

Mandates of the Special Rapporteur on freedom of religion or belief; the Working Group on Arbitrary Detention; the Special Rapporteur on extrajudicial, summary or arbitrary executions; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on minority issues

Ref.: AL NGA 1/2023
(Please use this reference in your reply)

4 August 2023

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on freedom of religion or belief; Working Group on Arbitrary Detention; Special Rapporteur on extrajudicial, summary or arbitrary executions; Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and Special Rapporteur on minority issues, pursuant to Human Rights Council resolutions 49/5, 51/8, 44/5, 52/9 and 52/5.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning **the killing of Ms. Deborah Emmanuel, following accusations of blasphemy in relation to insult of the Prophet Mohammed, at the hands of a mob. We have also received information regarding the arrest and alleged prolonged arbitrary detention of Ms. Rhoda Ya'u Jatau on the allegation that she had shared a WhatsApp video condemning the lynching of Ms. Emmanuel. Both cases appear to be related to the legitimate exercise of the right to freedom of thought, conscience and religion and of freedom of opinion and expression. Both are members of a religious minority.**

Concerns about the continued existence and frequent use of blasphemy laws in Nigeria have been the subject of previous communications from the Special Procedures mandate holders, including NGA 2/2021, NGA 4/2020 and NGA 3/2020. We regret that no reply has been received to date.

According to the information received:

Case of Ms. Deborah Emmanuel

Ms. Deborah Emmanuel was a minority Christian student at Shehu Shagari College of Education in Sokoto State in Nigeria. She was a member of the Evangelical Church Winning All (ECWA) in the Tugan Magajia of Rijau Local Government Area (LGA). The majority of the people in the Sokoto State identify themselves as followers of Islam.

On 12 May 2022, a predominantly male mob comprising of students from her college found Ms. Emmanuel within the premises of the education establishment and dragged her out. They attacked her with stones, beat her, and set her ablaze in a pile of tyres while chanting "Allahu Akbar (God is the greatest)". Afterwards, the attackers also burned the building of the college. The mob attack was recorded and circulated online.

The attack on Ms. Emmanuel was prompted by accusations of blasphemy of the Prophet Mohammed in a WhatsApp group chat, where she is said to have

expressed frustration at the discrimination experienced by minority Christian students.

The area police arrested two students in connection with the mob attack and charged them with inciting and causing public disturbance. In January 2023, it was reported that the area Chief Magistrate released and acquitted the two suspects because of the conspicuous absence of the police prosecution during the court hearings.

The case of Ms. Rhoda Ya'u Jatau

Ms. Rhoda Ya'u Jatau is a minority Christian healthcare administrator residing in Katanga Town, Warji Local Government Area (LGA) of Bauchi State in Northern Nigeria. Islam is the dominant religion in the Bauchi State.

On 20 May 2022, Ms. Jatau was arrested while at her house at Warji LGA by the Bauchi State Police Command for allegedly sharing a blasphemous video clip within a WhatsApp group comprising of her coworkers who are members of the Warji Local Government Health Management. By sharing the video, Ms. Jatau was alleged to have committed the offences of inciting disturbance, insulting and exciting contempt of a religious creed under section 114 and 210 of the 2006 Bauchi State Penal Code and cyber stalking under section 24 (1)(b) (1) of the Cyber Crime Prohibition, Prevention Act 2015. The video clip, which was two minutes and twenty-six seconds in length, contained content where an individual condemned the recent lynching of Ms. Deborah Emmanuel. Further, on the day of her arrest, a violent mob of over 200 individuals armed with knives and sticks attacked Ms. Jatau's neighbourhood which is predominantly Christian. The attackers sought to kill Ms. Jatau and called for her prosecution. Upon failing to find Ms. Jatau, attackers set six houses and six shops ablaze, seriously injuring 13 people who were later admitted at Air Force Base Hospital in Bauchi for treatment.

