



## Religion

## Population

## Area

- Hindus : **66.4%**
- Ethnoreligionists : **13.1%**
- Buddhists : **12%**
- Muslims : **4.1%**
- Christians : **3.9%**
- Others : **0.5%**

28.851.000

147.181 Km<sup>2</sup>

## Legal framework on freedom of religion and actual application

With an overwhelming majority of 507 votes out of 601, on 16th September 2015 the constituent assembly of Nepal approved a new constitution for Nepal. The new constitutional text asserts the secular nature or character of Nepalese institutions. It also severely restricts religious liberty including the freedom to change religion.<sup>[1]</sup>

In article four, paragraph one, the new constitution stipulates: “Nepal is an independent, indivisible, sovereign and secular state.”<sup>[2]</sup>

It continues: “For the purpose of this article, the term ‘secular’ means the protection of religion and culture being practised since ancient times as well as religious and cultural freedom.”

State secularism was adopted in this former Hindu kingdom in 2007, a year after the abolition of the monarchy and the end of a decade of civil war between government armed forces and Maoist guerrillas. Since then, however, there has been uncertainty as to the form that future Nepalese institutions would take. The pressure exerted by the pro-Hindu parties was strong and added to the countless issues, which made an agreement between the members of the constituent assembly impossible to ratify. It was only after the earthquake of 25th April 2015 that, pressured by the people, the main Parliamentary political parties reached an agreement in August 2015. It is this agreement that has helped free Nepal from the paralysis which has gripped the country for almost 10 years. In the days before 16th September 2015, parliamentarians had voted on the different articles of the future constitution one by one. They rejected by more than two-thirds an amendment submitted by a Hindu party which wanted Nepal to be declared a “Hindu state”.

The rejection of this amendment was welcomed by the leaders of the Catholic Church in Nepal who head a community of barely 8,000 faithful. Father Silas Bogati, vicar general of the Apostolic Vicariate of Nepal, said: “Secularism is not just a religious issue. It is a value that induces religious freedom and equality of treatment between all religions.” He added that

the vote by the constituent assembly of Nepal implied that the state does not promote one religion at the expense of another.<sup>[3]</sup>

For Samim Ansari, coordinator of the National Muslim Struggle Alliance, this vote symbolised the culmination of a long struggle of religious minorities to be treated on an equal footing with the overwhelming Hindu majority of the population. In a country where Muslims, according to the 2011 census, represent 4.4 percent of the population, the Muslim leader considered that “every citizen has the right to see his religious freedom guaranteed”<sup>[4]</sup>

Comments from the Hindu parties were very different. The amendment rejected on 14th September 2015 was presented by the Rastriya Prajatantra Party-Nepal, the fourth largest political party represented within the constituent assembly of Nepal. On the day of the vote, Hindu activists demonstrated in front of the Parliament to put pressure on the Members of Parliament. At the end of the vote, Madhav Bhattacharya, President for Nepal of the Indian Hindu organisation Hindu Janajagruti Samiti (Committee for the Hindu Revival), declared that the MPs’ vote “hurt the feelings [of the Hindu majority of the Nepalese population]”. “Nepal has missed the opportunity to become the only Hindu state on the planet. It is a decision contrary to our identity,”<sup>[5]</sup> added the Hindu official.

All the debates were conducted in an atmosphere of tension and violence.<sup>[6]</sup> In the weeks leading up to the vote, clashes between security forces and protesters opposed to the new constitution resulted to more than 40 fatalities. Among those who felt aggrieved were the Madhesis ethnic minority, who feel they were not sufficiently represented by politicians debating the constitution.

Although those responsible for religious minorities have welcomed the assertion that the state should be secular, they are worried about certain legislative provisions within the new constitution. The law stipulates that the state safeguard the “Sanatana Dharma”, a term often translated by “Primordial Tradition” and which designates the essence of Hinduism. Article nine, paragraph three of the constitution, which deals with the national anthem, affirms that the national animal is the cow, an animal that Hinduism regards as sacred.

Article 26 of the constitution was described as “dangerous” by Father Silas Bogati in July 2015. Paragraph one declares religious freedom to be a fundamental right. Paragraph two authorises religions to organise worship without hindrance. Paragraph three states: “...no person shall... convert a person of one religion to another religion, or disturb the religion of other people. Such an act shall be punishable by law.”

