

Mandate of the Special Rapporteur on freedom of religion or belief

REFERENCE:
UA YEM 7/2018

28 September 2018

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 resolution 31/16.

In this connection, I would like to bring to the attention of your Excellency's Government information I have received concerning **the criminal proceedings initiated against over 20 Bahá'í individuals and the subsequent trial that did not meet the guarantees for a fair trial.**

I note that similar cases concerning persecution of Bahá'í followers in Yemen have been the subject of previous communications to your Excellency's Government (YEM 5/2014, YEM 1/2016, YEM 3/2016, YEM 2/2017, YEM 1/2018), to which I regret that no replies have been received.

According to the information received:

On 15 September 2018, a hearing was held in Sana'a Specialized Criminal Court to initiate the criminal proceedings against 24 individuals, among whom at least 22 are Bahá'ís, eight are women and one is a minor. The defendants neither had access to a lawyer nor were they provided any legal notice on the proceedings.

The court files include information on the charges lodged against the entire Bahá'í community in Yemen and each of the 24 individuals. Accordingly, the general description of the charges refer to the Bahá'í community as a "cell" of foreign powers with subversive intention. With regard to the individual cases, accusations include apostasy, the teaching of the Bahá'í faith, and the engagement in espionage for foreign entities, the latter being a crime which carries the death penalty if convicted. The administrative responsibilities assumed by each Bahá'í are also included in the court files.

Four of the Bahá'í individuals have been detained for around a year. Another Bahá'í, who is currently detained and was not present in the first hearing, will also appear before the court in the next hearing. The other defendants have all been identified as fugitives.

The next hearings are scheduled for 29 September 2018, when the 24 individuals will be officially summoned and the prosecutor will potentially present evidence on their cases.

I express grave concern at the criminal prosecution of more than 20 Bahá'is based on charges connected to their religion or belief, following procedures that appear to not meet the standards of fair trial. I am particularly concerned that these charges include crimes that carry the death penalty. I also express concern at the claim against the entire Yemeni Bahá'i community, which is not in accordance with international human rights standards.

In this connection, while I do not wish to prejudge the accuracy of the information made available to me, the above allegations appear to be in contravention of the right to freedom of religion or belief and to fair proceedings before an independent and impartial tribunal, as set forth in articles 10 and 18 of the Universal Declaration of Human Rights (UDHR) and articles 14 and 18 of the International Covenant on Civil and Political Rights (ICCPR), acceded to by the Republic of Yemen on 9 February 1987.

The right to freedom of religion or belief includes the freedom to have or to adopt a religion or belief of one's choice, and freedom, either individually or in community with others and in public or private, to manifest one's religion or belief in worship, observance, practice and teaching. 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 mandate 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 and any comment you may have on the above-mentioned allegations.
2. Please provide information concerning the factual and legal grounds for the charges lodged against the 24 above-mentioned individuals and the Bahá'í community as a whole, and how these measures are consistent with the international human rights obligations of Yemen, including article 18 of the ICCPR.
3. Please provide the details of the judicial proceedings against the 24 above-mentioned individuals, and how they comply with the guarantees of fair trial and due process, as enshrined, inter alia, in article 14 of ICCPR.
4. Please indicate what measures have been taken to ensure that persons belonging to religious minorities, including members of the Bahá'í community, can freely and without discrimination exercise their right to freedom of religion or 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 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 my highest consideration.

Ahmed Shaheed
Special Rapporteur on freedom of religion or belief