On 15 November 2022, the Attorney General of Bauchi State charged Ms. Jatau under sections 114 and 210 of the Bauchi State Penal Code for sharing a blasphemous video clip to the above-mentioned WhatsApp Group with the "intention to disturb the public peace in which the content of the video is a blasphemy of the Prophet Mohammed which seriously incited disturbance and caused the breach of peace of the community that led to the destruction of many shops and houses in Warji Local Government Area of Bauchi State". Section 114 of the 2006 Bauchi State Penal Code states that, "Whoever does an act with intent to cause, or which is likely to cause a breach of the peace or disturb the public peace shall be punished with imprisonment which may extend to three years or with fine which may extend to six hundred naira or with both." Section 210 states that, "Whoever, by any means, publicly insults or seeks to incite contempt of any religion in such a manner as to be likely to lead to a breach of the peace, shall be punished with imprisonment for term which may extend to two years or with a fine or with both."

Ms. Jatau's trial commenced in December 2022. She has been repeatedly denied bail citing the risk of public disturbances. From the time of her arrest, Ms. Jatau has only had intermittent access to legal counsel and family members mainly during court appearances.

While we do not wish to prejudge the accuracy of these allegations, we wish to express our utter concern at the lynching and burning alive of Ms. Emmanuel; the apparent negligence of the police prosecution and the lack of accountability for the perpetrators of her murder; we are also concerned at the arrest and detention of Ms. Jatau, accused of “blasphemy”, who has been imprisoned for over a year for what appears to be her mere peaceful exercise of her right to freedom of expression and freedom of religion or belief.

More broadly, we express concern over the criminalization of blasphemy in Nigeria contrary to international human rights law and standards and the rising episodes of violence relating to accusations of blasphemy targeting religious minorities in Nigeria by mob attacks and killings. In the present case, both victims were women and members of the Christian religious minority in Nigeria.

It is a matter of serious concern that the legal and judicial criminalization of blasphemy, and justice decisions in this regard, may legitimise negative and violent social attitudes towards members of religious minorities, and encourage and lead to acts of violence against them by individuals holding extreme religious and political views.

Should they be confirmed, these allegations would contravene articles 3 (non-discrimination), 6 (right to life), 7 (prohibition of torture and ill-treatment), 9 (liberty and security of person), 14 (right to a fair trial), 19 (right to freedom of opinion and expression), 26 (equality before the law) and 27 (rights of minorities) of the ICCPR.

Blasphemy laws have repeatedly shown to violate freedom of religion and belief as well as have a stifling effect on open dialogue and public discourse (A/HRC/25/58). We would like to reiterate observations made by previous Special Procedures mandate holders who have stated that blasphemy laws are “counterproductive and may have adverse consequences for members of religious minorities, dissenting believers, atheists, artists, and academics” (A/62/280, paras. 70-71 and 76-77) and have stated that “blasphemy laws do not contribute to a climate of religious openness, tolerance, non-discrimination and respect. To the contrary, they often fuel stereotyping, stigmatization, discrimination and incitement to violence” (A/HRC/31/18). We would like to remind your Excellency’s Government that repeal of these blasphemy laws has been continuously called for by the Special Rapporteurs on freedom of religion or belief and freedom of opinion and expression and is a recommendation of the Rabat Plan of Action (A/HRC/22/17/Add.4) and Human Rights Committee General Comment No. 34.

Article 19 of the ICCPR provides for the right to freedom of opinion and expression. The right covers expressions of all kinds and in any form, subject to the limitations in article 20 (see General Comment no. 34 paras. 11 – 12). The Human rights Committee has affirmed that Article 19 prohibits any form of criminalization of blasphemy. Thus, the Committee states that “prohibitions of displays of lack of respect for a religion or other belief system, including blasphemy laws, are incompatible with the Covenant”. (see *id.* Para. 48)

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.

We are issuing this appeal in order to safeguard the rights of the abovementioned individuals from irreparable harm and without prejudicing any eventual legal determination.

