 8 August, the Nepali Parliament passed the criminal code bill criminalizing religious conversion and the hurting of religious feelings.

5. The new Criminal Code states:

*158. Religious conversion*

*1.No one should involve or encourage in conversion of religion.*

*2.No one should convert a person from one religion to another religion or profess them own religion and belief with similar intention by using or not using any means of attraction and by disturbing religion or belief of any ethnic groups or community that being practiced since ancient times.*



*3. If found guilty; there will be punishment of five years of imprisonment and penalty of fifty thousand rupees.*

*4. If foreigners are found guilty; they will have to be deported within seven days after completing the imprisonment in third clause.*

6. At the time of visit the legislation was not yet signed into law by the President.

7. The IPPFoRB Secretariat coordinated the organization of the fact finding mission with the IPPFoRB Chapter Nepal that was created in May 2017. Two members of the Janajagaran Party Nepal, Mr. BP Khanal (Secretary General) and Mr. Lokmani Dakal (MP, President of the Party) have been members of the IPPFoRB network since 2014. Mr. Lokmani Dakal was one of the 30 signatories of the Oslo Charter. Mr. Dakal and Mr. Khanal participated in IPPFoRB global conferences in New York and Berlin, and in the regional conference in Bangkok in 2017. On their initiative, IPPFoRB Nepal Chapter was established in May 2017. Among its members it counts 8 MPs from different political parties and religions.

#### **Aims of visit**

8. The visit to Nepal was aimed to provide an opportunity for visiting delegates to:

- (i) learn more about the political and parliamentary reality in Nepal and how it affects FoRB;
- (ii) learn more about IPPFoRB Nepal Chapter;
- (iii) support IPPFoRB Nepal Chapter with its FoRB advocacy with the Government of Nepal.

#### **Schedule**

9. The IPPFoRB delegation visited Nepal from 9 – 12 October 2017. The delegation met with representatives of ethnic and religious groups, representatives of non-governmental organizations, representatives of political parties, parliamentarians and religious leaders. The planned meetings with government representatives had to be cancelled due to the instable political situation. The programme of the solidarity mission is set out in the Attachment 1 to this report.

10. In particular, the IPPFoRB delegation met with the Speaker of the Parliament, Hon. Onsari Charti Magar and the Secretary General of Nepalese Congress Party, Dr. Shasank Koirala. Members of the delegation raised questions about the restrictions a new legislation might impose on the legitimate conversions, the rules requiring religious organizations to register as NGOs and the places for burial of people from religions other than Hindu.



11. The Nepalese MPs, recognizing the importance of freedom of religion or belief as a fundamental right and emphasizing their willingness to collaborate with international colleagues, were very cautious when they discussed the new Criminal Bill. In particular, Hon. Onsari Charti Magar pointed out that the proposal of the new legislation was broadly discussed in the Parliament and it is the duty of the Constitutional Court to decide on constitutionality of the provisions eventually claimed to be in contrast with human rights obligations of Nepal and violate fundamental rights and freedoms guaranteed by the Constitution.

12. Chair Person of the National Human Rights Commission, Mr. Anop Rag Sharma, recognized that freedom of religion or belief has no particular place in the agenda of the Commission and encouraged the IPPFoRB Nepal Chapter to engage in promoting the FoRB agenda in the parliament, offering Commission's collaboration and support.

13. Mr. Sharma also encouraged the IPPFoRB delegation to address the Nepalese government with request to revise the Constitution and to amend articles on freedom of religion or belief that are in contrast with international standards.

14. Just before the delegation's visit, on the 3<sup>rd</sup> November, with the view of the upcoming elections to Parliament scheduled on November 26 and December 7, two biggest communist parties of Nepal – CPN-UML and CPN – Maoist Centre agreed to merge their parties and became the largest political force in the country. This put the government stability under question and extraordinary meetings of the government officials took place during the period the delegation was in Nepal. A few days after the IPPFoRB delegation's visit, on 16 October, the main ruling party, Nepali Congress, and Nepal Democratic Forum announced their unification.

## **Output**

### *Media*

11. A joint Op-ed, underlying the risks that the Criminal Bill provisions might bring in terms of restrictions upon legitimate expressions of freedom of religion or belief, and signed by David Anderson and Lokmani Dakal, was published in the Nepali paper [Ratiopati](#) (Attachment 2)

12. The Op-ed was also published at IPPFoRBs own web page: <http://ippforb.com/opinion-religious-freedom-in-nepal-teetering-on-the-edge-of-a-precipice/>

13. The Op-ed was also published on MP and member of the Steering Group, David Anderson's web page: <http://www.davidanderson.ca/opinion-religious-freedom-nepal-teetering-edge-precipice/>



14. An overview of the delegation's visit and meetings was published in on-line outlet nepalchurch.com. The article is available here:

<http://nepalchurch.com/14381/delegation-of-international-parliamentarians-for-religious-freedom-to-nepal-kathmandu/>

15. A template press release was also made available for all the members of the delegation.

#### *Social media*

16. The Human Rights Commission office in Nepal published a post about the meeting of the IPPFoRB delegation with Hon. Chairperson Anup Raj Sharma and Hon. Commissioner Mohna Ansari on its Facebook and Twitter pages. These were shared by IPPFoRB's own Facebook and Twitter pages.

