



ADF INTERNATIONAL

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8 April 2016

Dear Bidhanyan Samiti,

**RE: Proposed “anti-conversion” legislation**

We write to express our concern about draft legislation which restricts the right to profess and practice the religion of one’s choice.

The proposed legislation, especially Article 156, makes it a punishable crime to even express one’s religious beliefs and stands in direct contrast to the fundamental right to freedom of conscience and the freedom to adopt, protect/preserve and practice his/her religion safeguarded under Article 26 of the Constitution of Nepal.

It has been found that an increase in regulations concerning religion has resulted in violence against religious communities, especially religious minorities. In India, similar laws titled as “freedom of religion acts” or more commonly known as anti-conversion laws have been known to encourage violence against religious minorities. Such laws or even draft legislation have had adverse consequences for religious minorities and have reportedly fostered mob violence against them.<sup>1</sup>

Taking note of this trend, in its 2011 report, the United States Commission on International Religious Freedom (USCIRF) noted<sup>2</sup> in its report on India that, *“The harassment and violence against religious minorities appears to be more pronounced in states that have adopted ‘Freedom of Religion’ Acts or are considering such laws...”*.

After a visit to India, the former Special Rapporteur on Freedom of Religion or Belief, Asma Jahangir, noted in her report that:

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<sup>1</sup> Report of the Special Rapporteur on freedom of religion or belief, Asma Jahangir, Addendum, MISSION TO INDIA (A/HRC/10/8/Add.3, 26 January 2009).

<sup>2</sup> USCIRF Annual Report 2011 – The Commission’s Watch List: India.

*Une alliance consacrée à la défense juridique de la liberté*

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*Even in the Indian states which have adopted laws on religious conversion there seem to be only few – if any – convictions for conversion by the use of force, inducement or fraudulent means. In Orissa, for example, not a single infringement over the past ten years of the Orissa Freedom of Religion Act 1967 could be cited or adduced by district officials and senior officials in the State Secretariat...*

The report goes on to state that:

*There is a risk that Freedom of Religion Acts may become a tool in the hands of those who wish to use religion for vested interests or to persecute individuals on the grounds of their religion or belief. While persecution, violence or discrimination based on religion or belief need to be sanctioned by law, the Special Rapporteur would like to caution against excessive or vague legislation on religious issues which could create tensions and problems instead of solving them.*

Article 18 of the International Covenant on Civil and Political Rights distinguishes the freedom of thought, conscience, religion or belief from the freedom to manifest religion or belief. It does not permit any limitations whatsoever on the freedom of thought and conscience or on the freedom to have or adopt a religion or belief of one's choice. These freedoms are protected unconditionally, as is the right of everyone to hold opinions without interference protected under Article 19(1). In accordance with Articles 18(2) and 17, no one can be compelled to reveal his thoughts or adherence to a religion or belief.

The proposed “anti-conversion” sections in the penal code would severely curtail the religious freedom of Nepal's citizens and would make illegal an individual's choice to change religions or to explain one's religion publically—all violations of Nepal's international agreements.

We urge the government of Nepal to:

1. Ensure the protection of the fundamental rights of all the citizens of Nepal to practice and profess the religion of their choice.
2. Withdraw the draft legislation which limits or restricts the freedom of conscience of the citizens of Nepal in violations of Nepal's international agreements.



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