

Mandates of the Special Rapporteur on freedom of religion or belief and the Special Rapporteur on minority issues

REFERENCE: AL
RUS 5/2016:

11 May 2016

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on freedom of religion or belief and Special Rapporteur on minority issues pursuant to Human Rights Council resolutions 22/20 and 25/5.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning **the criminalization of the Hindu community and the decision to demolish the Hindu temples in Vetluzhsky district, Nizhny Novgorod region.**

According to information received:

In 2001, a group of Russian and Ukrainian citizens, members of the Hindu religion, established their residence in Vetluzhsky district, Nizhny Novgorod region, and founded a community where they could practice their religion and live according to the precepts of Hinduism. By 2011, they had created a monastery (with 40 monks and followers residing in it) and erected three small temples (two of them eight meters, one of them 12 meters high). Their construction was authorized by the local administration as "utility buildings", given the prohibition to erect religious sites in private land under Russian law.

On 30 July 2014, criminal action was initiated against members of the community, under Article 239, Part 1, of the Criminal Code of the Russian Federation, which forbids creating a religious or public association whose activities involve violence against citizens or somehow harm their health, as well as managing such an association. On 13 August 2014, the police conducted a raid in the community's land, temples and residences, confiscating documents, computers and money. They also sealed the temples in order to preserve evidence, resulting in the halt of the community's religious activities. When questioned about the purpose of the raid, authorities present in the raid told community members "we want you to leave this place".

Theologians and religion experts from universities in Russia and abroad have publicly supported the community and stated that their religious activities were non-violent and respectful of their members' individual freedoms.

In September 2014, the local government of Vetluzhsky municipal district, Nizhny Novgorod region, initiated legal action against the Hindu community, claiming that the temples were "unauthorized constructions" and asking for their demolition. On 17 September 2015, the Vetluzhsky District Court ruled in favor of the local government and ordered the owners to demolish the three temples. The demolition of the temples would be seen as their desecration by community members, which would be contrary to their beliefs.

As a result of the difficulties to exercise their religious freedom in Russia, the monks have left the country and continue their religious activities abroad. The community's religious activities have since then critically decreased.

While we do not wish to prejudge the accuracy of these allegations, we are concerned that the Hindu community in Vetluzhsky district appears to be subjected to intimidation, criminalization and destruction of their places of worship, in violation of their religious freedoms. The right to freedom of religion includes the right to establish and maintain places for worship, and obliges States to ensure that religious places, sites, shrines and symbols are fully respected and protected, and to take additional measures in cases where they are vulnerable to desecration or destruction.

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 allegations.
2. Please provide details on the judicial order to demolish the three Hindu temples, including any assessment of the religious character of the site.
3. Please explain any measure taken by the Government to consider alternative solutions to demolition without jeopardizing the religious rights of Hindus in Vetluzhsky district, Nizhny Novgorod Region.
4. Please provide details on any investigation or legal action against members of the Hindu community in Vetluzhsky district, Nizhny Novgorod Region, under article 239, Part 1, of the Criminal Code of Russian Federation, for their religious activities.

5. Please explain any measure taken by the Government to promote tolerance and prevent religious hatred against the Hindu community in the Russian Federation.

We would appreciate receiving a response within 60 days.

While awaiting a reply, we call for Your Excellency's Government to halt the demolition order and to take measures to ensure that religious rights of the Hindu community of Vetluzhsky district are not being violated.

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.

Heiner Bielefeldt
Special Rapporteur on freedom of religion or belief

Rita Izsák-Ndiaye
Special Rapporteur on minority issues

Annex

Reference to international human rights law

In connection with the above alleged facts and concerns, I would like to take this opportunity to draw your Excellency's Government's attention to applicable international human rights norms and standards, as well as authoritative guidance on their interpretation.

Both article 18 of both the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights, ratified by the Russian Federation on 16 October 1973, recognize the right of all persons to freedom of religion. Freedom of religion does not only entail the right to hold religious beliefs, but also to worship, and for religious groups to maintain places of worship. The Human Rights Committee stated in its General Comment 22, para . 4, that the freedom to manifest religion or belief in worship encompasses a broad range of acts, including the building of places of worship.

The right to maintain places of worship obliges States to provide special protection to those places: in 2007, the Human Rights Council urged States in its resolution 6/37, article 9(b), to exert the utmost efforts, in conformity with international human rights law, to ensure that religious places are fully respected and protected, and to take additional measures in cases where they are vulnerable to desecration or destruction.

We would like to further refer to your Excellency's Government to the international standards in relation to the protection of the rights to persons belonging to religious minorities. Article 27 of the International Covenant on Civil and Political Rights, ratified by the Russian Federation on 16 October 1973, establishes that in those States in which ethnic or linguistic minorities exist, persons belonging to such minorities have the right, in community with the other members of their group to enjoy their own culture and to profess and practise their own religion.

Furthermore, the 1992 Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities (Declaration on the Rights of Minorities), establishes in article 1 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, and in article 2 that persons belonging to religious minorities have the right to profess and practise their own religion without discrimination. Moreover, 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).

We also would like to draw your Excellency's Government attention to the recommendations of the sixth session of the Forum on Minority Issues on "Guaranteeing the rights of religious minorities" (2013); in particular Recommendation 17, which calls on States to ensure that there is no discriminatory treatment in regard to the legal and administrative recognition of all religious and belief groups. Any registration and administrative procedures, including those relating to the property and the functioning of

places of worship and other religious-based institutions, should be conducted according to non-discrimination standards. International standards do not allow non-recognition of religious or belief groups to result in denial of their rights. Such standards require an inclusive approach to be taken; and Recommendation 20, which establishes that States should exercise no undue influence over religious minority affairs, including the functioning of places of worship and any legitimate religion- or belief-based activities..