

Mandates of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the rights to freedom of peaceful assembly and of association; and the Special Rapporteur on freedom of religion or belief

REFERENCE:
AL UZB 3/2016

22 December 2016

Dear Mr. Lapasov,

We have the honour 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 the rights to freedom of peaceful assembly and of association; and Special Rapporteur on freedom of religion or belief, pursuant to Human Rights Council resolutions 25/2, 32/32, and 31/16.

In this connection, we would like to bring to the attention of your Government information we have received concerning **disruption of peaceful religious gatherings in private homes, severe censorship of any religious content and confiscation of religious materials in Uzbekistan, leading to undue restrictions on the rights to freedom of religion, freedom of expression and freedom of peaceful assembly.**

According to the information received:

In Uzbekistan, religion or belief communities are required by the Law on Freedom of Conscience and Religious Organizations (1998 Religion Law) to have state registration in order to exist and conduct religious activities. Any religious meeting outside state-registered communities and their registered premises is allegedly banned. There is also reportedly a de facto ban on religious literature of any faith in private homes or in public places.

A Cabinet of Ministers' Decree on religious literature entitled "Measures to improve order in the production, import and distribution of religious materials" from January 2014, empowers the State Customs Committee and the State Borders Protection Committee to seize all religious material that is imported without prior authorization by the Committee of Religious Affairs (CRA). The religious materials, not only in print but also on mobile phones, tablets and other electronic devices, will reportedly be confiscated and sent to CRA to be analysed and if approved, it will be sent back to the owner.

On the basis of this decree, police and secret police officers have continuously been raiding homes without warrant and confiscated electronic and printed material with religious content, including Mus-hafs in Arabic and Bibles in Uzbek and Russian. Bibles that were confiscated have allegedly also been destroyed following court orders.

In November 2015, in a raid without warrant at the private home of a Council of Churches Baptist, police confiscated 15,453 items of Christian literature, including books, Bibles, booklets and periodicals without providing a written record of the confiscations.

Between late November 2015 till mid January 2016, at least 18 individuals were fined for carrying with them or keeping in their homes “illegal” religious materials. On 11 January 2016, the State news agency, UzA, reported that the Customs officers had stopped the import of 50,000 “illegal” religious texts in 2015 and the reason given by the Government for such censorship was “to isolate [the] population, especially young people, from the influence of various harmful movements”.

In March 2016, every home in Orikzor Mahalla, in the Uchteppa District of Tashkent, was raided without warrant by twenty National Security Service (NSS) secret police officers, as well as ordinary police officers, to search for religious literature. In the course of this operation, the officers arrested the people present for holding unauthorised religious meetings. There have reportedly been cases of people being imprisoned since 2009 for convening a peaceful religious meeting at home.

Similarly, on 12 March 2016, private homes in Fergana in eastern Uzbekistan were allegedly raided without warrant by police officers, who entered mainly homes belonging to Christians in the search for religious literature.

The late President signed into law amendments to the Administrative and Criminal Codes, which entered into force in April 2016. Under these provisions, those who publish, disseminate, broadcast materials that are allegedly “extremist” would be punished with prison terms of between 5 to 8 years.

In June 2016, four members of a Sufi Muslim community were allegedly imprisoned for four years each for participating in a religious meeting in a home in Bukhara region as their community does not have state registration. Eleven other members were allegedly fined.

A Protestant in Urgench was fined *in absentia* seven times the minimum monthly wage in June 2016. According to information that has been made available to us, the person only knew of the Court’s decision weeks after the hearing took place in his absence and he did not know what charges he had been convicted under as he did not receive a copy of the written verdict.

In Zarafshan, two Baptists from a church with state permission to exist had their bank accounts frozen and money taken by officials for their “alleged offence” of possessing religious literature. The police raided their home in July 2016 and they were found guilty in September 2016 for “illegal production, storage, or import

into Uzbekistan, with the intent to distribute or actual distribution, of religious materials by physical persons” and fined 15 to 20 times the minimum monthly wage.

A Baptist handing out Christian literature on a street in Navoi was found guilty of proselytism and fined half the minimum monthly salary in September 2016. Six CD/DVDs of Christian teachings belonging to a Seventh-day Adventist was confiscated at the metro station in Tashkent in October 2016. Police claimed that the 1998 Religion Law did not allow one to carry religious materials and that the materials can only be read in the building of an officially registered religious organisation.

In November 2016, two Protestants in Termez were jailed for five days after the police found religious literature in their private homes. They were also ordered to pay fifteen per cent of one month’s salary as “compensation” for the cost of jailing them. In the same month, in Namangan region, homes of local Council of Churches Baptists were raided without warrant and Christian literature was confiscated. In Kuvasai of eastern Fergana region, police raided private homes of four local Council of Churches Baptists, whose church meets without state permission, and confiscated all Christian literature without warrant.

In addition, there have reportedly been several other cases of prisoners of conscience accused of “illegal possession” of religious materials on a mobile phone. More specifically, on January 2016, a young Muslim man was allegedly arrested by the NSS secret police in Tashkent Airport for obtaining Surah recitals and sermons of an imam on the mobile phone. The individual was kept in the detention centre of the NSS secret police in Yunusabad for several months and subsequently given six years in prison, charged under Criminal Code Article 244-2 for “Creation, leadership or participation in religious extremist, separatist, fundamentalist or other banned organisations” and Article 159 relating to attempts at changing the Constitutional order of the Republic of Uzbekistan.

