

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; the Special Rapporteur on freedom of religion or belief and the Special Rapporteur on the promotion and protection of human rights while countering terrorism

REFERENCE:
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Excellency,

We have the honour to address you in our capacity as Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on minority issues; Special Rapporteur on freedom of religion or belief and Special Rapporteur on the promotion and protection of human rights while countering terrorism, pursuant to Human Rights Council resolutions 25/2, 25/5, 22/20 and 31/3.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the **increased discriminatory restrictions imposed against the Ahmadis since the establishment of National Action Plan, recent raids of Ahmadiyya offices in Rabwah, the attack of the Ahmadiyya mosque in Dulmihal and open incitement to persecution of Ahmadis by clerics.**

According to the information received:

The National Action Plan was established by the Government of Pakistan in January 2015 to crack down on terrorism. The plan included, among others, the strengthening of the National Counter Terrorism Authority, crackdown on hate-speech and action against newspapers, magazines contributing to the spread of such speech, measures to stop religious extremism and protect minorities, steps against religious persecution, registration and regulation of religious seminaries as well as prosecution of elements spreading sectarian violence. The plan also gave particular attention to the situations in Punjab, Karachi and Baluchistan. However, the implementation of the National Action Plan has allegedly worsened the discriminatory restrictions and persecution against the Ahmadis.

Ban of Ahmadiyya religious materials

On the daily *Ausaf* dated 14 February 2015, the Mutahiddah Ulama Board, a clerical body without constitutional or legal standing, published its resolution following a board meeting recommending that the Home Department, the Police in general and the Government of Punjab should take no action against the drafting, printing, distribution and sale of literature by Khatme Nabuwwat. Khatme Nabuwwat is an organisation that openly promotes anti-Ahmadiyya sentiment through conferences, television programmes and leaflet distribution.

On 14 April 2015, following the recommendation of the Mutahiddah Ulama Board, the Home Department of Punjab banned, among others, 11 Ahmadiyya publications and periodicals. This included *Tazkarah* (a compendium of the dreams, visions and revelations) and *Roohani Khazain* (comprises 85 books and a booklet), both are a series of published work by the founder of Ahmadiyya community, the late Hazrat Mirza Ghulam Qadiani. The list also banned Ahmadiyya daily- *Alfazl* and monthly- *Ansarullah*, *Khalid* and *Tehrik Jadid*. No due inquiry was done before the list was published as banned materials. Reportedly, 64% of the banned list comprises Ahmadiyya books.

Raid of the headquarters of Ahmadiyya community

On 5 December 2016, 16 armed policemen and 12 plain clothed officers from the Counter Terrorism Department of Punjab forced their way into the publication office at the headquarters of the Ahmadiyya community in Rabwah. They raided the office with a warrant and confiscated 5 computers and a laptop of the Director of the publication office, 1 printer, 2 mobile phones and several books. The police also arrested two missionaries, Mr. Malik Sabahu Zaffar and Mr. Amir Ahmed Fahim, and a computer operator, Mr. Zahid Mahmood Majeed on charges of “hate speech” related to the publication of their community magazine.

Some policemen further raided the control room at the rooftop of the building and assaulted Mr. Rana Irfan Ahmad, who was the Supervisor of the control room. He was forced to surrender the key to one of the cupboards where 3 licensed guns and a box of bullets were kept. Mr. Ahmad was rushed to the hospital due to severe beating and remained under treatment. Moreover, several security cameras installed in the building were reportedly disabled by the police.

After that, the police also raided Zia-ul-Islam press offices. Press operators were instructed to stop the press and were beaten up. Furthermore, they were told to hand over the monthly publication, *Tehrik Jadid*, and its plates that they did not have as the printing production was at that point for Ahmadiyya daily, which was done with permission. Mr. Idrees Ahmad who led the office was assaulted and arrested also on similar charges. 8 colors plates, 4 black plates, and printed sheets of the Ahmadiyya daily were seized as well.

As a result of the raid, nine Ahmadis (out of which 4 were arrested as mentioned above) were charged under Sections 298C and 298B of Pakistan Penal Code which relates to the Blasphemy laws.

Attack at Ahmadiyya Mosque and incitement to persecution by clerics

12 December 2016 marked the Prophet Muhammad’s birthday. Local police officials reportedly confirmed that a mob of about 1,000 people attacked the Baitulzikh Mosque in Dulmihal that belonged to the Ahmadiyya community, built

since 1860. They chanted anti-Ahmadi slogans, threw stones and shot gunfire, several Ahmadiyya worshippers were wounded while one was reportedly killed. They also burned the property inside the building, including carpets. The police could not stop them due to alleged weak deployment at the beginning. In a petition signed by over 500 people, including local clerics, sent to the local police department a few weeks earlier, they allegedly demanded the Mosque to be taken away from the Ahmadis or they would take extreme measures to “liberate” this Mosque.

