

Religious and Cultural Syncretism in Nepal Based on the Nation's Laws

Dr. Uddhab Puri

Abstract: Despite geographically being a small country with multi-ethnic, multi-religious, and multi-cultural people, Nepal is known to the world as a land blessed with religious and cultural syncretism. Embracing the principle of harmony, people of Nepal have been living together contributing equally to the birth of the nation as well as assimilating into the national strategy. Giving continuity to this very feature has become the cornerstone of the Nepalese people. Like the people living in any parts of the world, with their own faith in religion, sect or beliefs, people of Nepal are no exception. But, throughout its history, Nepal has never witnessed any forms of conflicts in the name of religion or culture. From the country's rulers to its people, this syncretism has been acknowledged as the country's core identity which nevertheless has remained the basis of the country's main laws.

Key words: syncretism, religion, law, Shaivism, Vaishnavism, Hindusm, Buddhism, constitution.

Date of Submission: 18-07-2020

Date of Acceptance: 03-08-2020

Context:

Prior to the Popular Movement of 2062/63 BS, during its greater, divided and unification periods, Nepal has remained a monarchial kingdom for a much longer period of time. During these periods, the kings or the rulers who followed Shaivism, Vaishnavism, Hinduism, Buddhism, and other religions have been ruling this country. Since that time, religious harmony has been respectfully maintained here. Whatever sects or religions the kings belonged to, they always paid homage and intermingled with the religions practiced by the people without expressing any kinds of reluctance. People also paid reverence to the kings by providing special space to maintain harmony as per their religious beliefs and practices. The very basis of syncretism has been reflected and expressed in the present time after Nepal has become a Republic State. In the present modern age, the practitioners of different religions of the world who have also embraced and adopted this harmony consider Nepal a model state.¹

I. RELIGIOUS HARMONY IN THE COUNTRY'S MAIN LAWS

One of the prominent basis of ruling a country is its laws. Before the promulgation of the written constitution in Nepal rules and policies for administrating the state were primarily guided by religion. There is no record in the history of Nepal regarding the existence of any particular religion of the state. Nepal, a land where people adhere to different religions, has been basically governed or administered under the guidance of Sanatana or Hinduism and Buddhism. The origin of the country Nepal itself is closely assigned to the fact that both Svayambhunath and Pashupatinath are highly revered here. Popular laws and traditions practiced at the present time have been directed by religious scriptures. Taking guidance from them, the contemporary rulers have maintained society systematic and well-organized. Based on the existing traditions of both Hindu and Buddhist religions in the society, Jayasthiti Malla, Ram Shah, Mahendra Malla, and others, classified social customs, traditions and practices, and made division of the caste system.²

Historical facts tell that Jayasthiti Malla contributed in maintaining harmony among the existing diversity and overcame the challenges that existed at the time in the society's lifestyles, foods, beliefs, views and the caste system, and thus helped society function systematically. During his reign, he invited five popular scholars from India including Kirtinath Upadhaya and Raghunath Jha, under whose guidance he created Jatimala (caste system), made codes for societal lifestyle, ethical laws, etc. Also he made separate arrangement for Hindu and Buddhist practitioners. His caste system was based on the daily work or profession of the people. The social stratification of Hindu Newars of the valleys was assigned under the same Hindu caste, where as in Buddhist society there never existed any severity. But the Buddhist practitioners were also classified under various groups. For instance, those who worked with gold and silver were called *Bada* (first class), those who

¹ Uddhab Puri, Religious Syncretism in Nepal, *Itihas Pravaha*, Issue 2, 2007, p.150.

² From the Interview with Historian Prof. Dr. Tusliram Vaidhya

worked with stone, and wood and those were engaged in trade and business were called *Udas* (second class), and those who were not intellectuals or those who physically engaged in manual work (third class). But there did not exist any austerity in Buddhism like in Hindu caste system.³

Being Buddhist followers, it has been confirmed that the Khas Malla Kings of the Western Nepal had willingly accepted Hinduism. The historical inscriptions made in the gold plates (*Kanakpatra*) by the King of Jumla, Prithivi Malla, state "*Brahma Vishnu ishwor Buddha dharma sangha atika deva*", and *Suryachandra mashou Brahma Vishnu Maheshwor Buddha dharma sangha Mandal sachin*.⁴ Likewise, the Khas Malla Kings, Punya Malla and Prithivi Malla had mentioned about Garuddhwaj Avataara in their inscriptions.⁵

