



संयुक्त राष्ट्र संघका लागि नेपालको स्थायी नियोग
**PERMANENT MISSION OF NEPAL
TO THE UNITED NATIONS
GENEVA**

Ref: Ge.OHCHR.2023/०७

The Permanent Mission of Nepal to the United Nations Office and other International Organizations in Geneva presents its compliments to the Office of the High Commissioner for Human Rights (OHCHR), and with reference to the joint communication from Special Rapporteur on freedom of religion or belief, Working Group on Arbitrary Detention and Special Rapporteur on minority issues, dated 07 October 2022 calling for observations on matter related to the alleged arbitrary arrest, detention and prosecution of Pastor Keshav Raj Acharya, a member of the Christian religious minority in Nepal, has the honour to enclose herewith response from the Government of Nepal.

The Permanent Mission of Nepal to the United Nations Office and other International Organizations in Geneva avails itself of this opportunity to renew to the Office of the High Commissioner for Human Rights (OHCHR), the assurances of its highest consideration.

Office of the High Commissioner for Human Rights (OHCHR)
Geneva

Geneva, 13 Jan 2023



Response of the Government of Nepal
to
the Special Rapporteur on freedom of religion or belief; Working Group on Arbitrary
Detention and the Special Rapporteur on minority issues



A. General Overview of the right to religion in Nepal

Constitution of Nepal, 2015

Preamble of the Constitution states protecting and promoting social and cultural solidarity, tolerance and harmony, and unity in diversity by recognizing the multiethnic, multi-lingual, multi-religious, multi-cultural and diverse regional characteristics, resolving to build an egalitarian society founded on the proportional inclusive and participatory principles in order to ensure economic equality, prosperity and social justice, by eliminating discrimination based on class, caste, region, language, religion and gender.

Article 26 of the Constitution ensures every person freedom to profess, practice and protect his/her religion according to the conviction. Moreover, every religious denomination have the right to operate and protect its religious sites and religious *Guthis*(trusts). However, 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 while exercising the conferred rights, or any act or conduct that may jeopardize other's religion is punishable by law.

National Penal Code, 2017

Section 155 of the code prohibits any person to damage or injure or, in any way, defile, destroy or pollute any place of religious worship, pray or function or place, object held sacred or burial place or place of sepulture or do similar other act with intent to outrage/hate or insult the religion or religious feelings of any caste, tribe/ethnic group, community or class or with the knowledge that such outrage or insult is likely to occur. One who commits this offence is liable for sentence of imprisonment for a term not exceeding three years and a fine not exceeding thirty thousand rupees. If any foreigner commits this offence he/she is

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deported from Nepal within seven days after the date of completion of the service of imprisonment as provided above.

Similarly, Section 156 prohibits outraging religious feelings of any caste, race, community or class by words, either spoken or written, by visible representation or signs or otherwise. One who commits such offence is liable to a sentences of imprisonment for a term not exceeding two years and a fine not exceeding twenty thousand rupees.

Section 157 prohibits causing obstruction to religious rites and rituals that are handed down or being followed from the time immemorial.

Section 158 prohibits to convert anyone from one religion to another or make attempt to or abet such conversion, to do any act or conduct which undermines the religion, opinion or feeling/faith of any caste, tribe/ethnic group, community or convert any one into another religion, whether by inducement or not, in a manner to so undermine or propagate such religion or opinion with the intention of making such conversion. One who commits such offence is liable to a sentence of imprisonment for a term not exceeding five years and a fine not exceeding fifty thousand rupees. If a foreigner commits such offence, he/she is deported from Nepal within seven days after the completion of the service of imprisonment as provided above.

Statute of limitation for filing a complaint for offence under section 158 is expiry of six months from the date of knowledge of commission of the offence and for other offences under sections 155, 156, 157 is expiry of six months from the date of commission of such offence.

B. Good Practices

- There is an equal opportunity to celebrate various kinds of religious festivals by every religious communities. Public holidays are given to celebrate major festivals of every religion such as EID-al-Fitra and EID-al-Adha, Chirstmas, Dashain, Tihar, Chhat, Udhauli etc..
- All the religious groups has established there religious sacred place. They practice their religious programmes freely without any intimidation and hindrance.



