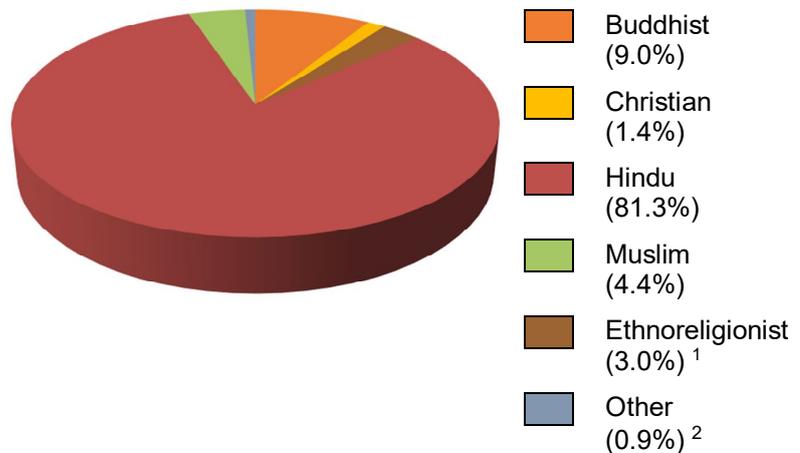


NEPAL



Area:	Population:	Political system:	Major Language(s):
147,181 km ²	31 million	Democracy	Nepali

Legal framework on freedom of religion and actual application

As the 2011 census showed, Nepal remains a majority Hindu country. The faithful themselves make much of the fact that for almost 240 years the country was the world's only Hindu monarchy before it was proclaimed a republic in 2006. The principal religious minorities are the Buddhists and the Muslims, the vast majority of whom are Sunni Muslims. A degree of syncretism is a central factor, with a great many people individually attached to one or another form of Buddhist, Hindu or animist beliefs. The size of the Christian minority is a source of some debate. While the number of Catholics is comparatively well known, based on the 8,000 believers recorded by the apostolic vicariate of Nepal,³ the rise of the Protestant communities appears to be a reality that is as evident as it is ill-defined. The Protestant churches – essentially evangelical and Pentecostal – are present today in every one of the 75 districts of the country, but it is difficult to be precise about the number of adherents. The figure of two million believers (almost seven percent of the population) is frequently cited, but has never been confirmed by reliable statistical studies. In 2011 the Reverend Lokmani Dhakal, a Protestant pastor and the secretary of the Nepal Christian Society (NCS), which is the largest federation of Protestant churches in the country, estimated that the number of Christians in Nepal was closer to one million believers.⁴

Christmas removed from the list of public holidays

From 2016, Christmas will no longer be formally celebrated in Nepal. On 4th April 2016, the Nepalese government announced that Christmas will no longer be an official public holiday.⁵ In this overwhelmingly Hindu country, Shakti Basnet, the Interior Minister, sought to justify the decision in these terms: "We have been obliged to take this decision in order to control the inflation in the number of public holidays. This measure is in no sense directed against Christians." Christmas had been included as a public holiday since 2008, following the abolition of the monarchy.⁶

Christians were deeply offended by this decision of 4th April, pointing out that the country has 83 public holidays linked to the Hindu religious calendar and that one extra day, for Christmas, could scarcely make a great difference. Nonetheless, the government stuck to its decision, but clarified that Christmas would still continue to be a holiday, but only for the Christians employed by the state.

The NCS objected that “the government is seeking to restrict the religious rights and freedoms of the minorities”, while other Christians pointed out that the real priority for the authorities should be to rebuild the country, following the terrible earthquake of 25th April 2015, which claimed 8,000 lives and left hundreds of thousands of homes destroyed or seriously damaged, rather than stopping Christmas from being a public holiday.

A secular constitution, adopted at a time of suffering

Paradoxically, it was this very same earthquake of 25th April 2015 (registering 7.8 on the Richter scale) that finally made possible the adoption of the constitution of this very young Republic of Nepal. It was not until 16th September 2015 that the constituent assembly of Nepal finally voted (by a very large majority of 507 votes out of a total of 601) to approve the new constitution for the country, thereby bringing to an end a laborious and delicate process that had begun eight years earlier. The new text affirms the secular character of the Nepalese institutions, while at the same time strictly curtailing religious freedoms.⁷

In this former Hindu kingdom, the secular character of the state was adopted in 2007, one year after the abolition of the monarchy and at the end of a decade of civil war between government armed forces and Maoist guerrillas. But since then, there has been continuing uncertainty as to what form the future Nepalese institutions would take. The pressure exerted by the pro-Hindu parties was very powerful and this, added to the numerous other difficulties – notably those relating to the delineation of the country's internal borders into seven different provinces – had made it all but impossible to reach agreement among the members of the constituent assembly.

