

**Mandates of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the rights to freedom of peaceful assembly and of association; the Special Rapporteur on freedom of religion or belief; the Special Rapporteur on minority issues; and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment**

REFERENCE: AL  
KGZ 3/2015:

21 September 2015

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on the rights to freedom of peaceful assembly and of association; Special Rapporteur on freedom of religion or belief; Special Rapporteur on minority issues; and Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment pursuant to Human Rights Council resolutions 25/2, 24/5, 22/20, 25/5, and 25/13.

In this connection, we would like to bring to your Excellency's Government's attention information we have received concerning **alleged violations of the human rights of members of two minority religious groups in the Kyrgyz Republic: Elchilik Jiyini Church in Kemin district and Jehovah's Witnesses in the city of Osh.**

According to the information received:

*Elchilik Jiyini Church in Kemin*

On 9 July 2015, around 15 members of the State Commission on Religious Affairs, the State Committee on National Security, the Ministry of Internal Affairs, the State Administration of Kemin district and the police allegedly conducted a search without warrant in the premises of Elchilik Jiyini Church in 34 Tukeev street, district of Kemin, in Chuy province. Two members of the Church who were present on the premises were pressured to let the officials in for the search, during which they reportedly confiscated two religious publications: a leaflet titled "The Koran and Injil (the Gospel)" and a flyer titled "The Spirit of Antichrist".

On 29 July 2015, it was reported that the State Commission on Religious Affairs issued an official warning letter (numbered #04-02/847) against Elchilik Jiyini

Church for not having complied with Decree 116, issued by the State Commission on Religious Affairs on 20 December 2012, which obliges religious organizations to provide a detailed account of their activities.

The State Commission on Religious Affairs also allegedly warned Elchilik Jiyini Church that the publications confiscated during the search on 9 July 2015 violated the 2008 Law on Freedom of Conscience and Religious organizations in the Kyrgyz Republic and contained “proselytizing” information, which might lead to criminal responsibility under the law of the Kyrgyz Republic. Reportedly, Elchilik Jiyini Church did not produce the publications, which were published in 1996, before the 2008 Law on Freedom of Conscience and Religious organizations in the Kyrgyz Republic entered into force.

Reportedly, the allegations contained in the warning letter could lead to a recommendation by the State Commission on Religious Affairs to liquidate the legal personality of Elchilik Jiyini Church.

Moreover, on 5 August 2015, the Municipal Council of Kemin allegedly issued a decree (Decree No 124-29-26 of 5 August 2015) ordering the suspension of Elchilik Jiyini Church’s activities.

#### *Jehovah’s Witnesses in Osh city*

There are reports that police officers have in the past assaulted Jehovah’s Witnesses on at least two occasions in Osh city. On 16 April 2013, a police officer allegedly beat Mr. Nurlan Usupbayev at the Osh City Police Station and warned him that Jehovah’s Witnesses activities in Osh were illegal. On 19 May 2013, the same police officer and nine others allegedly raided a Jehovah's Witness religious meeting held in a private domicile in Osh city. The police allegedly arrested all nine persons present, took them to the Osh City Police Station and threatened to torture them. Female detainees were allegedly threatened to be raped. These two incidents were reported by Jehovah's Witnesses, allegedly leading to an official “warning letter” submitted to the police officer responsible for the detention and threats. The Ministry of the Interior and the National Security Committee allegedly ordered the Police in Osh to "severely punish" him and other officials involved.

On 9 August 2015, at approximately 10.30 a.m., ten police officers, two of them in uniform, raided a meeting of Jehovah’s Witnesses in a café in Masaliyeva Street, in the Suleyman-Too district of Osh city, Kyrgyz Republic, claiming it was illegal. Around 50 persons were present when the police entered the café, which had been rented for a religious service that had commenced at 10 a.m..

The police, who allegedly identified themselves as officers of the 10th Division but did not provide proof of their identity, ordered the service to stop and proceeded to identify all attendants. Meanwhile, they arrested Mr. Nurlan

Usupbayev, the person who had arranged the religious service. At the moment of the arrest, a police officer allegedly talked to Mr. Nurlan Usupbayev and made reference to previous complaints that Mr. Nurlan Usupbayev had filed against him for having arbitrarily detained, assaulted and threatened Jehovah's Witnesses in April and May 2013 (see paragraph above).

