

Mandates of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on minority issues; and the Special Rapporteur on freedom of religion or belief

REFERENCE:
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29 November 2016

Excellency,

We have the honor 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 minority issues; and Special Rapporteur on freedom of religion or belief, pursuant to Human Rights Council resolutions 24/5, 25/5 and 22/20.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning disruption of religious services of Jehovah's Witnesses and police interference with publicly manifesting belief in Azerbaijan.

According to the information received:

Disruption of religious services in Mingachevir, Baku and Gakh

Mingachevir

On 9 January 2016, police officers stopped a peaceful religious service held in a private home in Mingachevir. The officers reportedly declared the meeting unlawful and that a permit was required for a meeting of such kind. Representatives of the Executive Authority, the municipality as well as the State Committee for Work with Religious Associations (SCWRA) allegedly participated in the raid. All the attendees at the religious meeting were taken to the Mingachevir Police Station where they were questioned and ordered to write statements. The officers confiscated the attendees' personal copies of religious publications, including the Bible, and released the attendees later that same day.

Sahil Settlement, Baku

On 17 January 2016, local police interrupted a meeting for worship in a private home in Sahil Settlement, Baku. The officers took the resident to the local police station and kept her there until they could verify that the religious publications in the private home were labelled with SCWRA control stamps. The officers also noted information of all the Jehovah's Witnesses that were visiting the home. They were all warned that no such meeting should take place at that home again.

Gakh

On 23 March 2016, local police stopped the observance of the Memorial of Christ's death – the most sacred annual observance for Jehovah's Witnesses, which was being conducted in a private home in Gakh. The officers arrived at 6.40 p.m. and confiscated personal copies of religious publications, including Bibles. The officers took then all 56 attendees to the Gakh District Police Station where they interrogated them and ordered them to write statements. The police drew up records of an offence under the Code of Administrative Offences on six of the individuals and released them all after four hours.

In early May 2016, police charged 34 individuals under the Code of Administrative Offences Article 515.0.4 for a religious association operating outside its registered legal address. Subsequently, the Gakh District Court acquitted ten of them on 24 May 2016. Three days later another 17 individuals were acquitted. The police allegedly appealed against those 27 acquittals.

Between 28 July and 1 August 2016, the Shaki Court of Appeal reversed 26 of the acquittals and imposed convictions and fines of 1,500 AZN (approximately 870 USD) each, while one individual was fined 1,800 AZN. The remaining seven individuals were fined 1,500 AZN each on 4 August 2016.

Interference with publicly manifesting belief

Religious literature that are produced in, published in or imported into Azerbaijan are reportedly subject to prior compulsory censorship. It appears that such items can only be sold or distributed if they have received prior permission by SCWRA and labelled with control stamps. The cost of one stamp is AZN 0.02, which is however to be covered by the religious community. Between April and the end of October 2016, the SCWRA had allegedly told Jehovah's Witnesses that it had run out of stamps. This meant that religious publications, which the SCWRA had already given Jehovah's Witnesses permission to import, could not be distributed without fear of punishment.

On 8 March 2016, two Jehovah's Witnesses were speaking to a person about the Bible and religious publications of their faith, which were labelled with the SCWRA's control stamp. Despite the granted permission, the police detained the two Jehovah's Witnesses. They were held for approximately five hours, interrogated and ordered to write statements. The police drew up Administrative Offence Reports and accused them of violating Article 515.0.4 of the Code of Administrative Offences. They were both acquitted on 7 April 2016 in Gakh District Court.

On 11 April 2016, two female Jehovah's Witnesses were taken to the Gakh District Police Station and charged under the Code of Administrative Offences for allegedly distributing religious publications. They were both acquitted in Gakh District Court on 12 May 2016.

On 15 May 2016, another two individuals were stopped by the police and taken to the Gakh District Police Station, where they were charged under the Code of Administrative Offences for having talked with a man about the Bible. On 9 June 2016, the Gakh District Court acquitted the two Jehovah's Witnesses.

There have reportedly been several cases like the ones mentioned above, where the police had detained individuals for speaking to others on the street about their faith. Between January and August 2016 Jehovah's Witnesses reported 14 incidents that occurred in Baku, Barda, Gakh, Gazakh, Lokbatan, Mingachevir and Sumgayit.

The current legal status of the Jehovah's Witnesses' community in the country remains uncertain. The Ganja Religious Community applied for registration on 8 June 2011, but has been denied registration by SCWRA on numerous occasions allegedly due to technicalities.