As 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 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 regarding the status of the investigations and trial in the case of the killing of Ms. Deborah Emmanuel, including information on the entities or persons responsible for conducting the investigation and whether anyone else (other than the two perpetrators who were arrested and subsequently released) has been arrested or prosecuted, and the status of any trial. It would seem from the information received that there was a large number of men who assailed, tortured to death and burnt her.
3. Please provide information about the factual grounds which led to this public lynching.
4. Please provide information on the factual and legal grounds for the arrest and detention of Ms. Jatau and how it is compatible with Nigeria's international human rights obligations, including those arising from articles 3, 6, 7, 9, 14, 18, 19, 26 and 27 of the ICCPR.
5. Please provide information on the compliance of Ms. Jatau's arrest with guarantees of due process and relevant international human rights standards.
6. Please detail the measures taken to guarantee the right of Ms. Jatau to a fair and expeditious trial and explain how such measures are compatible with the international human rights obligations of Nigeria.
7. Please provide information on the steps taken by the Government to prevent, investigate and stop any instigation of the violence in Ms. Jatau's neighbourhood including details on those arrested or prosecuted for, and the status of any trial.
8. Please provide information on the number of persons prosecuted and convicted of violence in the name of religion and in response to allegations of "blasphemy".
9. Please provide information on the measures taken by the Government to ensure the protection and the realization of the rights of members of religious minorities to freedom of thought, conscience and religion, as well as the right to freedom of expression, as provided by relevant international human rights instruments both in Sokoto and Bauchi

States and at federal level.

We would appreciate receiving a response within 60 days. Past this delay, this communication and any response received from your Excellency's Government will be made public via the communications reporting [website](#). They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

Further, we would like to inform your Excellency's Government that after having transmitted the information contained in the present communication to the Government, the Working Group on Arbitrary Detention may also transmit the case through its regular procedure in order to render an opinion on whether the deprivation of liberty was arbitrary or not. The present communication in no way prejudices any opinion the Working Group may render. The Government is required to respond separately to the present communication and the regular procedure.

While awaiting a reply, we urge that all necessary interim measures be taken to prevent any irreparable harm to the life and personal integrity of the persons concerned, 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.

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

Nazila Ghanea
Special Rapporteur on freedom of religion or belief

Matthew Gillett
Vice-Chair on communications of the Working Group on Arbitrary Detention

Morris Tidball-Binz
Special Rapporteur on extrajudicial, summary or arbitrary executions

Irene Khan
Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression

Fernand de Varennes
Special Rapporteur on minority issues

Annex

Reference to international human rights law

In connection with above alleged facts and concerns, we would like to draw the attention of your Excellency's Government to the relevant international norms and standards that are applicable to the issues brought forth by the situation described above.

We refer to the ICCPR ratified by Nigeria in 1993. Article 19 of the ICCPR guarantee the right to freedom of opinion and expression. It protects the right to hold opinions of any kind, including religious opinions, as well as that "everyone shall have the right to freedom of expression; this right shall include 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." The Human Rights Committee has affirmed that "no person may be subject to the impairment of any rights under the Covenant on the basis of his or her actual, perceived or supposed opinions. All forms of opinion are protected, including opinions of a ...religious nature. It is incompatible with paragraph 1 to criminalize the holding of an opinion" (General Comment no. 34 para. 9). Furthermore, this obligation also requires the State "to ensure that persons are protected from any acts by private persons or entities that would impair the enjoyment of the freedoms of opinion and expression to the extent that these Covenant rights are amenable to application between private persons or entities" (Human Rights Committee General Comment No. 34, para. 7).

In this respect, we wish to remind your Excellency's Government that article 9 of the ICCPR prohibits arbitrary arrests or detention. According to the General Comment no. 35 and the jurisprudence of the Working Group on Arbitrary Detention, arrest or detention as punishment for the legitimate exercise of the rights as guaranteed by the ICCPR is arbitrary, including the rights guaranteed in articles 17, 18, 19, 21 and 22 (CCPR/C/GC/35, para. 17). We further wish to emphasize article 14 of the ICCPR, which enshrines the right to a fair trial and due process, including the right of any individual charged with a criminal offence to have adequate time and facilities for the preparation of their defence, to communicate with counsel of their own choosing, to be tried without undue delay, and to defend themselves through legal assistance of their own choosing.

