To

The Special Rapporteur on Freedom of Religion or Belief

Subject: A Report on Intolerance and Discrimination based on Religion or Belief

Country: Nepal

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By: Mohd. Izharul Haque Mikrani

Intellectual Muslims Association of Nepal (IMAN)

Nepal is a country of amazing extremes, full of diversity and fascination of religion. Entire Nepalese population is composed of 125 Ethnic Caste Groups. There are ten religions practiced in Nepal. They are Hinduism, Buddhism, Islam, Kirat, Christianity, Prakriti, Bon, Jainism, Bahai and Sikhism. The main religions followed in Nepal are Hinduism, Buddhism, Islam, Kirat, and Christianity. As per the census of 2011, 81.3% of the Nepalese population is Hindu, 9.0% is Buddhist 4.4% is Muslim, 3.0% is Kirant/Yumaist, 1.4% is Christian, and 0.9% follows other religions. Muslims and Christians are the most vulnerable religious minorities in Nepal.

Constitution of Nepal 2015:

The Maoist insurgency that continued for 11 years ended on 21 November when a peace deal was signed. Centuries old Monarchy was abolished and Nepal was declared a secular Federal Republic nation on 18th May 2008. The new constitution was promulgated on 20 September 2015. Common Nepalese were happy anticipating that secular state would treat all faith holders as equals. But it is not happening so. The ruling upper caste groups such as Brahmin and Chetree are not willing to accept the changes. They are still sticking to the century old feudalistic mind set. Brahmin and chetree together forms 28.77 per cent of the total population only. However, their dominance in the mainstream of Nepal's politics, bureaucracy, army and police is above 80 per cent.

Since Nepal was declared a Secular State, Right wing Hindu nationalist party and radical Hindu organizations mounted huge pressure on the government to retain Nepal as a Hindu State. Therefore, in the first amendment, in the constitution definition of secularism was amended. In the article 4 clause (1) the definition of secularism is made ambiguous and contrary to the original definition practiced all over the world.

After the first amendment article number 4 State of Nepal clause (1) reads as under:

 Nepal is an independent, indivisible, sovereign, secular, inclusive, democratic, socialism oriented, federal democratic republican state. Explanation: For the purposes of this Article, "secular" means religious, cultural freedoms, including protection of religion, culture handed down from the time immemorial.

Additional explanation of secularism has created ground for discriminatory laws to curb the activities of religious minorities in the name of protection of ancient old beliefs and cultures (which clearly indicates Hinduism).

 Similarly in the Article 26 Right to freedom of religion in clause number (1) it is written that every person who has faith in religion shall have the freedom to profess, practice and protect his or her religion according to his or her conviction.

This clause needs to be made specific that any one will have the right to choose, change, influence, practice, propagate, teach, train or leave a faith or religion on his own will. Instead clause number 3 of Article 26 introduces more restrictions on religious freedom as it reads:

(3) 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.

In the under mentioned clauses of national penal code 2017 discriminatory arrangements are made to curb, contain and penalize the religious minorities groups.

156. Religious sentiments

1. No one should stab religious sentiments of any caste, community or ethnic groups by using texts, writing, verbal, symbols or any other means.

2. If found guilty; there will be punishment of three years of imprisonment and penalty of thirty thousand rupees.

157.  Religious traditions

1. No one should create any kind of obstacles in religious tradition of other faith being practiced since ancient times.

2.  If found guilty; there will be punishment of one year of imprisonment or penalty of ten thousand rupees or both.

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.

Above articles and clauses in the constitution of Nepal and penal code reflects that Nepal is dominated by one particular belief and culture. As long as discriminatory articles and clauses remain in the constitution and penal code minorities in Nepal would suffer.

Bigotry and Communal attacks against Muslims, Christians and Dalits:

 As recorded above, this religious minority comprises 4.4 per cent of the total Nepali population. As per the UNDP annual Human Development Index (HDI) Muslims are the weakest and most fragile religious group in the country.