A similar case involved another Muslim man, who was arrested in July 2016 by the NSS secret police in Tashkent Airport, for allegedly possessing sermons on his mobile phone. The individual was allegedly kept in detention for a lengthy period of time under Criminal Code Article 246 (1), which punishes smuggling “materials that propagandize religious extremism, separatism and fundamentalism”, with imprisonment from five to ten years. The individual concerned was later released in October 2016.

While we do not wish to prejudge the accuracy of these allegations, we are seriously concerned about the numerous reported police raids and confiscation of religious materials in private homes as well as the disruption of peaceful religious meetings. We are equally concerned about the high number of alleged arrests and fines imposed on people for exercising their rights to freedom of religion or belief and freedom

of peaceful assembly. The severe censorship that is imposed upon all religious materials is also of great concern to us as it is incompatible with the rights to freedom of expression and religion or belief. We also express concern at the legislative requirements under the 1998 Religion Law which unduly restricts the rights to freedom of religion or belief, freedom of expression and freedom of association and peaceful assembly by requiring religious communities to obtain state permission in order to exist and to conduct religious activities.

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 information on measures taken to guarantee the right to freedom of religion or belief, in particular the freedom to manifest one's religion or beliefs, including the right to worship, possess, share and disseminate materials or information related to one's religion or belief.
3. Please provide information about the compatibility of the 2014 decree "Measures to improve order in the production, import and distribution of religious materials", with Uzbekistan's obligations under international human rights law, in particular with respect to articles 18 and 19 of the ICCPR. In particular, please indicate if any steps have been taken towards repealing the decree's provisions concerning prior censorship of religious material.
4. Please provide information about measures taken to bring the 1998 Religion Law into line with international human rights law, in particular with respect to articles 18, 19, 21 and 22 of the ICCPR.
5. Please provide further information on how the disruption of peaceful religious meetings, and the related arrests of organizers and participants, comply with international norms and standards governing the right to freedom of peaceful assembly.

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 Government's response will be made available in a report to be presented to the Human Rights Council for its consideration.

Please accept, Mr. Lapasov, the assurances of our highest consideration.

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

Maina Kiai
Special Rapporteur on the rights to freedom of peaceful assembly and of association

Ahmed Shaheed
Special Rapporteur on freedom of religion or belief

Annex

Reference to international human rights law

In connection with the above alleged facts and concerns, we would like to appeal to your Government to take all necessary measures to ensure 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), to which Uzbekistan acceded in 1995.

Furthermore we would like to respectfully remind your Government of 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), which in its Article 2 (1) states that: "[n]o one shall be subject to discrimination by any State, institution, group of persons, or person on grounds of religion or other belief." In Article 4 (1), the General Assembly further states that: "All States shall take effective measures to prevent and eliminate discrimination on the grounds of religion or belief in the recognition, exercise and enjoyment of human rights and fundamental freedoms [...]" Furthermore, we would like to refer your Government to Article 4(2) according to which: "All States shall make all efforts to enact or rescind legislation where necessary to prohibit any such discrimination, and to take all appropriate measures to combat intolerance on the grounds of religion or other beliefs in this matter.

The 1981 Declaration in its Article 6 (d) also 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 Para. 4: "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 prepare and distribute religious texts or publications."

Commission on Human Rights resolution 2005/40 (paragraphs 4 (c) and 4 (e)) and Human Rights Council resolution 6/37 (paragraphs 12 (e) and 12 (h)) Urges 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 "To ensure that, in accordance with appropriate national legislation and in conformity with international human rights law, the freedom for all persons and members of groups to establish and maintain religious, charitable or humanitarian institutions is fully respected and protected."

We wish to further refer to articles 19, 21 and 22 of the ICCPR, which guarantee the right to freedom of opinion and expression, the right to freedom of peaceful assembly and the right to freedom of association, respectively.

Any restriction to the right to freedom of expression must meet the threshold established under article 19(3) of the ICCPR. 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. 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 practices such as the banning or closing of publications, censorship and restrictions on expression of opinion and dissent, religion or belief, including by persons belonging to minorities or vulnerable groups.

We would like to further refer to resolution 24/5 of the Human Rights Council in which it “[r]emind[ed] States of their obligation to respect and fully protect the rights of all individuals to assemble peacefully and associate freely, online as well as offline, including in the context of elections, and *including persons espousing minority or dissenting views or beliefs*, human rights defenders, trade unionists and others, including migrants, seeking to exercise or to promote these rights, and to take all necessary measures to ensure that any restrictions on the free exercise of the rights to freedom of peaceful assembly and of association are in accordance with their obligations under international human rights law (operative paragraph 2, emphasis added).

In this connection, we would like to kindly request your Government to transmit this communication to the relevant authorities and to take all necessary measures to guarantee that the rights and freedoms of everyone in Uzbekistan, irrespective of their religion or belief, are respected.