We would like to stress that, as stated by the Human Rights Committee, laws limiting the right to freedom of expression must themselves be compatible with the ICCPR (CCPR/C/GC/34). We stress that the protection of religion itself does not and therefore cannot be used to limit the right to freedom of expression, including through art. International human rights law protects individuals from intolerance and violence based on their religion or belief, but it does not protect the religion or belief itself. Criminalization of blasphemy is incompatible with the ICCPR. Furthermore, it is incompatible with article 19 to prevent or punish commentary on religious doctrine or tenets of faith. Any such limitation must be understood in the light of universality of human rights and the principle of non-discrimination.

We further recall that in General Comment No. 34 (on freedom of opinion and expression) has stated that "prohibitions of displays of lack of respect for a religion or

other belief system, including blasphemy laws, are incompatible with the Covenant, except in the specific circumstances envisaged in article 20, paragraph 2, of the Covenant. Such prohibitions must also comply with the strict requirements of article 19, paragraph 3, as well as such articles as 2, 5, 17, 18 and 26 of the ICCPR. Thus, for instance, it would be impermissible for any such laws to discriminate in favour of or against one or certain religions or belief systems, or their adherents over another, or religious believers over non-believers. 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.”

We also refer to article 20 of the ICCPR, which states that any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law.

Article 18 of the ICCPR states that that “Everyone shall have the right to freedom of thought, conscience and religion. These rights shall include freedom [...] either individual or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching.”

The Human Rights Committee has noted in General Comment No. 22 paragraph 3 that article 18 of the ICCPR “Does not permit any limitations whatsoever on the freedom of thought and conscience [...]”. Thus, peaceful expression of one’s thought and conscience cannot be restricted unless it has fulfilled stringent tests of legality, proportionality and necessity.

We also recall Human Rights Council resolution 6/37, in which the Council urges States “to take all necessary and appropriate action, in conformity with international standards of human rights, to combat hatred, intolerance and acts of violence, intimidation and coercion motivated by intolerance based on religion or belief, as well as incitement to hostility and violence, with particular regard to religious minorities”. Further we recall that the General Assembly, in its resolution 64/164, has urged States “to ensure that their constitutional and legislative systems provide adequate and effective guarantees of freedom of thought, conscience, religion and belief to all without distinction, inter alia, by the provision of effective remedies in cases where the right to freedom of thought, conscience, religion or belief, or the right to practice freely one’s religion, including the right to change one’s religion or belief, is violated”. In this resolution, the General Assembly urges States “to ensure that no one within their jurisdiction is deprived of the right to life, liberty or security of person because of religion or belief [...] and to bring to justice all perpetrators of violations of these rights.”

We also refer to General Assembly resolution 76/157 and Human Rights Council Resolution 49/31 on combating intolerance, negative stereotyping and stigmatization of, and discrimination, incitement to violence and violence against persons based on religion or belief, urging States to foster a domestic environment of religious tolerance, peace and respect.

We also recall article 2 (1) 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 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.

We also recall that the "Rabat Plan of Action on the prohibition of advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence" (A/HRC/22/17/Add.4) contain a call upon States that still have anti-blasphemy or anti-apostasy laws in force to repeal them, stressing that such laws stifle the freedom of thought, conscience, and religion or belief, as well as a healthy dialogue and debate about religious issues. The repeal of blasphemy laws has been called for by the Special Rapporteurs on freedom of religion or belief and freedom of opinion and expression, and is a recommendation of the Rabat Plan of Action (see A/HRC/22/17/Add.4) and Human Rights Committee General Comment No. 34.

Article 26 of the ICCPR stresses that all persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as [...] religion or other status [...]. The Working Group on Arbitrary Detention has reiterated that a deprivation of liberty is arbitrary when it constitutes a violation of international law on the grounds of discrimination based on birth, national, ethnic or social origin, language, religion, economic condition, political or other opinion, gender, sexual orientation, disability, or any other status, that aims towards or can result in ignoring the equality of human beings.

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, article 1 of 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, while article 2 recognizes that persons belonging to religious minorities have the right to profess and practice their own religion without discrimination and article 4 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.