One of the Punjab officials apparently commented on social media that the Ahmadis should not make a fuss out of this attack at the Mosque as this would “incite disturbances”. Furthermore, the Ahmadis received information on 14 December 2016 that the clerics were planning a rally against Ahmadis on the Friday, 16 December 2016. Leaflets, posters and video message were disseminated widely.

We express our grave concerns at the continued discriminatory restrictions on the Ahmadis under the implementation of the National Action Plan. Their rights as religious minority to freedom of religion or belief and freedom of expression have been severely undermined with the ban of their religious materials and periodicals. Such bans amount to censorship, and we express concern at the application of the counter-terrorism policies of the National Action Plan to censor publications, thereby criminalizing the rights to freedom of religion and freedom of expression of persons belonging to a religious minority. We express concern at the blasphemy charges brought against four individuals, as such charges are incompatible with international human rights law. We are also concerned at the random raids at Ahmadiyya headquarters, the use of force against and arbitrary arrests of persons in the headquarters and the intentional attacks against the Ahmadiyya mosque and the worshippers. We are also concerned at the incitement by clerics to sectarian hatred and persecution, targeting particularly the Ahmadiyya minority, and the lack of government response to these incitements.

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, of any investigation, and judicial or other inquiries which may have been carried out in relation to the raids of the Ahmadiyya headquarters and attack of

Baitulzikh Mosque. If no inquiries have taken place, or if they have been inconclusive, please explain why.

3. Please provide information about assessments made to ensure the National Action Plan's compatibility with Pakistan's obligations under international human rights law. In the implementation of the National Action Plan, please provide details of the measures that your Excellency's Government has taken in stopping religious extremism, protecting minorities, taking steps against religious persecution and prosecuting those who spread sectarian violence. Have any perpetrators been identified? If so, please provide the full details of any prosecutions which have been undertaken. Have penal, disciplinary or administrative sanctions been imposed on the alleged perpetrators?
4. Khatme Nabuwwat allegedly produces anti-Ahmadiyya literature. Has the relevant governmental department reviewed the content of the literature by Khatme Nabuwwat? If it did contain hate message or instigate religious persecution against the Ahmadis, what action should the authority take according to the National Action Plan?
5. Have there been any reviews to the banned list of Ahmadiyya publications? Have there been evidences that the publications contain hate speech/messages? If not, why were the publications banned?
6. Please provide reasons for which the nine Ahmadis were charged for blasphemy under article 298C and 298 B of the Penal Code and how this is compatible with international standards. Please provide information on measures taken to repeal these provisions and to bring the Penal Code into line with Pakistan's obligations under international human rights law, in particular with articles 18 and 19 of the ICCPR.
7. Upon the receipt of the petition signed by over 500 people, including local clerics, by the local police department in Dulmihal a few weeks before the attack, what action had the police taken to prevent any violence when petitioners threatened to take "extreme measures" to liberate the Baitulzikh Mosque? What further measures had they taken to protect the Ahmadiyya minority?
8. Please indicate any remedial action taken vis à vis the victims and/or their families.

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.

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and expression

Rita Izsák-Ndiaye
Special Rapporteur on minority issues

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Special Rapporteur on freedom of religion or belief

Ben Emmerson
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terrorism

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 ratified on 23 June 2010.

The 1981 United Nations Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief (A/RES/36/55) in its Article 6 (d) provided that the right to freedom of thought, conscience, religion or belief includes the freedom, "To write, issue and disseminate relevant publications in these areas". Human Rights Committee General Comment 22 Paragraph 4 also states that "In addition, the practice and teaching of religion or belief includes acts integral to the conduct by religious groups of their basic affairs, [...] the freedom to establish seminaries or religious schools and the freedom to prepare and distribute religious texts or publications." (CCPR/C/21/Rev.1/Add.4)

We moreover refer to article 19 of the ICCPR, which guarantees the right of everyone to freedom of opinion and expression, which includes "*freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice*".

In this connection, 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. The Human Rights Committee has further stated in paragraph 48 of its General Comments 34 that prohibitions or displays of lack of respect for a religion or other belief system, including blasphemy laws, are incompatible with the ICCPR, except in the specific circumstances envisaged in article 20 (2) of the Covenant. Such prohibitions must also comply with the strict requirements of the Covenant's article 19 (3), as well as articles as 2, 5, 17, 18 and 26. The Committee observed that nor would it be permissible for such prohibitions to be used to prevent or punish criticism of religious leaders or commentary on religious doctrine and tenets of faith (CCPR/C/GC/34).

On the application of the National Action Plan, which is a counter-terrorism plan, we would like to highlight that the application of counter-terrorism provisions to target speech must meet the threshold of article 19(3). While national security is a legitimate

basis for restricting the right to freedom of expression under article 19(3), it is not enough to simply claim it as a justification to pursue illegitimate purposes such as silencing critical voices or voices of minority groups. The state has to demonstrate that it is necessary to do so to achieve a legitimate objective. We reiterate the statement by the Human Rights Committee in General Comment 34 that article 19(3) may never be invoked as a justification for the muzzling of any advocacy of human rights (CCPR/C/G/34).

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).

Finally, 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.