

**Mandate of the Special Rapporteur on freedom of religion or belief**

REFERENCE: UA  
YEM 1/2016:

1 April 2016

Excellency,

I have the honour to address you in my capacity as Special Rapporteur on freedom of religion or belief pursuant to Human Rights Council resolution 22/20.

In this connection, I would like to bring to the attention of your Excellency's Government information I have received regarding the indictment and deferred trial of Mr. **Hamid Kamali** (Hamed Kamal bin-Haydara), a Bahá'í follower in Yemen. Mr. Kamali was already a subject of communication (YEM 5/2014) to which we regret that no reply has been received from your Government.

According to the information received:

On 8 January 2015, the Specialized Criminal Prosecution of the Republic of Yemen had indicted Mr. Hamid Kamali (also known as Hamed Kamal bin-Haydara) for "compromising the independence of the Republic of Yemen".

In the indictment letter, the General Prosecutor accused Mr. Kamali of collaborating with a foreign country (the State of Israel) by working for the Universal House of Justice, the supreme governing institution of the Bahá'ís based in Israel. Mr. Kamali was also accused of spreading the Bahá'í faith in the Republic of Yemen while attempting to incite the Yemenis into leaving Islam and embracing Bahá'í faith.

When Mr. Kamali's case was heard on 8 March 2015, he denied all the charges against him. His lawyer requested for his file and the case was adjourned until 4 April 2015. On the same day, two other Bahá'í brothers who attended the hearing were detained for alleged unfinished previous investigation. They were both released two days later.

Nonetheless, the hearing of Mr. Kamali's case was not resumed until 8 November 2015. The judge allegedly rejected evidence of torture gathered whilst Mr. Kamali was under the jurisdiction of the National Security Agency and all the purported statements of Mr. Kamali that was recorded in the absence of an official note-taker in the court. Following the request of Mr. Kamali's lawyer, he was however released on bail on medical grounds and the doctors established that he needed surgery. However, the medical reports allegedly were not processed properly.

On 12 February 2016, Mr. Kamali appeared in a closed hearing where the General Prosecutor pursued toughest punishment i.e. execution and asset forfeiture for the charges against him based on Mr. Kamali's membership of the Bahá'í faith and possession of an alleged fraudulent Yemeni passport. During the hearing, Mr. Kamali's lawyer also requested for the medical papers related to his health needs, withheld by the General Prosecutor, to be released to which the judge decided that the papers should be assessed by a doctor.

Mr. Kamali was told at the prison that he was not to appear in court on the scheduled hearing on 28 February 2016. The judge was surprised that Mr. Kamali failed to appear in court and the next hearing was set for 3 April 2016.

Serious concern is expressed that Mr. Hamid Kamali was arrested on the ground of his religion or belief; and the due process for his case has fallen below the fair trial standards as guaranteed by international human rights law. The allegations received also raise major concerns in relation to the independence of the members of the judiciary and the prisons. Furthermore, it is most concerning that Mr. Kamali could not receive his proper medical reports and papers in order to have surgery deemed necessary.

Without expressing at this stage an opinion on the facts of the case and on whether the detention of Mr. Kamali is arbitrary or not, the above allegations appear to be in contravention of the right not to be deprived arbitrarily of liberty and to fair proceedings before an independent and impartial tribunal, as set forth in articles 9 and 10 of the Universal Declaration of Human Rights (UDHR) and articles 9 and 14 of the International Covenant on Civil and Political Rights (ICCPR), acceded to by the Republic of Yemen on 9 February 1987.

We are appealing to your Excellency's Government to ensure the right to freedom of religion or belief, in accordance with article 18 of the ICCPR and the UDHR. Article 2 (1) of the 1981 Declaration of the General Assembly also emphasizes that no one shall be subject to discrimination by any State, institution, group of persons, or person on the grounds of religion or other belief.

Recognizing that those individuals affected are members of religious minorities in the Republic of Yemen, we would like to bring to your Excellency's Government attention the international standards regarding the protection of the rights of persons belonging to religious minorities, in particular to article 27 of the ICCPR, that guarantees minorities, inter alia, the right to profess and practice their own religion. Moreover, the 1992 Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities requires States to protect the existence and identity of religious minorities within their territories, to adopt appropriate legislative and other measures to achieve those ends (article 1) and to ensure that persons belonging to minorities may exercise their human rights without discrimination and in full equality before the law (article 4.1).

The full texts of the human rights instruments and standards recalled above are available on [www.ohchr.org](http://www.ohchr.org) or can be provided upon request.

In view of the urgency of the matter, I 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 international instruments.

As it is my responsibility, under the mandate provided to me by the Human Rights Council, to seek to clarify all cases brought to my attention, I would be grateful for your observations on the following matters:

1. Please provide any additional information and any comment you may have on the above-mentioned allegations;
2. Please provide information concerning the legal grounds for the arrest and detention of Mr. Hamid Kamali and how these measures are compatible with international norms and standards as stated, inter alia, in the UDHR and the ICCPR.
3. Please indicate what measures have been taken to ensure that persons belonging to religious minorities, including members of the Bahá'ís, can exercise freely and without discrimination their right to freedom of religion and belief.
4. Please indicate what measures have been taken to ensure that Mr. Kamali's right to health, including medical reports and necessary care, has been guaranteed and protected.

While awaiting a reply, I urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person responsible of the alleged violations.

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 my highest consideration.

Heiner Bielefeldt  
Special Rapporteur on freedom of religion or belief