- The Government of Nepal conducts regular training for law enforcement official relating to Human Rights for proper monitoring, reporting and responding to discrimination and hate crimes of all aspects.
- Different religious communities have established civil society organizations to conduct their communal religious activities.
- The national culture policy has addressed different dimensions of social security through the protection of the secular religious system, culture and tradition of the country. Ethnic people are free to maintain their religion, custom, creed and tradition in their traditional ways.

C. Details of the investigation conducted by the District Police Office, Kaski (hereinafter referred as DPO, Kaski) on Mr. Keshav Raj Acharya's case:-

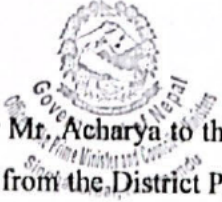
1. A person named Keshav Raj Acharya disseminated misleading information that the almighty God Jesus will cure the Coronavirus. Only those people who believe in God Yashu are protected against the virus and all other kinds of disasters. These kinds of rumors and lies were spread through social networks (Facebook/YouTube) during the fragile situation of the COVID-19 Pandemic, contrary to the public health emergency. Such activities disrupt public peace and promote propaganda that results in the disruption of geographical or territorial integrity or social harmony among different groups, castes, and segments.
2. On March 23, 2020, Mr. Acharya was arrested for the offense under Section 70¹ of the National Penal Code, 2017. On April 7, 2020, a report was submitted to the District Government Attorney Office, Kaski along with a detailed investigation.
3. District Government Attorney Office, Kaski, presented Mr. Acharya before the District Administration Office, Kaski with a charge sheet on April 8, 2020.

¹ Not to spread rumor: (1) No person shall, with intent to breach public tranquility, commit rioting or undermine or jeopardize the sovereignty, geographical or territorial integrity of Nepal or harmonious relation between different races, castes or communities, spread or propagate rumors or hold a procession with slogans, in a manner to provoke any one. (2) Any person who commits, or causes to be committed, the offence referred to in sub-section (1) shall be liable to a sentence of imprisonment for a term not exceeding one year or a fine not exceeding ten thousand rupees or both the sentences.



The District Administration Office made a decision of imposing a fine of Rs. 10,000/- and a compensation charge of Rs. 400/- to the victim relief on Mr. Acharya's case. Mr. Acharya was released on a bail amount of Rs. 5000/- on the same day. Photos and videos of Mr. Acharya saying that "Lord Jesus will cure this epidemic, so we should all become believers of Lord Jesus, we have blood of Lord Jesus in us thus we cannot be touched by Corona Virus" was found in several social networks and was also found saved in his mobile.

4. Mr. Acharya was arrested on April 9, 2020 for the offence against religious conversion and the offences against inhumane or degrading treatment. An investigation was carried out on this case.
5. During the investigation, a video was found in which Mr. Acharya tells [REDACTED] an eighteen years old boy that he is possessed by an evil spirit, and everything will be fine if he believes in Christianity and converts himself to Christianity. The video revealed [REDACTED] hands being tied with a rope by Mr. Acharya and was beaten in a public square [REDACTED]
6. During the investigation it was known that [REDACTED] was forced to change his religion to Christianity by Mr. Acharya. A detailed investigation report demanding punishment under the offense of proselytizing and inhuman or degrading behaviour against Mr. Acharya was submitted to the District Government Attorney Office, Kaski on May 13, 2020.
7. Mr. Acharya was presented before the Kaski District Court, together with the charge sheet on April 16, 2020. The Kaski District Court ordered a bail amount of Rs. 5,00,000/- for his release. Mr. Acharya was sent to prison upon failure to provide the bail amount. Later, on May 13, 2020, he was released from custody after paying the bail amount as per the order of the Kaski District Court.
8. However, an official letter dated April 14, 2020 was received from the District Police Office, Dolpa mentioning that a case of conversion of religion has also been registered against Mr. Acharya at the District Police Office, Dolpa and an investigation is ongoing. Moreover, the District Police Office, Dolpa had


Government of Nepal
Ministry of Home Affairs
Kaski District Police Office

requested to transfer Mr. Acharya to the District Police Office, Dolpa, if he is going to be released from the District Police Office, Kaski. Thus, Mr. Acharya was transferred to District Police Office, Dolpa on 13 May 2020.