During the raid, the police allegedly insulted the beliefs of Jehovah's Witnesses several times by accusing them of "brainwashing" and "deceiving" people, and also threatened to kill ("shoot in the head") anyone who moved. The police were reportedly accompanied by an Imam in order to convert to Islam those present at the meeting. The Imam allegedly insulted (by calling them "infidels") and threatened Jehovah's Witnesses that he would ensure that they would not be able to bury their dead relatives, for being "Baptists". With that purpose, he allegedly said he would identify all those present at the meeting and distribute their photographs and names.

At 11 a.m., the police saw that one of the Jehovah's Witnesses, Mr. Olzhobayev, was video-recording their actions on his phone. They allegedly assaulted him, took him to a separate floor in the café, and beat him. When other Jehovah's Witnesses heard him crying in pain, they asked one of the police officers why he was being beaten. The police officer allegedly responded that the reason was that he had video-recorded the police and refused to hand over his phone to have the recording deleted.

At 11.30 a.m., the police allegedly arrested nine male adult Jehovah's Witnesses and took them and Mr. Usupbayev (arrested at the beginning of the raid) to the Osh City Police Station. At the station, the police allegedly beat six of them. Three of those six (including Mr. Usupbayev) were also allegedly strangled. It is reported that two of the men (Mr. Chorobek Kadyrov and Mr. Manas Bilal Uulu), momentarily lost consciousness due to asphyxia as they were being strangled.

The police officer allegedly responsible for the incidents in 2013 (see paragraph above) strangled Mr. Usupbayev with the necktie he was wearing, and asked him why "he had given him away to the prosecutor's office", referring to Mr. Usupbayev's reports against him in 2013. The police officer also lamented that, because of Mr. Usupbayev's report, he had been "punished".

All six detainees were allegedly forced to sign statements claiming that they had not been mistreated during their arrest, and forced Mr. Nurlan Usupbayev to confess in a written statement that the religious service violated Article 395(2) of the Code of Administrative Violations.

Immediately after their arrest, the six Jehovah's Witnesses who had allegedly been tortured at the Osh City Police Station went to the Police Station in Suleyman-Too district, in the area where the raid had taken place. The investigators who received their complaint allegedly claimed that the torture incident had happened outside of

their jurisdiction and refused their demand to be medically examined. The six Jehovah's Witnesses then went to the hospital at around 4 p.m., where they were allegedly seen by a doctor who confirmed the torture signs in a medical report.

Following the raid, the Police allegedly filed an administrative case against Mr. Usupbayev for arranging the religious service without authorization, constituting a violation of the Code of Administrative Violations, Article 395(2), which establishes the procedures to hold religious services. Allegedly, the fine recommended to court by the police (2,000 Kyrgyz soms) exceeded the maximum established by law (500 Kyrgyz soms).

On 11 August 2015, eight police officers (allegedly including the police officer involved in the 2013 incidents) who were present at the raid on 9 August 2015 stopped six of the Jehovah's Witnesses that had been arrested on 9 August 2015, as they were leaving the hotel where they gathered to have their torture testimonies video-recorded. The police arrested Mr. Nurlan Usupbayev, and took him again to Osh City Police Station, where he was summoned to appear in Court on 19 August 2015. He was released around 40 minutes after his arrest.

On 19 August 2015, the court hearing was adjourned until 20 August 2015. The trial commenced on 20 August and concluded on 21 August 2015, when the judge found Mr. Nurlan Usupbayev not guilty of violating the Code of Administrative Violations. According to the information received, intimidation by the police continued against Jehovah's Witnesses during the trial. Police officers allegedly video-recorded victims, their attorneys and witnesses, both inside and outside the court, as an attempt to intimidate them. Police officers also followed victims and their attorneys in the street, allegedly as a means of intimidation.

While we do not wish to prejudge the accuracy of this information, we are concerned that the search and issuing of a warning letter and suspension order, as well as the imposition of an excessive fine against Elchilik Jiyini Church may constitute a violation of the rights to freedom of religion, freedom of opinion and expression and freedom of association of its members. In addition, the fact that the State Commission on Religious Affairs may recommend the liquidation of the legal personality of the Elchilik Jiyini Church is of particular concern as it may appear to violate the right of Jehovah's witnesses to profess and practice their own religion freely and without interference or any form of discrimination, including their right to establish and maintain places for worship essential to the protection of their religious identity. The right to freedom of religion also includes the right to change one's religion or belief; to appoint, elect or designate appropriate leaders; and to write, issue and disseminate religious publications.

