

Universal Periodic Review – 19th Session
CSW – Stakeholder Submission
BHUTAN

Introduction

1. Christian Solidarity Worldwide (CSW) wishes to draw attention to Bhutan's domestic human rights situation over the period 2009-2013 with respect to its international obligations.
2. CSW wishes to focus specifically on the right to freedom of religion or belief (FORB). Although Bhutan acknowledges the religious diversity within the country and protects the right to FORB in a limited form, there are several areas of legislation and practice which give rise to human rights concerns.

Scope of international obligations

3. Bhutan is a state party to two international human rights treaties. During its previous UPR, Bhutan received several recommendations that it should ratify additional conventions, which Bhutan indicated that it was actively considering.
4. **Recommendation: Bhutan should ratify all remaining human rights conventions, including the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights (ICESCR), and the Convention against Torture and Other Cruel, Inhumane or Degrading Treatment or Punishment (CAT).**

Constitutional and legislative framework

5. The domestic legislative framework governing the right to FORB is established primarily in the Constitution of 2008, the Penal Code of 2004 (amended in 2011), and the Religious Organizations Act of Bhutan, enacted in 2007, which established a system for the registration and administration of religious organisations.
6. Article 3 of the constitution provides that Buddhism is the "spiritual heritage of Bhutan" (3(1)), that religious institutions and personalities must promote the spiritual heritage, while remaining above politics (3(3)), and that Buddhist monastic orders should receive state subsidies (3(7)). However, the king is designated as the "protector of all religions in Bhutan" (3(2)).
7. The right to FORB is enshrined in a basic form in article 7: "A Bhutanese citizen shall have the right to freedom of thought, conscience and religion. No person shall be compelled to belong to another faith by means of coercion or inducement" (7(4)).
8. Arising from article 7(4) of the Constitution are additional measures which limit the right to manifest a religion or belief in the area of conversion. Article 5 of the Religious Organizations Act of Bhutan stipulates the responsibilities incumbent on registered religious organisations. These responsibilities include that no religious organisation shall "Compel any person to belong to another faith, by providing reward or inducement for a person to belong to another faith" (5(g)). The Penal Code (Amendment) Act of Bhutan 2011 introduced a new section 463A, which states that "A defendant shall be guilty of the offence of compelling others to belong to a new faith if the defendant uses coercion or other forms of inducement to cause

the conversion of a person from one religion or faith to another”. This is punishable by up to three years in prison.

9. These measures restricting religious conversions raise a number of human rights concerns. The subject of legislation against conversion by compulsion or inducement has been addressed by the UN Special Rapporteur on freedom of religion or belief in recent reports pertaining to India¹ and to the 60th and 67th sessions of the UNGA², and this commentary is relevant to Bhutan. The following concerns are relevant.
10. Firstly, generalised restrictions relating to conversions should not be necessary, as any techniques of compulsion or inducement could be addressed under the penal code. As the Special Rapporteur has noted, “it would not be advisable to criminalize non-violent acts performed in the context of manifestation of one’s religion, in particular the propagation of religion, including because that might criminalize acts that would, in another context, not raise a concern of the criminal law and may pave the way for persecution of religious minorities”³. The Special Rapporteur has also stated that “any generalized State limitation (e.g. by law) conceived to protect ‘others’ freedom of religion and belief by limiting the rights of others to conduct missionary activities should be avoided”⁴.
11. Secondly, the lack of clear definitions of terms such as “inducement” places legitimate and peaceful religious activities at risk of legal sanction. This applies to religious teaching, charitable services, education, or any activities which involve the possibility of conversions occurring. Former Prime Minister Jigmi Y Thinley gave a media interview in 2011 in which he stated that this measure was not merely to regulate the conduct of those propagating their religion, but “essentially...to deter conversion”⁵. The law in Bhutan should make a clearer distinction between which activities are and are not permissible in the context of propagating religion; as the Special Rapporteur has stated, any restrictions must meet all the criteria set out in ICCPR article 18(3)⁶.
12. Thirdly, generalised restrictions relating to conversions also risk promoting negative attitudes towards legitimate activities and those carrying out such activities. There is evidence across the south Asia region of this form of legislation having a damaging normative effect against religious minorities. Reporting on similar legislation in India, the UN Special Rapporteur on freedom of religion or belief was “deeply concerned that laws and bills on religious conversion in several Indian states are being used to vilify Christians and Muslims”⁷. The Special Rapporteur recommended with regard to India that such laws “should be reconsidered since they raise serious human rights concerns”⁸. In a report to the 67th session of UNGA, the Special Rapporteur observed that “many such restrictions are conceptualized and implemented in a flagrantly discriminatory manner, for instance, in the interest of further strengthening the position of the official religion or dominant religion of the country while further marginalizing the situation of minorities”⁹. In Bhutan, this legislation has formed a backdrop to negative statements against religious conversions in general, particularly in

¹ A/HRC/10/8/Add.3

² A/60/399, especially paragraphs 59-68; and A/67/303, especially paragraphs 26-29, 44-47, and 52-58.

³ A/60/399, paragraph 65.

⁴ A/60/399, paragraph 62

⁵ “Christians in Bhutan Seek to Dispel Regime’s Mistrust”, <http://www.christianpost.com/news/christians-in-bhutan-seek-to-dispel-regimes-mistrust-55472/>

⁶ A/67/303, paragraph 24

⁷ A/HRC/10/8/Add.3, paragraph 47

⁸ A/HRC/10/8/Add.3, paragraph 70

⁹ A/67/300, paragraph 66

connection with the Christian community. Former Prime Minister Jigmi Y Thinley described religious conversion in general as “the worst form of intolerance”¹⁰. This contributes to the marginalisation of the Christian community, which has also experienced opposition from local officials in rural areas of the country, and has contributed to a perception among many Christians that they do not enjoy the right to FORB in Bhutan.

