

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

REFERENCE:
AL AFG 4/2016

30 November 2016

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on minority issues and Special Rapporteur on freedom of religion or belief, pursuant to Human Rights Council resolutions 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 **deliberate sectarian attacks against minority Shia Muslims**.

According to the information received:

On 23 July 2016, two suicide attackers targeted a peaceful demonstration in Deh Mazang Square in Kabul, and killed at least 85 civilians while injuring another 413. Nearly all the victims were men, who were also minority Shia Muslims of Hazara ethnicity. It was one of the deadliest attacks against civilians recorded since 2001. On the same day, the Amaq News agency website, affiliated with the "Islamic State" or Daesh, claimed responsibility for the attacks, linking them to the reports of Hazaras' alleged participation in the fighting in Syria on the side of the Government. A series of anti-Shia statements were also delivered. A Truth-finding and Investigative Committee was appointed by President Ghani on 25 July 2016 following this incident.

On 11 October 2016, the day of Ashura - a major Shia Muslim commemoration - an attacker using the disguise of an Afghan security forces uniform entered the Karte mosque in Kabul and opened fire at Shia worshippers. The attacker also used a hand grenade, killing 19 civilians and injuring 60 others. The attack caused minor damage to the mosque with many bullet holes on the wall. Daesh again claimed responsibility for this attack by issuing another online statement containing hateful language.

On the next day, 12 October 2016, another explosion went off at the entrance of a mosque where worshippers were gathered for Ashura in Khojagholak area of Balkh district in the Northern Province. This incident killed 18 civilians and injured 67 others, including 36 children. The incident caused minor damage to the gate. No group claimed responsibility for this attack.

More recently, on 21 November 2016, at least 40 civilians were killed at the Baqer-ul Ulom mosque in Kabul during observance of the religious ceremony of Arbæen, a commemoration on the 40th day after Ashura. 74 civilians were injured

during the attack, many of whom were children. The suicide bomber detonated his device at the mosque deliberately targeting at the large congregation of worshippers from the minority Shia Muslim community. The attack also caused minor damage to the wall and windows of the mosque. “Islamic State” or Daesh claimed responsibility for this attack using similar derogatory expressions and called for violence against Shia Muslims as it had in earlier statements.

On 22 November 2016, Anti-Government Elements detonated a remote-controlled improvised explosive device that injured 4 Shia Muslim worshippers at the Razaiya mosque in Herat city. No group claimed responsibility.

While we take note of President Ghani’s successive statements of condemnations of all these acts, we express our grave concerns at this pattern of intentional attacks against civilians during their peaceful demonstration and public congregation for religious ceremonies in your Excellency’s country. We are also concerned of the incitement to sectarian hatred and violence, targeting particularly the minority Shia Muslims.

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 the details and where available, the results or reports, of any independent investigation, arrest or criminal charges in relation to the above mentioned attacks. We would be particularly interested to receive the detailed findings or a copy of the full report by the Truth-finding and Investigative Committee established on 25 July 2016 where available.
3. Please indicate which measures your Excellency’s Government has adopted to ensure the security of minority Shia Muslim members during their congregation following these attacks. Please also indicate whether coordination mechanisms have been established with the religious leaders of the community.
4. Please indicate the efforts taken by your Excellency’s Government to protect minority ethnic and religious communities, and to overcome possible ethnic, tribal and religious tensions that may exist among them.

5. Please provide detailed information indicating the measures that have been taken to protect minority ethnic and religious communities to peacefully assemble, to manifest their religion or belief and to worship in public in accordance with international human rights standards.
6. Please indicate any action plan or strategy your Excellency's Government has devised to prevent violent extremism or implemented in prohibiting the advocacy of national, racial or religious hatred that incite others to discrimination, hostility or violence in accordance with Article 20 (2) of International Covenant on Civil and Political Rights and Resolution 16/18 of Human Rights Council.
7. Please indicate any measures taken by your Excellency's Government in combating the violence committed by the non-State actors.

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.

We intend to publicly express our concerns in the near future as, in our view, the information upon which the press release will be based is sufficiently reliable to indicate a matter warranting immediate attention. We also believe that the wider public should be alerted to the potential implications of the above-mentioned allegations. The press release will indicate that we have been in contact with your Excellency's Government's to clarify the issue/s 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.

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 wish to share our concerns in relation to present circumstances in light of the applicable international human rights norms and standards. We would like to appeal to your Excellency's Government to ensure that everyone has the right to freedom of thought, conscience and religion, including to manifest his religion or belief in worship, observance, practice and teaching individually or in community with others and in public or private in accordance with article 18 of the International Covenant on Civil and Political Rights (ICCPR) that your Excellency's Government acceded to on 24 January 1983.

We would also like to refer your Excellency's Government to General Comment No. 31 of the Human Rights Committee on the Nature of the General Legal Obligation Imposed on States Parties to the Covenant (CCPR/C/21/Rev.1/Add. 1326 May 2004). In particular, Paragraph 3 provides that Article 2 defines the scope of the legal obligations undertaken by States Parties to the Covenant. A general obligation is imposed on States Parties to respect the Covenant rights and to ensure them to all individuals in their territory and subject to their jurisdiction. Pursuant to the principle articulated in article 26 of the Vienna Convention on the Law of Treaties, States Parties are required to give effect to the obligations under the Covenant in good faith.

In addition, Article 20 (2) of the ICCPR obliges States to prohibit by law any advocacy of religious hatred that constitutes incitement to discrimination, hostility or violence. Resolution 16/18 of the Human Rights Council calls on States to foster a domestic environment of religious tolerance, peace and respect, by:

- 5(e) Speaking out against intolerance, including advocacy of religious hatred that constitutes incitement to discrimination, hostility or violence;
- 5(f) Adopting measures to criminalize incitement to imminent violence based on religion or belief;
- 5(g) Understanding the need to combat denigration and negative religious stereotyping of persons, as well as incitement to religious hatred, by strategizing and harmonizing actions at the local, national, regional and international levels through, inter alia, education and awareness-building;
- 5(h) Recognizing that the open, constructive and respectful debate of ideas, as well as interfaith and intercultural dialogue at the local, national and international levels, can play a positive role in combating religious hatred, incitement and violence.

We would further 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 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 1), recognizes that persons belonging to religious minorities have the right to profess and practise their own religion without discrimination (article 2) and requires States 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).

Furthermore, we would like to refer to the Recommendations of the sixth session of the Forum on Minority Issues on “Guaranteeing the rights of religious minorities” (2013).