

NATIONS UNIES
HAUT COMMISSARIAT DES NATIONS UNIES
AUX DROITS DE L'HOMME

PROCEDURES SPECIALES DU
CONSEIL DES DROITS DE L'HOMME

**Mandate of the Special Rapporteur on freedom of religion or belief and the Special Rapporteur on the
promotion and protection of the right to freedom of opinion and expression**

UNITED NATIONS
OFFICE OF THE UNITED NATIONS
HIGH COMMISSIONER FOR HUMAN RIGHTS

SPECIAL PROCEDURES OF THE
HUMAN RIGHTS COUNCIL

REFERENCE: UA G/SO 214 (56-23) G/SO 214 (67-17)
IDN 4/2012

11 May 2012

Excellency,

We have the honour to address you in our capacity as Special Rapporteur on freedom of religion or belief and Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression pursuant to General Assembly resolution 60/251 and to Human Rights Council resolutions 14/11 and 16/4.

In this connection, we would like to draw the attention of your Excellency's Government to information we have received regarding **Alexander Aan**'s charges of disseminating information aimed at inflicting religious hatred and religious blasphemy in Padang, West Sumatra of Indonesia.

According to the information received:

Mr. Alexander Aan (Alex Sander An), a civil servant at the Dharmasraya planning office, joined Facebook in April 2009 using the name "Alex Aan." Mr. Aan also joined a group called "Ateis Minang" and was made the group admin later. The group owner is Jusfiq Hadjar, a Minangkabau elder who lives in the Netherlands. Reportedly, Mr. Aan was tagged in a comic strip about the Prophet Mohammad allegedly slept with Zainab, the wife of his adopted son, Zaid. (<http://indonesia.faithfreedom.org/doc/content/muhammad-dan-zainab>) Mr. Aan reposted the link on his own Facebook wall without being conscious that the privacy setting of his Facebook account was public.

On 18 January 2012, some residents of Pulau Punjung went to Mr. Aan's office in Dharmasraya, Padang, confronting him about the post on his Facebook wall. Mr. Aan did not know these men but showed them his Facebook wall and acknowledged that "Alex Aan" was his account. They accused him for committing blasphemy and assaulted him. Mr. Aan's right head and his left eye were hit. The police on patrol happened to pass by and brought him to the Pulau Punjung police station for his safety.

Reportedly, due to the controversy stirred, the Dharmasraya regent, the Majelis Ulama Indonesia (MUI) and the head of the Ministry of Religious Affairs and other leaders visited him and asked him what his religion is. Mr.

Aan claimed that he was atheist. Regent Adi Gunawan suggested to Mr. Aan to return to Islam or to change to other religion as atheism is not in line with Pancasila. MUI also advised him to repent though Mr. Aan insisted to stay on his faith.

Mr. Aan's case allegedly prompted many media coverage and the police to process his case. He was transferred to the Dharmasraya police precinct where he was officially charged with Articles 156a and 156b off the Criminal Code (blasphemy law-with maximum 5 years imprisonment) and Article 78 of the Internet Law on distributing information on the internet that creates public unrest with maximum of six years imprisonment.

On 29 February 2012, the police finalised the questioning and the indictment. Mr. Aan's parents visited Mr. Ibrahim Khalil, the prosecutor of Alexander Aan in March 2012 to apologise for his acts. Mr. Khalil advised them to convince Mr. Aan to repent and eventually, Mr. Aan did that under the guidance of MUI chairman Mr. Aminullah Salam at the Dharmasraya police precinct. It was also witnessed by the Ministry of Religious Affairs.

On 12 March 2012, Mr. Aan's case was handed over to the Dharmasraya prosecutor office. His detention was moved to the Sijunjung prison and the trial opened at the Sijunjung district court on 2 April 2012. Mr. Aan's counsel has produced a demurrer on 5 April 2012 requesting the Sijunjung district court to drop Mr. Aan's case on the basis that the proper legal procedure or mechanism before one can be charged of Article 156a has not been followed. Reportedly, Mr. Aan's case will be heard again on 14 May 2012. Concerns are expressed that Mr. Aan will face up to 11 years of imprisonment if found guilty and that there has been generally a lack of religious freedom in West Sumatra.

While we do not wish to prejudge the accuracy of these allegations, we wish to appeal to your Excellency's Government to seek clarification on the information drawn to our attention and share our concerns in relation to present circumstances in light of the applicable international human rights norms and standards.

We would like to recall the rights guaranteed by article 18 of the Universal Declaration of Human Rights (UDHR) and of the International Covenant on Civil and Political Rights (ICCPR) that your Excellency's Government has ratified on 28 October 2005.

Mr. Aan has the right to freedom of thought, conscience and religion and this right shall include freedom to have or to adopt a religion or belief of his choice as provided by Article 18 (1) of the ICCPR. Mr. Aan also should not be subject to coercion which would impair his freedom to have or to adopt a religion or belief of his choice according to Article 18 (2) of the ICCPR.

We would like to draw your attention to the 1981 Declaration of the General Assembly Art. 1 (1): "Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have a religion or whatever belief of his choice, and freedom, either individually or in community with others and in public

or private, to manifest his religion or belief in worship, observance, practice and teaching." Art. 1 (3): "Freedom to manifest one's religion or belief may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health or morals or the fundamental rights and freedoms of others."

The Human Rights Committee general comment 22, Para. 3 states that "[A]rticle 18 does not permit any limitations whatsoever on the freedom of thought and conscience or the freedom to have or adopt a religion or belief of one's choice;" and Para. 5 provides that "[T]he Committee observes that the freedom to 'have or to adopt' a religion or belief necessarily entails the freedom to choose a religion or belief, including the right to replace one's current religion or belief with another or to adopt atheistic views, as well as the right to retain one's religion or belief."

We would also like to appeal to your Excellency's Government to take all necessary steps to secure the right to freedom of opinion and expression in accordance with fundamental principles as set forth in article 19 of the International Covenant on Civil and Political Rights, which provides that "Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice."

We urge your Excellency's Government to take all necessary measures to guarantee that the rights and freedoms of the above mentioned person are respected and, in the event that your investigations support or suggest the above allegations to be correct, the accountability of any person responsible of the alleged violations should be ensured. We also request that your Excellency's Government adopt effective measures to prevent the recurrence of these acts.

In view of the urgency of the matter, we would appreciate a response on the initial steps taken by your Excellency's Government to safeguard the rights of the above-mentioned person in compliance with the above international instruments.

Moreover, it is our responsibility under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention. Since we are expected to report on these cases to the Human Rights Council, we would be grateful for your cooperation and your observations on the following matters:

1. Are the facts alleged in the summary of the cases accurate?
2. Have complaints been lodged with regard to Mr. Aan's attack, arrest and prosecution?
3. Please provide the details and where available, the results or reports, of any judicial investigation, or any criminal charges to the perpetrators in relation to the attack on Mr. Aan and to the prosecution of Mr. Aan on this religious blasphemy case.
4. Please provide details of how the alleged arrests and the prosecution of Mr. Aan are compatible with the above-mentioned international norms and standards, including the right to freedom of religion or belief and freedom of opinion and expression.

We undertake to ensure that your Excellency's Government's response to each of these questions is accurately reflected in the reports we will submit to the Human Rights Council for its consideration.

Please accept, Excellency, the assurances of our highest consideration.

Heiner Bielefeldt
Special Rapporteur on freedom of religion or belief

Frank La Rue
Special Rapporteur on the promotion and protection of the right to freedom of
opinion and expression