It was not until after the earthquake of 25th April 2015 that, under pressure from the population, the major political parties in Parliament finally came to an agreement, in August last year, an agreement described by the Nepalese as “historic”.

It was this accord that has enabled the country to emerge from the paralysis that had engulfed it for almost 10 years. In the days leading up to 16th September, the members of Parliament voted one by one to approve the different articles of the future constitution. On 14th September, more than two thirds rejected an amendment by a Hinduist party which proposed to declare Nepal a “Hindu state”.

The rejection of this amendment was welcomed by leaders of the local Catholic Church (which represents a community of just 8,000 Catholics). Father Silas Bogati, the vicar general of the apostolic vicariate of Nepal, said: “Secularism is not merely a religious question. It is a value that implies religious freedom and equality of treatment among all the religions.” He added that this vote by the constituent assembly signified that the state should not seek to promote one religion at the expense of another, and again that it should allow its citizens to freely choose their religious beliefs and should guarantee their freedom of belief.

For Samim Ansari, the coordinator of the National Muslim Struggle Alliance, the vote represented the end of a long battle by religious minorities to be treated on an equal footing with the overwhelming Hindu majority of the population. In a country where, according to the 2011 census, Muslims represent just 4.4 percent of the population, this Muslim spokesman asserted that “every citizen has the right to see his religious freedom guaranteed.”

The response of the Hinduist parties was rather different. The amendment rejected on 14th September was submitted by the Rastriya Prajatantra Party-Nepal, the fourth largest body represented on the constituent assembly. On the day of the vote, Hindu militants demonstrated in front of the parliament in order to put pressure on the delegates. After the vote, Madhav Bhattarai, the President in Nepal of the Indian Hinduist organisation, the Hindu Janajagruti Samiti (Hindu Renaissance Committee), declared that the decision by the delegates “clashed with the sentiments [of the Hindu majority of the Nepalese population]”, adding: “Nepal has missed the chance to become the only Hindu state on the planet. This is a decision contrary to our identity.”

All the debates took place in an oppressive atmosphere.⁸ In the weeks running up to the vote, clashes between the security forces and demonstrators opposed to the proposed constitution left more than 40 people dead, including 11 policemen and an 18-month-old baby. One cause of the violence was the discontent on the part of the ethnic minority of the Madhesis, who live in the plains along a southern strip of the country. They claim they are discriminated against in terms of the political representation envisaged under the new constitution. As a result, the frontier regions between Nepal and northern India were the scene of tensions and violence.

On 14th September, as reported by the Kathmandu Post newspaper,⁹ two bombs were detonated in two Protestant churches in the Jhapa district, in the east of the country, causing material damage but no casualties. According to the same newspaper, three policemen were injured the next day while trying to defuse an explosive device they found in a third Christian church. On the site of these attacks, the police found pamphlets produced by the Hindu Morcha Nepal, a radical Hinduist organisation.

A fragile form of secular state that has already been challenged

But while the affirmation of the secular character of the state has been welcomed by the leaders of the religious minorities, other clauses inserted in the new constitution are a cause of concern for them. The constitution stipulates the State has the duty to safeguard the “Sanatana Dharma”, a term frequently translated by the phrase “primordial tradition” and which refers to the essence of Hinduism.

Article 26 of the constitution is also a cause for concern and was described as “dangerous” by Father Silas Bogati in July 2015. Whereas sub-section 1 of this article declares religious freedom to be a fundamental right, sub-section 3 runs as follows: “While exercising the right as provided for by this Article, no person shall act or make others act in a manner which is contrary to public health, decency and morality, or behave or act or make others act to disturb public law and order situation, or convert a person of one religion to another religion, or disturb the religion of other people. Such an act shall be punishable by law.”