During the Ancient and Early Middle ages, besides the powerful sects of Shaivism, Buddhism and Vaishnav gods, the practise of tantrism deepened and it spread across the country during the Malla rules. In this way, Nepal has maintained diversity as well as harmony in religious feelings among the people. For instance, Stithiti Malla in an inscription of Devpatan mentions himself as the devout follower of Pashupati. Similarly, in another inscription, he expresses his faith on Buddha as well. Likewise, in his inscription, Maneshwori is regarded as prominent god. While keeping witnesses and writing historical documents, the clear mention of gods and goddesses from both the religions indicates the prevalence of religious and cultural harmony during that time.⁶

After King Prithivi Narayan Shah of Gorkha defeated the Kathmandu valley in 1769 A.D., the Kings of Shah dynasty had ruled Nepal till 2063 V.S. [Vikram era]. They had also considered religious harmony as the key principle of ruling the country. Government of Nepal Act (2004 V.S.) and the Nepal Interim Government Act (2007 V.S.) have expressed intolerance to the religious and cultural discrimination in Nepal.⁷

In Part 2, Article 4 of the Government of Nepal Act (2004 V.S.), regarding the provisions made under the Fundamental Rights, states:

Subject to the principles of public order and good practices this Constitution guarantees to the citizens of Nepal freedom of personal liberty, freedom of speech, freedom of press, freedom of assembly and organization, freedom of religion, complete equality before the law, affordable and speedy justice, universal free compulsory elementary education, universal and equal suffrage for all adults, security of private property as defined by the prevailing laws and laws and Rules to be made hereunder.

Similarly, Part 2 of Nepal Interim Government Act (2007 V.S.) under the Directive Principles of State Policy in Article 15 (1) on Discrimination on grounds of religion, race, cast, sex, etc. states the Government shall not discriminate against any citizen on grounds only of religion, race, cast, sex, and place of birth or any of them.⁸

After the declaration of Democracy in Nepal, the Constitution of Nepal (2015) is the second constitution. Part 1 of the Preamble of the constitution, under Act 1 (3), states the words His Majesty denotes the descendent of the King Prithvi Narayan Shah the Great, adherent of the Aryan culture and Hindu religion, and the ruling king. But, in Section 3 under Fundamental Rights, Article 4 (2) states in the application of general laws there shall be no discrimination against any citizen on grounds of religion, sex, race, caste or tribe. Similarly, in clause 3 under the same section states in respect to the appointment to the government services there shall be no discrimination against any citizen on grounds only of religion, race, caste or tribe, and there shall be no discrimination also on the grounds of sex in respect of appointments to the government service that are open to both male and female.

In the Constitution of Nepal (2015) Part 3, Article 5 under Fundamental Rights regarding religion, it states every citizen, having regard to the current traditions, may practice and profess his own religion as handed down from the ancient times, and that no person shall be entitled to change of his religion.⁹

Similarly, in Part 1, under Preliminary section of the Constitution of Nepal 2019 V.S., Article 2 (1) regarding the Nation it states having common aspirations and united by the common bond of allegiance to the Crown, the Nepalese people irrespective of religion, race, caste or tribe collectively constitute the nation. In the same section of the constitution, regarding the Kingdom it states Nepal is an independent, indivisible and sovereign Monarchical Hindu kingdom. But Part 3 of the same constitution under Fundamental Rights and

³ Dil Bahadur Kshetri, *Ancient and Early Middle Ages Nepal*, Kathmandu: Nirantar Publication, 2062 V.S. pp. 343-364

⁴ Yogi Narharinath (ed.), *Itihasa Prakashan*, Part 2 Volume 1, Kathmandu: Itihasa Prakashan Sangha, 2013 V.S., pp. 49-52.

⁵ Yogi Narharinath (Editor), *Itihasa Prakashma Sandhi Patra Sangraha*, Part 1 Varanasi: Itihasa Prakash Mandal, 2022 V.S., p.761.

⁶ Dil bahadur Kshetri, *op cit.*, p. 378.

⁷ Lekhnath Bhusal, *Collection of the Constitution of Nepal*, Kathmandu: Kamala Bhusal, 2060 V.S. pp. 40-49.