#### **Next steps**

17. Nepali President Bidhya Devi Bhandari signed the Criminal Code Bill into law on 16 October 2017.

18. The Bill was signed on the same day that the UN General Assembly elected Nepal as one of 15 new members of the UN Human Rights Council. It will be Nepal's first time to hold this role and it is due to start its term in office on 1 January 2018 for a period of three years.

19. Due to the upcoming elections in Nepal where the total number of parliamentarians will be significantly reduced and some of the IPPFoRB Nepal Chapter members might not be reelected, new plans will need to be made after the elections.

20. At the same time, the IPPFoRB has a unique possibility and responsibility to provide support to the IPPFoRB Nepal Chapter in its work of promoting of FoRB in Nepal.

21. Eventual further steps might be:

- second solidarity mission to Nepal, once the new IPPFoRB Nepal Chapter membership will be confirmed

- engage with Nepali stakeholders on encouraging the government to clearly define what is meant by "criminal conversion" so that it is in line with international norms.

- training for the MPs in order to provide them with necessary knowledge on freedom of religion or belief as a fundamental right and practical tools for recognizing and reacting to the threats to FoRB from state and non-state actors



- closer collaboration with the office of Human Rights Commission in identifying local institutions able to provide an authoritative interpretation of the provisions relating to freedom of religion or belief contained in the Constitution and the new Criminal Code in respect of the international human rights obligations of Nepal

**IPPFoRB Fact Finding and Solidarity Visit to Katmandu, Nepal**

**9-11 October 2017**

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*The visit to Nepal provide an opportunity for visiting delegates to: (i) learn more about the political and parliamentary reality in Nepal and how it affects FoRB; (ii) learn more about IPPFoRB Nepal; (iii) support IPPFoRB Nepal with its FoRB advocacy with the Government of Nepal.*

**Monday, 9<sup>th</sup> October**

12:30 PM      **Arrivals**

Delegates are free to check in to the Hotel from 12.30 PM.

5.00 PM      **Meeting with IPPFoRB Nepal Chapter**

*IPPFoRB delegation met with Mrs Yashoda Lama, State Minister of Land Reform, Vice Chair of IPPFoRB Nepal Chapter*

Location: Hotel meeting room

7:00 PM      **Informal Roundtable Buffet Dinner with IPPFoRB Nepal**

Location: Hotel Restaurant

**Tuesday, 10<sup>th</sup> October**

7.00 AM      **Breakfast meeting with the British Ambassador Richard Morris and Swarnima Bhandari**

Location: Hotel Coffee Shop



8.30 AM **Roundtable meeting with IPPFoRB Nepal**

Location: Hotel meeting room

Official Welcome: Pastor Tonka (IPPFoRB Nepal)

Response: David Anderson (Chair IPPFoRB)

*IPPFoRB Delegation met with Hon. Dulari Harijan, MP (The Communist Party Maoist Centre), and Secretary of the IPPFoRB Chapter Nepal*

10.30 AM Coffee break

11.00 AM **Roundtable meeting with Nepalese Civil Society Organisations**

Location Hotel Meeting Room

Welcome: David Anderson (Chair IPPFoRB)

12.30 PM **Lunch with Nepalese Civil Society Organizations' Leaders**

Location: Hotel Restaurant

2:00 PM **Depart Hotel**

2.30 PM **Tour of Parliament**

3.30 PM **Meeting with Speaker of the Parliament Hon. Onsari Charti Magar**

4.30 PM **Meeting with Dr. Shasank Koirala, Secretary General of Nepalese Congress Party**

5.30 PM **Return to Hotel**

**Wednesday, 11th October**



9.00 AM **Briefing Meeting for IPPFoRB Delegation**

10.00 AM **Depart Hotel for Government Compound**

11.45 AM **Meeting with Government Ministers** – *meetings were cancelled due to extraordinary meetings of the government officials*

The IPPFoRB Delegation will divide into 3 to meet with:

- Minister of Justice
- Minister of Culture
- Minister of Home Affairs

1.00 PM **Working lunch**

2.30 PM **Meeting with President or Vice President of Nepal** *meetings were cancelled due to extraordinary meetings of the government officials*

3.00 PM **Meeting with National Human Rights Commission**

*IPPFoRB Delegation met with Chair Person Anop Rag Sharma and Commissioner Mohana Ansari*

3.45 PM **Meeting with Prime Minister of Nepal** *meetings were cancelled due to extraordinary meetings of the government officials*

5.00 PM **Debrief Meeting for IPPFoRB Delegation and IPPFoRB Nepal**

Location: Hotel Meeting Room

## **Departures**

**Thursday, 12th October**

AM **Departures**





## Attachment 2

### Religious Freedom in Nepal - Teetering on the Edge of a Precipice

Nepal is a country known throughout the world for its spectacular geography. It is home to eight of the world's ten tallest mountains and perhaps most famously, to Mount Everest, the highest point on Earth.