Wording such as this, which enshrines a ban on conversion in the constitution, can only be used by nationalist Hindu groups campaigning for the return of the monarchy and the Hindu religion, as some Nepalese politicians maintain. Narayan Kaji Shrestha is vice president of the Unified Communist Party of Nepal-Maoist, the party of the Maoists who were defeated in the elections of November 2013 but who remain, with 80 deputies, the third-largest political formation within Parliament. According to him, “the form of secularism upon which the principal political parties have agreed is a pure negation of the secularism that we were calling for by our votes.”

The reality of the last few months appears to justify the fears of those who are concerned at the possible undermining of the secular character of the State. In February 2016 Parliament organised a popular consultation with regard to a proposed anti-conversion law. If it were passed, this law would punish any person found guilty of having converted an individual to another religion with five years’ imprisonment and a fine of 50,000 rupees (US\$742.82). The United States has expressed its “concern” in regard to this proposed law. According to Pastor Tanka Subedi, who is conducting the consultation with regard to the leaders of the Christian communities, the real intention hiding behind this law is to undermine the secular character of the institutions and freedom of expression. He said: “This proposed law does not simply ban conversion, it undermines the freedom of expression and the fact of practising the religion in which you believe, even if you have no intention of converting other people.” He warned against the intentions of certain Hindu leaders, for whom secularism is perceived as no more than a Trojan horse introduced by Christians into the Nepalese institutions in order to subvert their fundamentally Hindu character.

Quite apart from the constitution, a number of legal measures are discriminatory towards non-Hindus. Thus, according to current legislation, while Hindu organisations can easily acquire legal

personality, this is not the case for non-Hindu institutions or associations. Hence, these groups have difficulty purchasing or registering properties in their own name.

Marriages involving people of different religions likewise present difficulties, principally of a cultural or social nature, but at the same time the absence of appropriate legal provisions relating to such couples can be a source of legal problems also. For Christians, the problems linked to obtaining land for cemeteries are a recurrent issue.

Incidents

All the debates around the new constitution took place in an oppressive atmosphere.¹⁰ In the weeks running up to the vote, clashes between the security forces and demonstrators opposed to the proposed constitution left more than 40 people dead, including 11 policemen and an 18-month-old baby. One cause of the violence was the discontent on the part of the ethnic minority of the Madhesis, who live in the plains along a southern strip of the country. They claim they are discriminated against in terms of the political representation envisaged under the new constitution. As a result, the frontier regions between Nepal and northern India were the scene of tensions and violence.

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In an indirectly related incident which took place in August 2014, the Reverend Chhedar Bhote Lhomi, a Protestant pastor, aged 37, was finally released. He spent two years in prison before being eventually cleared of the charges against him. The Protestant pastor, who was heading a small Christian community in a remote area of Nepal close to the Tibetan border, had been imprisoned in October 2012, charged with eating beef. This is a charge that is extremely rare in Nepal, even though the Hindu faith obliges its faithful not to eat beef, since the cow is traditionally a sacred animal. In theory, however, since this ban concerns only the Indian faithful (and in any case, there are numerous exceptions, particularly in Nepal, allowing certain castes and ethnic groups to eat meat), the members of other religions should not in fact be affected by it. The more so indeed since in this part of Nepal, which is populated essentially by Tibetan ethnic groups – to which the Reverend Bhote Lhomi also belongs – the eating of meat is a normal practice and altogether permitted.

Nonetheless, in October 2012, a crowd of enraged Hinduists attacked the pastor and destroyed his house, accusing him of having eaten “forbidden meat”, but above all of having himself killed a cow to feed his family (a crime considered to be much more serious).

The recent rise of Christianity in this region of the extreme north-east of Nepal has aroused violent reactions and rejection among the local Hindu community.

Prospects for freedom of religion

Even before the adoption of the new constitution, the earthquake and the influx of foreign aid had illustrated the sensitivity of relations between the Hindu majority and the other religious minorities. As a result, in this country of the Himalayas, the geostrategic regional rivalries were immediately evident, with communist China very quick to react by sending its medical and first aid teams. However, it was India, which shares very close cultural and religious links with Nepal,¹² which intervened the fastest. Its military transport planes and search and rescue helicopters were the first to land in Kathmandu, following the earthquake.