⁸ *Ibid.* p. 54.

⁹ *Ibid.* pp. 71-94.

Duties, Article 9 (d) states it is the duty of every citizen to maintain harmony in society by not doing anything to entice hatred, derision, violent act or damage to the public or private property among caste, ethnicity, region, community, class, religion or any other such matters affecting the sovereignty, indivisibility and unity of Nepal. In Article 10 (2), under the section Right to Equality, it states no discrimination shall be made against any citizen in the application of general laws on grounds of religion, race, sex, caste, tribe or any of them, and in Clause 3, it states there shall be no discrimination against any citizen in respect of appointment to the government service or any other public service only on grounds or religion, race, sex, caste, tribe or any of them. In the same part of the constitution, regarding Right to Religion Article 14 states every person may profess his own religion as handed down from ancient times and may practice it having regard to the traditions, and no person shall be entitled to convert another person from one religion to another.¹⁰

Likewise, in the Constitution of the Kingdom of Nepal (2047 V.S.), under Preliminary section, regarding the Nation, Article 2 mentions having common aspirations and united by a bond of allegiance to national independence and integrity of Nepal, the Nepalese people irrespective of religion, race, caste or tribe, collectively constitute the nation. In the same section of the constitution regarding the Kingdom, Article 4 (1) states Nepal is a multiethnic, multilingual, democratic, independent, indivisible, sovereign, Hindu and Constitutional Monarchical Kingdom, but in Part 3 Article 11 of the same constitution regarding the Fundamental Rights Clauses 2 and 3 state no discrimination shall be made against any citizen in the application of general laws on grounds of religion, race, sex, caste, tribe or ideological conviction or any of these, and that the State shall not discriminate among citizens on grounds of religion, race, sex, caste, tribe, or ideological conviction or any of these.

Similarly, under the provisions of Fundamental Rights regarding the Right to Religion, Article 19 (1) states every person shall have the freedom to profess and practice his own religion as handed down to him from ancient times having due regard to traditional practices; provided that no person shall be entitled to convert another person from one religion to another. In Clause 2 of the same article, it states every religious denomination shall have the right to maintain its independent existence and for this purpose to manage and protect its religious places and trusts. In Part 4 of the constitution, under Directive Principles and Policies of the State, Article 25 (3) states the social objective of the State shall be to establish and develop, on the foundation of justice and morality, a healthy social life, by eliminating all types of economic and social inequalities and by establishing harmony amongst the various castes, tribes, religions, languages, races and communities.¹¹

The Interim Constitution of Nepal 2063 V.S. also declares Nepal a secular state. In Part 1, Preliminary Section of the constitution under the State of Nepal, Article 4 (1) states Nepal is an independent, indivisible, sovereign, secular, inclusive and fully democratic State. Likewise, Part 3 of the constitution under Fundamental rights Article 12 regarding the Right to Freedom Clause 3 regarding (c) and (d) it states nothing in sub-clauses (c) and (d) shall be deemed to prevent the making of laws to impose reasonable restrictions on any act which may undermine the sovereignty and integrity of Nepal, or which may jeopardize the harmonious relations subsisting among the people of various castes, tribes, religions or communities, or which may instigate violence, or which may be contrary to public morality, and in (4) of the same section, regarding (e) it states nothing in sub-clause (e) shall be deemed to prevent the making of laws which are in the interest of the general public, or which are made to impose reasonable restrictions on any act which may jeopardize the harmonious relations subsisting among the people of various castes, tribes, religions or communities. Similarly, The Interim Constitution of Nepal 2063 V.S. Article 23 (1) on provisions regarding Right to Religion states every person shall have the right to profess, practise and preserve his or her own religion as handed down to him or her from ancient times paying due regard to social and cultural traditions, but no person shall be entitled to convert another person from one religion to another, and no person shall act or behave in a manner which may infringe upon the religion of others, and in clause (2) it states every religious denomination shall have the right to maintain its independent existence, and for this purpose to manage and protect its religious places and religious trusts, in accordance with law. Right to Equality (Part 3) and Responsibilities, Directive Principles and Policies of the State (Part 4) also establishes the nation as a secular state and aims to maintain the tradition of religious harmony even stronger among people.¹²

Likewise, the first amendment of the Constitution of Nepal 2072 enshrines the provisions of religious harmony in its various articles and clauses. Despite some ambiguities and criticism that has come to surface regarding the present constitution, considering its ideals and its aspirations on the positive light, the present constitution doesn't undermine or undervalue peoples' expectations and desires of any classes, or communities. In the Preamble of the constitution, it clearly states protecting and promoting social and cultural solidarity, tolerance and harmony, and unity in diversity by recognizing the multi-ethnic, multi-lingual, multi-religious,

¹⁰*Ibid.* pp. 110 -171.