To settle the religious agenda, Hindu fundamentalist groups often use Muslims as the soft target since the time of monarchy. Hindu mobs set mosques and Muslim properties on fire following the demolition of Babri mosque on 6 December 1992. The unilateral attacks were perpetrated by Hindu fanatic groups affiliated to organizations in India. Nepal shares 1800 kilometers porous border with India. Communal tensions in India often spill over to Nepali side causing the damage and hardships to Muslim minorities.

On 2nd September 2004 during the direct rule of King Gyanendra thousands of Hindus attacked mosques, Muslim-owned businesses and homes across Nepal to avenge the killing of 12 Nepalese workers by terrorists in Iraq. Two men were shot dead by the police. The intensity of unilateral attack against Muslim was so severe that government had to impose an indefinite curfew on the capital and in the other affected areas to restore order.

 Similarly when Nepal was being declared secular, one mosque in Sarochia, Biratnagar in eastern Nepal was bombed on 29th March 2008 killing two people on the spot. Several others were injured in the explosion.

 In Novermber 2016 on the occasion of Prophet Muhammad's birthday a Muslim rally was attacked by a Hindu mob in Matehia, Bankey district in Western Nepal in which two Muslims were killed on the spot. District court released all the accused against ordinary bail. In addition to this, in a decade seven prominent Muslims have been killed Hindu vigilantes.

 Muslimsm Christians and Dalits are facing self imposed ban on certain food habits. They cannot use beef in their kitchen for the fear of lynching and police action. As mentioned above cow slaughter is a punishable crime in Nepal.

To enhance the socio-economic status of Dalits, Women, Madhesi, Indigenous communities, government introduced Reservation Act in 2007 and accordingly these groups avail 38 per cent seats under reservation quota in civil services, army, police and health sector. That is indeed a positive move. But Muslims have been deliberately kept out of such reservation arrangements.

Corona virus pandemic and minorities:

Current Corona virus pandemic has affected the people of all castes, color, faiths, region and linguistic background. It has not spared any community in particular.

Compared to India, Bangladesh and Pakistan number of Corona virus infected people in Nepal is little. As of now 1176 people are infected from Corona virus and ten people have died of this virus so far (this figure is subject to change).

Nepal government imposed lockdown on 24 March, 2020. Public movement was completely restricted. Since then Coronavirus cases were under control.

Due to the open porous border with India, public movement continued across border even after India imposed lockdown on 24th March 2020. That added to the gradual increase in the corona virus cases in Nepal.

In the second week of April 2020, Indian media started a malicious propaganda against Muslim community accusing a Muslims' missionary organization called Tableeghi Jamat of deliberately spreading Corona virus with an intention to infect Hindus.

Almost all national and regional Indian TV channels began vicious propaganda for weeks portraying Muslims as Corona virus career. The insane propaganda resulted into the hate campaign, bigotry and violence against Muslims across India, Sri Lanka and Nepal.

As there is a huge political, economic, social and cultural influence of India in Nepal, Indian media propaganda sowed the seed of hatred in Nepalese society especially in the Southern Nepal called 'terai region'. Local Hindu fanatic organizations such as Rashtriya Swayam Sewak Sangh (RSS), World Hindu Federation, Bajrang Dal, Pashupati Sena and World Hindu Council were prompted to begin hate campaign, intolerance and hostility against Nepalese Muslims.

Because of the racial drive at several palaces in the Southern region of Nepal, Muslims suffered from the incidents of cruelties.

On April 12, 2020 in Saptari district of Eastern terai region, a 54 years old Muslim lady, Zainab Khatoon died of police brutality when she was trying to save her son from the police action right in front of her house. Likewise a 13 years old boy Mohammad Meraj son of Mohammad Afroj resident of Rajbiraj municipality of Saptari district was brutally booted down by the police on 18th April 2020. In the police attack his ribs were broken and penetrated into the lungs. Critically injured boy is still under treatment.

On 21 April, 2020 four Muslim employees were expelled from a factory in Bhairahwa, Rupandehi district of Southern Nepal on the false charge that they were Corona virus infected.

In the mid night of second week of May, Muslims neighborhood was attacked by Hindus in Parsa district in which several Muslims had sustained injuries. At the same time local administration of Parsa district authorized and ordered the police to shoot at sight any person who did not abide by the lockdown. That was aimed towards particularly Muslims.