We are also concerned that the ongoing harassment by State authorities, including the recent raid of a Jehovah's Witnesses' religious service, the alleged arbitrary arrest, and acts of torture against some of its members jeopardizes their physical and psychological integrity and impedes their enjoyment of religious and association freedoms. Furthermore, we are concerned that the six men allegedly beaten by the police

were forced to sign statements against their will. Moreover, the fact that a police officer, who had previously been found guilty of grave violations against Jehovah's Witnesses, has again allegedly committed similar violations, is particularly alarming.

In connection with the above alleged facts and concerns, please refer to the **Reference to international law Annex** attached to this letter which cites international human rights instruments and standards relevant to these allegations.

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. We would therefore be grateful for your observations on the following matters:

1. Please provide any additional information and/or comment(s) you may have on the above-mentioned information.
2. Please indicate whether the search in the premises of Elchilik Jiyini Church in Kemin on 9 July 2015 and the raid on the religious service in Osh on 9 August 2015 were conducted with warrants issued by a judicial authority, and what were the legal justifications for the search and raid.
3. Please indicate whether legal actions are pending against members of the Elchilik Jiyini Church for the possession of religious publications. Please indicate whether the 2008 Law on Freedom of Conscience and Religious organizations applies to publications released before that date.
4. Please provide information regarding any legislation that criminalizes "proselytism" in the Kyrgyz Republic. If so, how is this legislation compatible with international human rights law and standards?
5. Please indicate all steps taken by the Government to protect the rights to adopt a religion, to teach religious beliefs and to disseminate religious publications, particularly in relation to religious minorities.
6. Please indicate whether the Municipal Council of Kemin is a competent authority to issue order for Elchilik Jiyini Church to suspend its activities.
7. Please indicate all steps taken to investigate the reports of arbitrary detention, threats, harassment and ill-treatment against Jehovah's Witnesses in Osh on 9 August 2015, and reports that they were forced to sign statements against their will. Please confirm whether the police was found guilty of violations against Jehovah's Witnesses on 16 April and 19 May 2013. If confirmed, please provide details of any measure taken to hold the police officers involved accountable and to prevent further violations.

8. Please provide information about all the steps that have been taken to protect the freedom of opinion and expression, the freedom of religion and promote religious tolerance and the freedom of association, especially in relation to religious minorities, in the Kyrgyz Republic.
9. Please explain the measures taken to ensure investigation into the allegations of the acts of torture, reprisals and intimidations, as well as the punishment of the responsible officers.
10. Please provide information on steps taken to prevent similar violations from recurring in the future.

We would appreciate receiving a response within 60 days.

While awaiting a reply, we call for Your Excellency's Government to suspend Decree No 124-29-26 of 5 August 2015, issued by Municipal Council of Kemin ordering the suspension of Elchilik Jiyini Church's activities, in order to ensure that the religious rights of its members are not being violated.

We may publicly express our concerns in the near future as we may form the view that the information on which this allegation letter is based, and which may inform a press release, is sufficiently reliable to indicate a matter warranting immediate attention. If a press release is issued, it will indicate that we have been in contact with your Excellency's Government to clarify the issues in question.

Your Excellency's Government's response will be made available in a report to be presented to the Human Rights Council for its consideration.

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

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

Maina Kiai  
Special Rapporteur on the rights to freedom of peaceful assembly and of association

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punishment

## **Annex**

### **Reference to international human rights law**

In connection with the above alleged facts and concerns, we would like to refer to the articles 18(1), 19 and 22 of the International Covenant on Civil and Political Rights (ICCPR) that the Kyrgyz Republic acceded on 7 October 1994, which guarantee the right to freedom of religion, including the right to adopt a religion of one's choice, the right to freedom of opinion and expression, and the right to freedom of association, respectively. In particular, we wish to remind your Excellency's Government that any restrictions to the exercise of these rights must be provided by law and necessary and proportionate to the aim pursued.