13. With regard to granting legal personality to religious organisations, both the text of the Religious Organizations Act of Bhutan and the manner of its implementation are discriminatory against any groups which are neither Buddhist nor Hindu. The Act established a regulatory authority, the Choedhey Lhentshog, and defined organisations eligible for registration to include a range of named Buddhist and Hindu organisations “or any other religious institutions as recognized by the Choedey Lhentshog” (article 3). However, the principles established in the Act which would guide the Choedey Lhentshog in this regard are deeply oriented towards strengthening the “spiritual heritage of Bhutan”, defined in article 3 of the Constitution as Buddhism.
14. Article 3 of the Religious Organizations Act specifies that the purpose and objectives of eligible religious organisations must be “solely for the benefit of religious institutions and the spiritual heritage of Bhutan”. Article 4 states the objectives of the Act, including first “to benefit the religious institutions and protect the spiritual heritage of Bhutan” (article 4(a)). Article 5(f) specifies that no eligible religious organisation may “violate the spiritual heritage of Bhutan as expressed in article 3 of the Constitution”. The first function of the Choedey Lhentshog is to “Endeavour to promote religious harmony and strengthen the spiritual heritage of Bhutan” (article 12(a)), and it is mandated to “Ensure that religious institutions and personalities promote the spiritual heritage of the country”. This framework makes it difficult to envisage any non-Buddhist and non-Hindu groups being granted recognition as a religious organisation.
15. To date, the Choedey Lhentshog has registered sixteen organisations. Fifteen are Buddhist organisations; the other is the Hindu Dharma Samudaya, a Hindu umbrella body (although there are claims this body is not seen to represent all Hindus in the country, particularly those of a “low” caste background).
16. Although a number of Christian organisations operate in Bhutan, none of them has been registered by the Choedey Lhentshog. Several Christian groups have approached the government, but they report having been rebuffed and receiving mixed messages about whether or not they are even eligible to apply for registration.
17. **Recommendations: Bhutan should amend the measures against compelling others to change their religion in article 7(4) of the Constitution, article 5(g) of the Religious Organizations Act, and section 463A of the Penal Code, to ensure that any limitations on the right to FORB are consistent with the limitations provided in article 18(3) of the ICCPR. Bhutan should take into account commentary by the UN Special Rapporteur on freedom of religion or belief on this issue, including in the report of the Special Rapporteur’s 2008 mission to India,¹¹ and the Special Rapporteur’s reports to the 60th and 67th sessions of the UNGA;¹²**
18. **Bhutan should ensure the equal treatment of all religious communities existing in the country. In particular, Bhutan should clarify the eligibility of non-Buddhist and non-Hindu**

¹⁰ “Religious Conversion Worst Form of ‘Intolerance,’ Bhutan PM Says”, <http://www.christianpost.com/news/religious-conversion-worst-form-of-intolerance-bhutan-pm-says-49830/>

¹¹ A/HRC/10/8/Add.3, especially paragraphs 47-52

¹² A/60/399, especially paragraphs 59-68; and A/67/303, especially paragraphs 26-29, 44-47, and 52-58

groups to obtain registration under the Religious Organizations Act of Bhutan, and should seek to expedite the registration of all peaceful religious groups in the country which seek this status, providing adequate support to any groups seeking assistance in the process of registration.

Interaction with international human rights mechanisms

19. During its previous UPR, Bhutan received recommendations from France, Spain, Denmark, and Norway to accept a request for a visit by the UN Special Rapporteur on freedom of religion or belief, which has been awaiting a response since 2006. Bhutan indicated its commitment to constructive engagement with UN human rights mechanisms, but has taken no action to invite the Special Rapporteur.
20. **Recommendation: Bhutan should accept the request for a visit made by the Special Rapporteur on freedom of religion or belief.**

Freedom of religion or belief

21. There are a number of concerns relating to the enjoyment of right to freedom of thought, conscience and religion by minority communities in Bhutan.
22. At present, there is no land available for Christians to bury their dead. They are therefore unable to conduct funeral rituals openly in accordance with their beliefs, and consequently often carry out internments illegally in the forests. There were reports from local media sources in 2010 that eight bodies of Christians had been exhumed from their makeshift graves, and the skulls and thighbones used for a tantric Buddhist ritual. Christian leaders allege that such exhumations are common, with the bones being sold for religious rituals.
23. Public education for children involves compulsory Buddhist acts of worship, and there are reports that Christian children have been compelled to engage in worship against their will and that of their parents.
24. **Recommendations: Bhutan should provide burial ground to the Christian community, in order for them to carry out funeral rituals in accordance with their religious convictions;**
25. **Bhutan should foster an environment in schools whereby children belonging to minority religions are treated equally and fairly;**
26. **Bhutan should also provide education to children about different religions, reflecting the diversity which exists in the country.**

Peaceful assembly and association

27. As a consequence of lacking legal personality under the Religious Organizations Act, Christian groups operate in a legally ambiguous environment. There have been reports of informal church meetings been targeted and closed down by local officials in rural areas.
28. **Recommendation: Bhutan should ensure that local officials are given clear guidance on the right to FORB, and that religious groups are able to gather without harassment.**