A minor Muslim girl was raped by a Hindu boy in Kalika Mai municipality of Parsa district on 4th May, 2020 under the cover of lockdown. Local police were unwilling to register the rape case against accused that belonged to majority Hindu community. Later on the initiation of Izhar Mikrani, a Human Rights defender, district Superintendent of Police registered the case and accused was taken into custody and investigation is on.

These are only representative act of violence that was perpetrated by radical Hindus under passive attitude of the local administration and police.

Of the total Nepalese Muslims' population 99 per cent live in the Southern terai region in the mixed neighborhood where people of mostly Hindus of high and low caste also live. Due to the hate campaign launched on TV and social media entire society is seriously contaminated. Muslims are perceived as the main culprits and Corona virus career. Majority Hindu population looks at them with suspicion and hatred.

Even today after a prolonged locked down Muslims are facing harassment, taunting and insulting behavior from the majority community. Intellectual Muslims Association of Nepal (IMAN) an organization active for the minorities' rights has forwarded dozens of hateful posts and print materials to the Cyber Bureau of Nepal police. However, not any effective action against perpetrators of hate propaganda has been taken by the police so far.

Across Nepal, Muslims are living under undeclared social boycott and in an environment of anguish and fear. In these times of Corona virus crisis a Muslim individual is afraid to travel alone in Muslim outfit or bearing a religious or cultural identity.

Muslims do face humiliating discrimination in hospitals, relief distribution program and at the space of quarantine.

In spite of all odd and disgraceful conduct of Hindu communities and government agencies, Muslims are strongly abiding by the lockdown and all disciplinary measures introduced for the protection from COVID 19.

Muslims have voluntary shut down mosques and Islamic seminaries across Nepal since March 24 when the lockdown was first imposed in Nepal. Muslims avoided public gathering or collective performance of religious rituals during the holy month of Ramadan and Eid ul Fitr.

In the middle of the continuing COVID -19 pandemic, a Christian Pastor was arrested by Nepal police on March 28 on the false accusation of holding a worship service in violation of the country's nationwide lockdown.

In another incident Dalit youth Nabraj Bishwakarma and several of his friends were massacred in Rukum district when they went to take the bride who belonged to the upper Hindu caste. The UN has condemned the killings and has demanded an independent investigation into the case.

Challenges: Right Wing nationalist political and fundamentalist organizations carries the agenda of the restoration of Nepal as a Hindu state. This agenda is being supported by entire ruling Brahmin and chetree groups. This agenda of Hiduttva is also being promoted and supported by the ruling Hindu nationalist government in India. It is one of the reasons that India has not yet recognized the constitution of Nepal. Indian government, senior ruling party leaders often advise Nepalese political parties to amend the constitution of 2015.

Demands of Nepali minority groups:

1. Delete the additional definition of secularism added in the Article 4 of the constitution.
2. Remove the clause 3 in the Article 26 of the constitution which states that no one can be converted.
3. In the Article 26 clause 1 of the constitution it must be stated that any one will have the right to choose, change, influence, practice, propagate, teach, train or leave a faith or religion on his own will.
4. **Similarly in the Penal Code of 2017** remove clause 156 as it will promote religious disharmony and conflict between religious groups who have been coexisting and living in harmony in the community for ages.
5. Remove the clauses 157 and 158 of the Penal Code 2017 as they go against the spirit of religious freedom and the clauses of the international treaties and agreements signed by Nepal as a nation.
6. Make laws for all the religious entities to register with the concerned authorities of the country to protect and regulate their religious properties and rightful activities.
7. Allow religious institutions/organizations to be registered under existing NGO registration Act 1997 to function as religious bodies without restrictions, freely and fully according their registered constitutional framework.
8. Make legal provisions and grant authority to local government bodies to grant space for funeral/burial for all the religious groups according to their own practices.
9. Provide public Holidays on the occasion of major festivals of different religious groups.

If the current discriminatory trend of hate, bigotry and communal bias in Nepal if not eliminated would bring enormous sufferings to the minorities in Nepal.