The activities of Hindu nationalists

By 27th April, Dattatreya Hosabale, one of the principal leaders of the Hinduist nationalist organisation, the Rashtriya Swayamsewak Sangh (RSS) or National Volunteer Corps, which is closely linked to the BJP, the Hindu nationalist party in power in New Delhi, was on hand in Kathmandu to “coordinate the aid and relief activities” of the Nepalese branch of the same group, known locally as the Hindu Swayamsewak Sangh (HSS).¹³ While there, Dattatreya Hosabale met with the then Prime Minister, Sushil Koirala, who is also President of the Nepalese Congress Party. Using social networks, the RSS made much of the mobilisation of its sympathisers and the amounts of money raised and the initiatives undertaken to come to the aid of the Nepalese people. At the same time, this Hindu nationalist organisation, again using social networks, warned people against the “Christian vultures” and Western agencies who, they said, were taking advantage of the relief operations in order to proselytise among the victims of the earthquake. When the Lapine, a satirical Canadian website, produced a spoof news item stating that 100,000 copies of a pocket Bible had been sent to Kathmandu, “to help the millions of desperate Nepalese, after the earthquake that has ravaged their country”, it was taken quite literally by a number of Indian media outlets (notably India TV and News Nation).¹⁴ The spoof was no doubt all the more credible, given that it was presented as coming from the Gideons International, the Evangelical Christian organisation known for distributing Bibles everywhere, especially in hotels and hospitals. Aside from its comical element, this incident reveals the extreme sensibility of Nepalese Hindu nationalists to the presence of the religious minorities and the question of conversion.

¹ Kirat.

² 2011 census

³ Catholic Hierarchy : <http://www.catholic-hierarchy.org/diocese/dnepa.html>

⁴ *Eglises d'Asie*, 7 January 2011 : « Le pays aurait franchi le cap des deux millions de chrétiens »

(<http://eglasiemepasie.org/asi-du-sud/nepal/2011-01-07-le-pays-aurait-franchi-le-cap-des-deux-millions-de-chretiens>)

⁵ *Christian Today*, 7 April 2016 : « Christians threaten to protest after Nepal 'cancels Christmas' »

(<http://www.christiantoday.com/article/christians.threaten.to.protest.after.nepal.cancels.christmas/83519.htm>)

⁶ *Eglises d'Asie*, 16 January 2008 : « Noël et l'Id al-Fitr deviennent jours fériés » (<http://eglasiemepasie.org/asi-du-sud/nepal/2008-01-16-noel-et-l2019id-al-fitr-deviennent-jours-feries/>)

⁷ *Eglises d'Asie*, 17 September 2015 : « Le pays se dote d'une Constitution restreignant fortement la liberté religieuse » (<http://eglasiemepasie.org/asi-du-sud/nepal/2015-09-17-le-pays-se-dote-d2019une-constitution-a-la-fois-laique-et-restreignant-fortement-la-liberte-religieuse>)

⁸ On a tour through southern Asia, Cardinal Fernando Filoni, Prefect of the Congregation for the Evangelisation of Peoples, was due to visit Nepal from 15 to 19 September 2015, particularly in order to express the sympathy and solidarity of the Catholic Church towards the Nepalese people devastated by the earthquake of 25 April. His visit was cancelled, however, officially for reasons of security. In reality it was felt that his visit to Kathmandu might have been misunderstood and denounced by Hindu extremists as a manoeuvre by the Holy See, aimed at preventing the restoration of the Hindu religion as the state religion in Nepal.

⁹ *Kathmandu Post*, 15 September 2015 : « Bombs explode in two Jhapa churches »

(<http://kathmandupost.ekantipur.com/news/2015-09-15/bombs-explode-at-jhapa-churches.html>)

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¹² *Eglises d'Asie*, 6 August 2014 : « Le Premier ministre indien acclamé comme « le héraut de l'hindouisme »

(<http://eglasiemepasie.org/asi-du-sud/nepal/2014-08-06-le-premier-ministre-indien-acclame-comme-ab-le-heraut-de-lhindouisme-bb>)

¹³ *The Indian Express*, 27 April 2015 : « RSS sends its man to supervise Nepal rescue ops »

(<http://indianexpress.com/article/india/india-others/rss-sends-its-man-to-supervise-rescue-ops/>)

¹⁴ *newslaundry.com*, 30 April 2015 : « Thousands of Bibles Reach Nepal And Satire Makes It To News »

(<http://www.newslaundry.com/2015/04/30/thousands-of-bibles-reach-nepal-and-satire-makes-it-to-news/>)