

Mandate of the Special Rapporteur on freedom of religion or belief

REFERENCE:
UA YEM 2/2017

18 May 2017

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 resolutions 31/16.

In this connection, I would like to bring to the attention of your Excellency's Government information I have received concerning escalation of religious persecution of Yemeni Bahá'ís through arrest orders, court summons, detention and disappearances.

Mr. **Hamid Kamali bin Haydara** and Mr. **Kaiwan Mohamed Ali Qadri**, Bahá'í followers in Yemen, were the subject of previous communications to your Excellency's Government (YEM 5/2014, YEM 1/2016, YEM 3/2016) to which I deeply regret that no replies have been received.

According to the information received:

Arrest and detention of Bahá'ís

Mr. Pazhohesh Sana'i, an Iranian Bahá'í, who is also an employee of Red Cross, was arrested by the National Security Forces at the Immigration and Passports Office in Sana'a on 5 April 2017. His arrest was mainly due to his faith and he has been detained in National Security Prison till date.

On 19 April 2017, two Yemeni Bahá'ís, Mr. **Walid Ayyash** and Mr. **Mahmood Humaid**, were reportedly arrested by Political Security officers at a check point near the city border of Hudiedah. Since their arrests, their whereabouts remain unknown. Their lawyers and family have not had any information or access to them.

Court summons and arrest orders of Bahá'ís

On 17 April 2017, more than thirty other Yemeni Bahá'ís, who had been previously arrested on 10 August 2016 as alleged in the previous communication YEM 3/2016, received phone calls from the public prosecutor ordering them to appear in court the next day on 18 April 2017. The individuals were warned that the Yemeni National Security officers would arrest them if they did not comply with the request. In the absence of official court orders, the concerned Bahá'ís resorted to hiring four lawyers to request for official court summons, which were obtained later. Mr. **Badee'Allah Sana'i** was arrested after appearing alone in the

court following a court summon that he received on 19 April 2017. He was released on bail a few days later on the condition that he presented a “commercial guarantee”.

Furthermore, on 18 April 2017, the de facto authorities in Sana’a issued arrest orders for at least twenty-five other Bahá’í individuals. These individuals were allegedly pressured to recant their faith and risk deportation from the country.

As a result of the court summons and arrest orders, many Yemeni Bahá’í families in Sana’a have left their homes and live in constant fear due to systematic harassment. Reports also indicate that Bahá’ís in Yemen face escalation of persistent pattern of religious persecution, which mirrors the pattern of persecution facing Bahá’ís living in the Islamic Republic of Iran.

Mr. Hamid Kamali Bin Haydara

Mr. **Haydara** was arrested on 3 December 2013, and remains incarcerated in the National Security Prison for “compromising the independence of the Republic of Yemen”, including spreading the Bahá’í faith in the Republic of Yemen.

Since his arrest, his trial has been repeatedly postponed. Moreover, on multiple occasions he was not brought to the court to attend hearings related to his case. Consequently, he has been imprisoned over a prolonged period of time without trial. The latest hearing took place on 25 April 2017 where the judge again deferred the case until 1 August 2017 to allow the prosecutor more time to gather evidence against Mr. Haydara.

It was reported that certain individuals were sent to harass Mr. Haydara in prison. On one occasion, the visitor even attempted to harm him with an iron bar. Mr. Haydara has also experienced solitary confinement during his detention. He reportedly suffers from poor health conditions that require serious medical attention.

It was also reported that Mr. Haydara's wife, who has been fighting for his release since his arrest, is one of the Yemeni Bahá’ís listed on the arrest orders of 18 April 2017.

Cholera outbreak in Sana’a and Central Prison

Following the cholera outbreak in Sana’a, the de facto authorities declared a state of emergency and some Yemenis have lost their lives. It is reported that cholera has spread to the Central Prison and a few prisoners have already diagnosed with the illness. Reports also indicate that Mr. **Kaiwan Mohamed Ali Qadri**, who

remains incarcerated after his arrest in August 2016, has also exhibited worrying symptoms of the disease.

I express my grave concerns at the alleged arrests orders, court summons, detention and disappearances of the aforementioned individuals, all of whom are Bahá'ís, and who appear to have been targeted based on their religion or belief. I am also concerned about the allegations of escalation of religious persecution of the Bahá'ís in Yemen. I remain very concerned at allegations that the legal proceedings against Mr. Haydara fall short of fair trial standards as guaranteed by international human rights law. I am also concerned about Mr. Haydara's safety and health in prison. Furthermore, I am concerned by the cholera outbreak in the Central Prison, affecting the health of all prisoners, including Mr. Qadri and Mr. Haydara.

Without expressing at this stage an opinion on the facts of the case and on whether the arrests of the aforementioned individuals are 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.

I am 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 grounds of religion or other beliefs.

Recognizing that those individuals affected are members of religious minorities in the Republic of Yemen, I 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 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(s) in compliance with international instruments.

As it is my responsibility, under the mandates 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 or comments you may have on the aforementioned allegations.
2. Please provide information concerning the legal grounds for the court summons and arrest orders of the Yemeni Bahá'ís, specifying how these measures are compatible with international norms and standards as stated, inter alia, in the UDHR and the ICCPR.
3. Please provide information concerning the legal grounds for the arrest and detention of Mr. Hamid Kamali Bin Haydara on 3 December 2013 according to international standards. Please outline the efforts being made by the judiciary to ensure that Mr. Haydara's trial takes place without further delay.
4. Please provide information on the fate and whereabouts of Mr. Walid Ayyash and Mr. Mahmood Humaid arrested on 20 April 2017. If their fate and whereabouts are unknown, please provide the details on any investigation or other queries which may have been carried out. If no queries have taken place, or if they have been inconclusive, please explain why.
5. Please provide measures that the authorities have taken in order to protect Mr. Haydara from further harassment and attempted physical attack in prison.
6. Please indicate what measures have been taken to ensure that persons belonging to religious minorities, including members of the Bahá'ís, can freely and without discrimination exercise their right to freedom of religion and belief.

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.

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

Kindly note that a letter with the same information will be transmitted to the de facto authorities in Sana'a through the representative of United Nations Office of the High Commissioner for Human Rights in Yemen. Please also note that this letter does not in any way imply the expression of any opinion concerning the legal status of any country, territory, city or area, or of its authorities.

Please accept, Excellency, the assurances of my highest consideration.

Ahmed Shaheed
Special Rapporteur on freedom of religion or belief