In its General Comment on ICCPR's article 18 (paragraph 3), the Human Rights Committee stated that it "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 (paragraph 5) that freedom of religion "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."

In its General Comment No. 34, the Human Rights Committee has also stated that laws must not provide for penalties which are incompatible with the ICCPR and that, however unpleasant or inconvenient, the mere fact that forms of expression are considered to be insulting is not sufficient to justify the imposition of criminal penalties (paragraphs 26 and 38 CCPR/C/GC/34).

We also would like to refer to the international standards in relation to the protection of the rights to persons belonging to religious minorities, in particular to the 1992 Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities. Article 1 of the Declaration establishes the obligation of States to protect the existence and identity of religious minorities within their territories and to adopt the appropriate measures to achieve this end. Article 2 states that persons belonging to religious minorities have the right to profess and practice their own religion without discrimination. Furthermore, States are required to ensure that persons belonging to minorities, including religious minorities, may exercise their human rights without discrimination and in full equality before the law (article 4.1).

Moreover, we would like to draw your Government's attention to the principles enunciated by Human Rights Council resolution 24/5, and in particular operative paragraph 2, which "reminds States of their obligation to respect and fully protect the rights of all individuals to associate and assemble peacefully, ... including persons espousing minority or dissenting views or beliefs, human rights defenders... seeking to exercise or to promote these rights, and to take all necessary measures to ensure that any restrictions on the free exercise of the rights to freedom of peaceful assembly and of association... are in accordance with their obligations under international human rights law".



In connection to legislation criminalizing “proselytism” and other laws allegedly restricting religious publications in the Kyrgyz Republic, we would like to underline that the ICCPR includes (articles 18.1 and 18.3) the rights to manifest one’s “religion or belief in worship, observance, practice and teaching [...] 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”. In its 1981 United Nations Declaration on Religious Tolerance and Non-Discrimination, the General Assembly stated in its article 6(d) that freedom of religion includes the right to “write, issue and disseminate relevant publications”.

In relation to the need to promote tolerance towards the Elchilik Jiyini Church, Jehovah’s Witnesses and other minority religious groups in the Kyrgyz Republic, we would like to stress that ICCPR specifically recognizes the rights of members of religious minorities to “profess and practices his or her own religion” (article 27). In connection to the coexistence of different religious groups, the 1981 United Nations Declaration on Religious Tolerance and Non-Discrimination urges states “to take all appropriate measures to combat intolerance on the grounds of religion” (article 4.2). In 2005, the Commission on Human Rights emphasized the importance of promoting “a continued and strengthened dialogue among and within religions or beliefs, encompassed by the dialogue among civilizations, to promote greater tolerance, respect and mutual understanding” (Resolution 2005/40, paragraph 10).

Moreover, we would like to remind your Excellency’s Government of the absolute and non-derogable prohibition of torture and other ill-treatment as codified in articles 2 and 16 of the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), which Kyrgyzstan acceded to 5 September 1997.

With regard to the reprisals for filing complaint(s), we would like to draw the attention of your Excellency’s Government to paragraph 22 of General Assembly Resolution 68/156, which “stresses that national legal systems must ensure that victims of torture or other cruel, inhuman or degrading treatment or punishment have effective access to justice and obtain redress without suffering any retribution for bringing complaints or giving evidence”.

We would like to draw the attention of your Excellency’s Government to paragraph 8a of Human Rights Council Resolution 16/23, which reminds States that “intimidation and coercion, as described in article 1 of the Convention against Torture, including serious and credible threats, as well as death threats, to the physical integrity of the victim or of a third person can amount to cruel, inhuman or degrading treatment or to torture;”

With regard to the alleged forced confessions, article 15 of the CAT prohibits the use of any statement made as a result of torture as evidence in any proceedings. In this context, we would also like to recall paragraph 7c of Human Rights Council Resolution 16/23.

Finally, we would like to draw the attention of your Excellency's Government to article 12 of the Convention Against Torture and other cruel, inhuman and degrading treatment or punishment (CAT), which requires the competent authorities to undertake a prompt and impartial investigation wherever there are reasonable grounds to believe that torture has been committed, and article 7 of the CAT, which requires State parties to prosecute suspected perpetrators of torture. In this context, we would also like to recall paragraph 7b of the Human Rights Council Resolution 16/23.