While we do not wish to prejudge the accuracy of these allegations, we express concern that Jehovah's Witnesses are not able to operate freely in the country and that they are facing obstacles when trying to officially register their religious community in ways that are incompatible with the right to freedom of religion and belief under international human rights law. It is also of concern that registration for religious communities is still a requirement in Azerbaijan.

We are equally concerned about the numerous police raids on meetings of Jehovah's Witnesses and the charges brought against individuals who either attend these peaceful gatherings in private or share information of their faith. The prior censorship of religious materials is also of great concern to us as it is incompatible with the right to freedom of expression.

In connection with the above alleged facts and concerns, please refer to the **Annex on Reference to international human rights law** 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 detailed information concerning the legal grounds for the police raids on peaceful meetings of Jehovah's Witnesses as well as the administrative offences brought against the attendees, specifying how these measures are compatible with international human rights norms and standards.

3. Please comment on the reported increase in arrests of Jehovah's Witnesses in the country.
4. Please indicate what concrete measures have been taken to ensure that persons belonging to national, or ethnic, religious and linguistic minorities, including unrecognized communities, have the right to profess and practice their own religion freely and without interference or any form of discrimination.
5. Please indicate if any steps have been taken towards abolishing the requirement of registration for religious communities and prior censorship of religious materials in order to bring Azerbaijani legislation into line with international human rights law.

We would appreciate receiving a response within 60 days.

While awaiting a reply, we 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(s) responsible for 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 our highest consideration.

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

Rita Izsák-Ndiaye
Special Rapporteur on minority issues

Ahmed Shaheed
Special Rapporteur on freedom of religion or belief

Annex

Reference to international human rights law

In connection with above alleged facts and concerns, we would like to appeal to your Excellency's Government to ensure the right to freedom of religion or belief of the members of Jehovah's Witnesses in accordance with the principles set forth in article 18 of the Universal Declaration on Human Rights and article 18 of the International Covenant on Civil and Political Rights.

We deem it appropriate to make reference to Human Rights Council Resolution 12/16 which refers to the right to freedom of thought, conscience or religion as an intrinsically linked right to freedom of opinion and expression, and in this context, calls on States to take all necessary measures to put an end to violations of these rights and to create conditions to prevent their reoccurrence. In this regard, we would like to underline that any restriction to the right to freedom of expression must meet the threshold established under article 19(3) of the ICCPR. We reiterate the principle enunciated in Human Rights Council Resolution 12/16, calling upon states to refrain from imposing restrictions which are not consistent with article 19(3), including on expression of opinion and dissent, religion or belief, including by persons belonging to minorities or vulnerable groups.

We also would like to refer to Human Rights Council resolution 6/37 paragraph 9 (f) urging States "To review, whenever relevant, existing registration practices in order to ensure the right of all persons to manifest their religion or belief, alone or in community with others and in public or in private"; and (g) "To ensure, in particular, the right of all persons to worship or assemble in connection with a religion or belief and to establish and maintain places for these purposes and the right of all persons to write, issue and disseminate relevant publications in these areas;" as well as (h) "To ensure that, in accordance with appropriate national legislation and in conformity with international human rights law, the freedom of all persons and members of groups to establish and maintain religious, charitable or humanitarian institutions is fully respected and protected;"

Furthermore, we would like to recall that the General Assembly, in its resolution 63/181 paragraph 9 (j) urges States "To ensure that all public officials and civil servants, including members of law enforcement bodies, the military and educators, in the course of fulfilling their official duties, respect all religions or beliefs and do not discriminate for reasons based on religion or belief, and that all necessary and appropriate education or training is provided;".

We would also like to refer to your Excellency's Government 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 (Declaration on the Rights of 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, and 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).

In addition, we would like to bring to the attention of your Excellency's Government the Recommendations of the sixth session of the Forum on Minority Issues (2013) on "Guaranteeing the rights of religious minorities" (A/HRC/25/66) and in particular Recommendation 22, which states that "States should protect the interdependent freedoms of religion and expression that together encompass the rights to teach, proselytize and criticize any religion, while encouraging a respectful and peaceful coexistence".

In this connection, we would like to kindly request your Excellency's Government to transmit this communication to the relevant authorities and to take all necessary measures to guarantee that the rights and freedoms of the members of Jehovah's Witnesses are respected.