In stating this, Nepalese politicians claimed that the constitution gave legitimacy to nationalist groups advocating the return of the Hindu monarchy.<sup>[7]</sup> Narayan Kaji Shrestha is vice-president of the Unified Communist Party of Nepal, the Maoist party that emerged defeated from the November 2013 elections. However, with 82 MPs, it remained the third-largest political party within the constituent assembly of Nepal. According to the latter, “the form of secularism on which the main political parties have agreed upon is a pure negation of the secularism that we have been advocating for.”<sup>[8]</sup>

Recent events have given people reason to be worried that the secular nature of the state is on a shaky foundation. More than 160 years after the “Muuki Ain” penal code came into force, Parliament passed a new one on 8th August 2017, referencing key sections of Nepal’s new constitution. The new code criminalises “offending the religious feelings” of others. The penalty can be up to two years in prison and a fine of 2,000 rupees. Article 9.158 of the penal code prohibits attempts to “convert” others or “to weaken the religion, faith or beliefs practised since ancient times (?sanatan?) by a community, caste or ethnic group”, and up to five years in prison and a fine of 50,000 rupees (just under \$500)<sup>[9]</sup> Signed by Bidhya Devi Bhandari, the President of Nepal, the law came into force on 16th October 2017.

Back in 2015, Deputy Prime Minister Kamal Thapa had offered assurances that the proposed changes to the Penal Code in no way contravened religious freedom. In February 2016 Parliament held a public consultation on the proposed penal code revisions. According to Nepalese Christian officials, more than 45,000 comments were submitted in writing but they claimed the opinions were not taken into account. Buddhist and Muslim organisations as well associations from the Himalayan minority of Kirats have also expressed their fears, but again these have allegedly not been taken into consideration.<sup>[10]</sup>

Pastor Tanka Subedi warned against the ideas of certain Hindu leaders for whom secularism is nothing but a Trojan horse introduced by Christians in Nepal to subvert the fundamentally Hindu character of institutions within the country<sup>[11]</sup>

There are other laws and regulations in addition to the constitution and the penal code which discriminate against non-Hindus. Laws currently in place mean that it is much easier to obtain legal recognition for Hindu organisations than institutions of other faiths. Non-Hindu organisations experience difficulties in acquiring, for example, property for use in an institutional capacity. Marriages involving couples of different religions are also difficult, mainly for cultural or social reasons. Christians face recurring problems trying to obtain land either to turn into cemeteries or for use to enlarge existing ones.

Although not strictly relevant to the topic under consideration, the Nepal earthquake of 25th April 2015 was of such significance that its impact would inevitably have repercussions with regard to human rights including religious liberty, as will be seen in the 'Incidents' section. The earthquake struck near the centre of Kathmandu and killed as many as 9,000 people and damaged or destroyed 600,000 buildings.<sup>[12]</sup>

## | Incidents

After the vote on the new constitution, the most serious incident regarding religious freedom occurred on 9th June 2016. Seven men and one woman were arrested for distributing a booklet about Jesus Christ in a Christian school, the majority of whose students were from other religious groups. The people distributing the booklet came to the school as part of a programme of assistance to Nepal following the earthquake in 2015. The booklet distributors were Christian and the police accused them of trying to convert the children. The Christian aid workers denied the accusations, saying that their only aim had been to help the children. These arrests have sparked an emotive response in Nepal. Just days before the arrest, the Kathmandu authorities had announced that all Christian institutions hosting orphans and children would be heavily fined or even closed if Christian books were discovered among their textbooks. Nevertheless, when the eight arrested Christians were put on trial in early December 2016, the court acquitted them and all charges against them were dropped.<sup>[13]</sup>

Another incident related to the Catholic Church. On 18th April 2017, an arson attack partially damaged the presbytery of the Assumption of the Blessed Virgin Mary Cathedral in Kathmandu. The damage was not as serious as many had feared but the fire could have been deadly. The police opened an investigation. The arson attack occurred a few weeks before the local elections of 14th May and 14th June, an important step before the January 2018 parliamentary elections. Father Silas Bogati, former parish priest of the cathedral, stated: "We are very worried. Since nothing has been left [to identify the arsonists], we do not know whether this is a personal attack or an action undertaken by an organisation with political aims."<sup>[14]</sup>