¹¹*The Constitution of Nepal 2047*, Kathmandu: Jansubidha Prakashan, 2047 V.S., pp. 12-15.

¹²*Gorkhapatra*, 2 Magh 2063.

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 and all forms of caste-based untouchability.

Similarly, Part I, Article 3 of the present constitution also states all the Nepalese people, with multiethnic, multilingual, multi-religious characteristics, etc. collectively constitute the nation. Article 4, regarding the definition of the State of Nepal, states Nepal as an independent, indivisible, sovereign, secular, inclusive, democratic, socialism-oriented, federal democratic republican state, and the explanation regarding the term secular clarifies that it should be understood as religious, cultural freedoms, including protection of religion, culture handed down from the time immemorial. In Part III under the section regarding the provisions on Fundamental Rights and Duties, Article 17, Clause 3, sub-clause (c) states nothing shall be deemed to prevent the making of an Act to impose reasonable restrictions on any act which may undermine the sovereignty, territorial integrity, nationality and independence of Nepal, constitute an espionage against the nation or divulge national secrecy or on any act of rendering assistance to any foreign state, organization or representative in a manner to undermine the security of Nepal or on an act of sedition or on any act which may undermine the harmonious relations between the Federal Units or on any act of incitement to caste-based or communal hatred or on any act which may undermine the harmonious relations between various castes, tribes, religions and communities, or on any act of acquisition of, or restriction on, membership of any political party on the basis solely of tribe, language, religion, community or sex or on any act of formation of apolitical party with discrimination between citizens or on incitement to violent acts or on any act which may be contrary to public morality. Similarly, in Sub-clause 4 of the same section similar provision is made where it states nothing shall be deemed to prevent the making of an Act to impose reasonable restrictions on any act which may undermine the sovereignty, territorial integrity, nationality and independence of Nepal, or on any act which may constitute espionage against the nation or on any act of divulgence of national secrecy or on any act assisting any foreign state, organization or representative in a manner to undermine the security of Nepal or on an act of sedition or on any act which may undermine the harmonious relations between the Federal Units or on any act of incitement to caste-based or communal hatred or on any act which may undermine the harmonious relations between various castes, tribes, religions and communities or on incitement to violent acts or on any act which may be contrary to public morality. In the same way, Sub-clause 5 also states nothing shall be deemed to prevent the making of an Act to impose reasonable restrictions on any act which may undermine the interest of the general public or which may undermine the harmonious relations between the Federal Units or the harmonious relations between the peoples of various castes, tribes, religions or communities or which may constitute or incite violent acts.