But below the awe-inspiring Himalayan peaks lies a country which is at a significant point in its constitutional and political life. This beautiful country is at pivotal moment where recent and prospective changes, if not amended, may have serious consequences for freedom of religion or belief in the country. This was the overarching conclusion drawn by an international delegation of parliamentarians that visited Nepal, 9-12 October 2017.

Travelling under the auspices of the International Panel of Parliamentarians for Freedom of Religion and Belief (IPPFoRB), and at the invitation of the recently created IPPFoRB Nepal Chapter, parliamentarians from Latin America, Africa, North America, Europe and Asia met with civil society organisations, Nepalese parliamentarians and government ministers. These meetings provided unique insights into the health of religious freedom in Nepal and left little doubt that this most basic of human rights is under immense stress teetering on the edge of precipice.

International parliamentarians were shocked to find that while Nepal's constitution establishes the country as a secular state, there are certain constitutional provision that infringe upon freedom of religion or belief in the country. Of particular concern is Article 26(3), which jeopardises the fundamental right of every individual to follow a religion of his or her own choice and to manifest that religion in word and action. It states:

*No person shall, in the exercise of the right conferred by this Article, do, or cause to be done, any act which may be contrary to public health, decency and morality or breach public peace, or convert another person from one religion to another or any act or conduct that may jeopardize other's religion and such act shall be punishable by law.*



Yet more worrying still, on 8 August 2017 the Nepalese Parliament passed secondary legislation to give effect to this Clause. This Criminal Code Bill is currently awaiting the President's signature, and if it becomes law, it contains provisions which infringe yet further upon the right to freedom of religion or belief in the country.

The wording of Clause 158 of Section 9 of the Bill, which criminalises the 'hurting of religious sentiment', is worryingly similar to the blasphemy laws in Pakistan, which make it a criminal offence to speak negatively about another's religion. These laws are poorly defined and widely misused to settle personal scores, to target religious minorities or to further extremist agendas. Decades of misuse of the blasphemy laws have resulted in a situation where even voicing disagreement with these laws in Pakistan can lead to violence.

There is a very real risk that the provisions of Clause 160 in Section 9 of the Bill, which restrict religious conversion, could be invoked against a wide range of legitimate expressions of religion or belief, including the charitable activities of religious groups, or merely speaking about one's faith. We know that similar anti-conversion laws in force in neighbouring Burma and in six Indian states have been misused to foster social intolerance and violence towards peaceful religious activities, and to falsely accuse religious minorities - especially Muslims and Christians - of forcefully converting others.

True, Nepal is not Pakistan, but we have already seen threats to freedom of religion or belief in Nepal that gives cause for concern that the country risks following Pakistan down a slippery slope of increased restrictions and heightened societal hostility against religious minorities. Last June, eight Nepali Christians were charged with attempting to convert children after simply sharing a comic book on the story of Jesus. Fortunately they were acquitted of all charges in December 2016, but similar cases could occur in the future, particularly if this Bill becomes law and the Constitution remains unchanged.

These developments demonstrate a worrying inconsistency with the requirements of Article 18 of the International Covenant on Civil and Political Rights (ICCPR), which lays out clear protections for religious freedom as a fundamental right of every individual, and which Nepal is bound to implement according to its own 1991 Treaty Act.



In the rush to pass its new constitution the government appears to have forgotten it is a signatory to international treaties that protect an individual's right to have a religion, to change that religion and even to have no religion at all. Nepal needs to be careful that it doesn't develop a reputation as the type of country that on the one hand signs international treaties, but then does the polar opposite when drafting and implementing its own laws.

This situation must change. Civil society organisations and parliamentarians in Nepal need to redouble their efforts to hold the government to account for its international obligations. This though is a struggle that is far too important just to be left to domestic actors.

The International Panel of Parliamentarians for Freedom of Religion or Belief, which has a presence in over 70 countries, is committed to pressing governments around the world to add their weight to these efforts by pressing the President of Nepal to withhold her signature from the Criminal Code and, when the time is right, amend Article 6 (3) of Nepal's Constitution.

These actions are not optional, but are vital, if we are to ensure that the right to freedom of religion or belief is upheld in this beautiful, mountainous and awe-inspiring country.

*Lokmani Dhakal, Member of Parliament, Nepal, and Chair of IPPFoRB Nepal Chapter*

*David Anderson, Member of Parliament, Canada, and Chair of the IPPFoRB Steering Group*