The government of Nepal announced on 4th April 2016 that Christmas was no longer a public holiday. Explaining this development, Shakti Basnet, Minister of Home Affairs, said: "We were forced to make this decision in order to control the [increase in] the number of non-working days. This measure is in no way directed against Christians."<sup>[15]</sup> Christmas had been added as a public holiday in 2008. The move came after the abolition of Nepal's monarchy, the only Hindu one in the world, which had been in existence for 240 years. The monarchy was replaced by a secular state.<sup>[16]</sup>

Christians have argued that the country had 83 non-working days or public holidays related to the Hindu religious

calendar and that one more day for the celebration of Christmas did not make much of a difference. Nonetheless, the government stuck to its decision, stating that Christmas would remain a day off for Christian employees employed in public service.

The National Federation of Christians in Nepal stated: “The government aims at restricting the rights and religious freedom of minorities.”<sup>[17]</sup> In addition, Christians argued that, instead of abolishing Christmas as a public holiday, the authorities should prioritise rebuilding the country after the earthquake of April 2015.

Four churches were attacked within the course of five days during May 2018. Nobody was hurt No one has claimed responsibility. Three of the churches were victim to arson attacks – Hebron Church, Hilihang Rural Municipality, Panchtar (9th May), Emmanuel Church, Doti (10th May) and Emmanuel Church, Kanchanpur (11th May). Mahima Church, Dhangadhi, was bombed on 13th May, and was partially destroyed.<sup>[18]</sup> Although police said the Biplab Maoists were to blame, local sources highlight the significance of threats made over the previous weeks by a Hindu extremist group. It came after six Christians were placed under police custody in Tehrathrum district, eastern Nepal, under charges of evangelising. Two of them were arrested on 9th May after singing worship songs in the street and the other four were arrested at home.<sup>[19]</sup>

## Prospects for freedom of religion

A Himalayan nation squeezed between the two giants that are India and China, Nepal is experiencing a time of change at a fundamental level. A mosaic of 125 ethnic groups, Nepal has chosen a republican and federal structure, and yet the seven provinces are far from being stabilised. Against this shifting backdrop, the tensions fuelled by Hindu groups are an additional factor of instability. Religious minorities will no doubt watch carefully to see how the new penal code is applied and whether religious freedom will be upheld in their country.

## Endnotes / Sources

[1] “The country adopts a Constitution strongly restricting religious freedom”, Eglises d’Asie, 17th September 2015, <http://eglasie.mepasie.org/asia-du-sud/nepal/2015-09-17-le-pays-se-dote-d2019une-constitution-a-la-fois-laique-et-restreignant-fortement-la-liberte-religieuse>, (accessed 9th April 2018).

[2] For references related to the text of the constitution, see: [https://www.constituteproject.org/constitution/Nepal\\_2015.pdf](https://www.constituteproject.org/constitution/Nepal_2015.pdf)

[3] “The country adopts a Constitution strongly restricting religious freedom”, Eglises d’Asie, 17th September 2015, <http://eglasie.mepasie.org/asia-du-sud/nepal/2015-09-17-le-pays-se-dote-d2019une-constitution-a-la-fois-laique-et-restreignant-fortement-la-liberte-religieuse>, (accessed 9th April 2018).

[4] Ibid.

[5] Ibid.

[6] On a travel tour of South Asia, Cardinal Fernando Filoni, Prefect of the Congregation for the Evangelization of Peoples, was scheduled to visit Nepal from 15th to 19th September 2015, in particular to demonstrate the proximity and solidarity of the Catholic Church to the Nepalese citizens bruised by the earthquake of 25th April. His visit was canceled for, officially, security reasons. His arrival in Kathmandu could have been understood and denounced by Hindu extremists as a maneuver of the Holy See aimed at preventing the restoration of the Hindu religion as a State religion in Nepal.

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- [9] "Nepal's Protection of Religious Freedom on Downward Spiral", Ewelina U. Ochab, Forbes, 7th February 2018, <https://www.forbes.com/sites/ewelinaochab/2018/02/07/nepals-protection-of-religious-freedom-on-downward-spiral/#4db9137cc87b> , (accessed 9th April 2018)
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