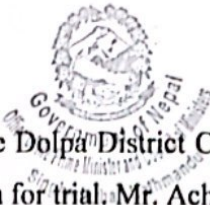
D. Decision of the Kaski District Court

As per the decision of the Kaski District Court dated 28 June 2022, Mr. Acharya was found acquitted of the charge.

E. Details of the investigation conducted by District Police Office Dolpa:-

1. A letter dated April 5, 2020 was received from the District Police Office, Kaski together with documents and evidence (photos) for further investigation on Mr. Acharya's case.
2. A deed prepared during the investigation mentioned that on April 14, 2020, Mr. Acharya distributed pamphlets of the Christian religion and attempted to persuade the local people of Room Village at Dolpa District, Ward no. 2 to the convert of their religion to Christianity. The Dolpa District Court issued an arrest warrant in the name of Mr. Acharya on April 14, 2020 for the offense of conversion of religion.
3. Description of the scene of offense mentioned that [REDACTED] were persuaded by Mr. Acharya to convert their religion which they had been following for ages and follow Christianity. If they do so all their pain, disease and sorrow will be cured.
4. On May 13, 2020, Mr. Acharya was brought to District Police Office, Dolpa from District Police Office, Kaski.
5. On May 19, 2020, Mr. Acharya gave a statement at the District Government Attorney Office, Dolpa confessing that he had distributed pamphlets at Room Village, Tripurasundari municipality, ward no. 2 of Dolpa District with the intention of converting the religion of the local people to Christianity.
6. The Investigation report of DPO, Dolpa dated May 19, 2020, along with the charge sheet of District Government Attorney Office, Dolpa dated May 20, 2020,





was submitted to the Dolpa District Court. The Court ordered the remand of Mr. Acharya in detention for trial. Mr. Acharya was sent to detention as per the order.

7. On June 30, 2020, Mr. Acharya was released on a bail amount of Rs. 300,000 as per the order of the District Court, Dolpa

F. Decision of the Dolpa District Court

The Dolpa District Court in its judgment dated 30 November, 2021, sentenced Mr. Acharya to 2 years imprisonment and a fine of Rs. 20,000/-

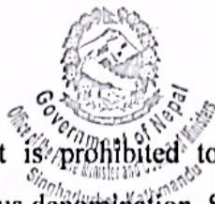
G. Decision of the High Court Jumla

Mr. Acharya filed an appeal against the decision of the Dolpa District Court to the High Court Jumla. The High Court Jumla in its judgment dated 13 July 2022 sentenced Mr. Acharya to one year imprisonment and a fine of Rs. 10,000/- according to Section 158(3) of the National Penal Code, 2017.

H. Conclusion

The Constitution has guaranteed every person's right to fair trial by an independent, impartial and competent court or judicial body. Furthermore, everyone should abide by the orders or decisions made by the courts in the course of the trial of lawsuits. In this case as well Mr. Acharya was not denied from the right to fair trial by an independent, impartial and competent court. As provided by the Constitution and legal measures the judgment of the Kaski District Court, Dolpa District Court and the High Court Jumla must be abided by. Mr Acharya still has the right to file against the judgment of the High Court Jumla under the provision for revision by the Supreme Court provided in Section 12 of the Administration of Justice Act, 2016.

GoN treats all religious minorities equally. Being a secular State, the Constitution of Nepal guarantees freedom of religion as a fundamental right. There is not any kind of discrimination on the basis of religious and ideological beliefs. The Constitutional provisions are in line with the ICCPR Article 18. Every person is free to choose, adopt, profess or practice religious beliefs. However, conversion by force or undue



influence or inducement is prohibited to ensure the full enjoyment of religious freedom by every religious denomination. Social and cultural harmony, tolerance, and unity in diversity are the inherent tenets of Nepal's identity. Nepal believes that freedom of religion cannot be impaired by coercion or monetary inducement for conversion.

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