

INTERNATIONAL RELIGIOUS FREEDOM ROUNDTABLE

Washington, D.C.

August 17, 2015

To the Members of the Constituent Assembly of Nepal,

We write as a group of concerned organizations and individuals who are scholars, religious leaders, and human rights advocates to respectfully draw your attention to the issue of religious freedom in Nepal. While acknowledging the incredibly demanding and complex task that you have been given by the people of Nepal in drafting a new constitution and the great progress that has been made thus far, we must ask that you take a moment to review an alarming section of the most recent draft of the Constitution and consider the possible negative impact this section will have upon Nepalese society and its potential to violate multiple international agreements ratified by the government of Nepal.

In a recently-released preliminary constitution, section 31(3) criminalizes “any act to convert another person from one religion to another.”¹ **Yet actual conversion to another religion or no religion is often impossible without the involvement of others.** Therefore, this section nullifies the freedom to share, change, and choose one’s religion.

Religion is communal by its very nature, and, therefore, a person’s decision to accept a particular religion or no religion (*i.e.*, convert) can only take place with the assistance of others from within that religious community. Very few convert to Buddhism except first by talking to Buddhists and learning about the Buddhist religion. Likewise, very few become Hindu except by being taught the ways of Hinduism by Hindus.

In short, no religious conversion is possible without several “acts to convert another person from one religion to another.” Since the proposed draft of the constitution criminalizes these acts, it, in effect, makes conversion impossible—and, thereby, it completely denies the freedom of people to choose and change their religion. In this way, Section 31(3) would severely undermine freedom of religion in Nepal.

Further, Section 31(3) violates Article 18 of the Universal Declaration of Human Rights (UDHR), which states:

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.²

If “any act to convert another person from one religion to another” is made criminal, the people of Nepal will never truly enjoy the freedoms listed in Article 18.

Nepal has also acceded to the International Covenant on Civil and Political Rights (ICCPR), which explicitly provides for the right “in public or private, to manifest [one’s] religion or belief in worship, observance, practice and teaching.”³ According to the Special Rapporteur of the Human Rights Council (HRC), “**the right to manifest one’s religion includes carrying out actions to persuade others to believe in a certain religion.**”⁴ The HRC Rapporteur noted, further, that “proselytism is itself inherent in religion.” Section 31(3) clearly criminalizes acts “to persuade others to believe in a certain religion”—and, thus, Section 31(3) violates the ICCPR.

¹ Constitution of Nepal 2015, Preliminary Draft, section 31(3).

² Universal Declaration of Human Rights, G.A. Res. 217A (III), U.N. Doc. A/810 (1948).

³ International Covenant on Civil and Political Rights, Dec. 16, 1966, S. Treaty Doc. No. 95-20, 6 I.L.M. 368 (1967), 999 U.N.T.S. 171.

⁴ Rapporteur’s Digest on Freedom of Religion or Belief, Office of the High Commissioner of Human Rights, *available at* <http://www.ohchr.org/Documents/Issues/Religion/RapporteursDigestFreedomReligionBelief.pdf> (emphasis added).

Moreover, given that expressing one's own religious views could result in another person's conversion and so constitute an "act to convert a person from one religion to another," Section 31(3) also violates Article 19 of the UDHR—the freedom of expression. In reference to Article 19, the HRC Rapporteur stated that "[t]he right to freedom of expression as it is protected by international standards . . . constitutes an essential aspect of the right to freedom of religion or belief."⁵ As such, by criminalizing the act of sharing one's beliefs, Section 31(3) undermines any true freedom of expression in Nepal.

Under Section 31(3) of the preliminary constitution, even the expression of one's beliefs would be a criminal offense if it leads to the conversion of another person.

The freedom to share, choose, and change one's religion are among the fundamental rights of man, and since these freedoms always involve "acts to convert a person from one religion to another," the preliminary constitution violates the UDHR, the ICCPR, and numerous other international human rights agreements.⁶

Furthermore, there is ample evidence to suggest that heavy restrictions imposed upon freedom of religion and expression encourages serious instability in society by empowering radical elements of dominant religious groups to marginalize and prosecute members of religious minorities. The instability caused by this marginalization results in a long list of repercussions, from negative international press to painful economic implications such as reduced foreign investment and tourism.

Members of the Constituent Assembly, please review and consider revising the language listed in Section 31(3) of the current draft of the Constitution, and ensure that all of the citizens of Nepal are free to choose any-faith or none without fear of persecution or prosecution for many generations to come.

ORGANIZATIONS

21ST CENTURY WILBERFORCE INITIATIVE

ALLIANCE DEFENDING FREEDOM INTERNATIONAL

AMERICAN CENTER FOR LAW AND JUSTICE

AMERICAN HUMANIST ASSOCIATION

CHRISTIAN SOLIDARITY WORLDWIDE – UK

CHURCH OF SCIENTOLOGY NATIONAL AFFAIRS OFFICE

COORDINATION DES ASSOCIATIONS ET DES PARTICULIERS POUR LA LIBERTÉ DE CONSCIENCE – FRANCE (CAPLC)

EUROPEAN FEDERATION FOR FREEDOM OF BELIEF (FOB)

EUROPEAN INTERRELIGIOUS FORUM FOR RELIGIOUS FREEDOM (EIFRF)

INSTITUTE FOR GLOBAL ENGAGEMENT

INSTITUTE ON RELIGION AND DEMOCRACY

⁵ *Id.*

⁶ Most notably is the United Nations 1981 Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief, A/RES/36/55.

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INTERNATIONAL INSTITUTE FOR RELIGIOUS FREEDOM

INTERNATIONAL RELIGIOUS LIBERTY ASSOCIATION

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GERARD NOODT FOUNDATION FOR FREEDOM OF RELIGION OR BELIEF

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