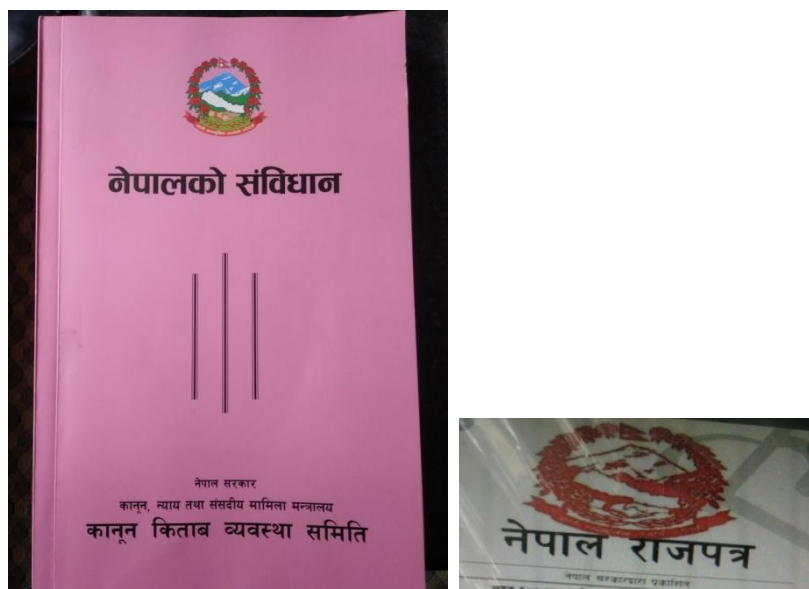
In the same way, Article 18, Sub-clauses (2) and (3) under the provision of Right to equality also states no discrimination shall be made in the application of general laws on grounds of origin, religion, race, caste, tribe, sex, physical condition, condition of health, marital status, pregnancy, economic condition, language or region, ideology or on similar other grounds. Article 26, Sub-clauses (1) to (3) under the provision of Fundamental Rights and Duties it explains and clarifies about Right to freedom of religion. It states 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, and the Sub-clause 2 states that every religious denomination shall have the right to operate and protect its religious sites and religious Guthi (trusts) provided that nothing shall be deemed to prevent the regulation, by making law, of the operation and protection of religious sites and religious trusts and management of trust properties and lands. Similarly, Sub-clause (3) states 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. In the same part of the constitution, under Article 32, Clauses (1), (2) and (3) regarding Right to language and culture provides every person and community the right to use their languages, participate in the cultural life of their communities, and to preserve and promote its language, script, culture, cultural civilization and heritage. In Part IV of the constitution under Directive Principles, Policies and Obligations of the State, Article 50 (2) states the social and cultural objective of the State shall be to build a civilized and egalitarian society by eliminating all forms of discrimination, exploitation and injustice on the grounds of religion, culture, tradition, usage, custom, practice or on any other similar grounds, to develop social, cultural values founded on national pride, democracy, pro-people, respect of labour, entrepreneurship, discipline, dignity and harmony, and to consolidate the national unity by maintaining social cohesion, solidarity and harmony, while recognizing cultural diversity.¹³

¹³*The Constitution of Nepal 2072*, Ministry of Law, Justice and Parliamentary Affairs, Kanoon Kitab Byabastha Samiti: Kathmandu, 2075 V.S. pp.1-21.

II. CONCLUSION

Since the historical time, primarily, Hinduism and Buddhism have remained predominant religions in Nepal. During the Middle ages, the followers of Muslim and Christianity had entered into Nepal. Coming to the 21st century, there exist the adherents of most of the world's religions in Nepal. According to the Nepal Population Report (2061 V.S.), Hindus comprise 80.62%, Buddhists 10.74%, Muslims 4.20%, Kiratas 3.6%, Christians 0.45%, Jainas 0.02%, and others 0.39% percent of the country's total population.¹⁴ But Now, According to the Nepal Population Report (2068 V.S.), Hindus comprise 81.34%, Buddhists 9.04%, Muslims 4.39%, Kiratas 3.05%, Christians 1.42%, and others 0.76% percent of the country's total population.¹⁵ In this way, despite being a land of diversity in religious traditions, culture, etc. Nepal is a forerunner in religious syncretism. Many countries in the world have declared themselves as secular in order to resort from various kinds of troubles like political and religious wars, communal conflicts, etc. that arise in the name of religion, but they have never achieved it. From the past to the present constitutions of Nepal, no single community or sect has been given privileges. Freedom of religion is also guaranteed by the Nepali constitution but forced conversion to other religion is prohibited by law. As a result, besides Hinduism and Buddhism, other religions like Islam, Christianity, Jainism, Sikhism, etc. have been flourishing side by side in Nepal. The law of Nepal accepts all religions as great and equal, and prohibits all forms of discriminations that may occur on the grounds of religion, caste, race, tribe, sex, etc. This characteristic feature has been practiced here since time immemorial. The reigning Kings have also shown due respect to religious-cultural syncretism and received equal homage from people. Thus, Nepal has always preserved a glorious tradition of religious syncretism.

Photo



¹⁴ Population and Housing Census 2061, Ministry of Health and Environment of Nepal, Kathmandu, V.S. 2061, p. 57.

¹⁵ , Nepal Census V.S. 2068, Nepal Government, Demographic Department, Kathmandu, V. S. 2068.



Dr. Uddhab Puri. "Religious and Cultural Syncretism in Nepal Based on the Nation's Laws." *IOSR Journal of Humanities and Social Science (IOSR-JHSS)*, 25(7), 2020, pp. 32-37.