

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

Ref.: AL JPN 1/2024
(Please use this reference in your reply)

30 April 2024

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on freedom of religion or belief; Special Rapporteur on the right to education; Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and Special Rapporteur on the rights to freedom of peaceful assembly and of association, pursuant to Human Rights Council resolutions 49/5, 53/7, 52/9 and 50/17.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the publication of a **“Q&A on Responses to Child Abuse Related to Religious Beliefs, etc.” which has led to a reported subsequent increase in hate crimes and hate speech against Jehovah's Witnesses and other religious or belief minorities.** Notwithstanding the critical importance of protection against child abuse, we would like to raise a number of concerns in this connection.

According to the information received:

On 27 December 2022, the Ministry of Health, Labour, and Welfare released a “Q&A on Responses to Child Abuse Related to Religious Beliefs, etc.” (“Q&A Guidelines”). Based on Article 2 of the Child Abuse Prevention and Treatment Act, the Guidelines ostensibly aim to clarify a definition of child abuse and provide examples of its manifestations (such as through physical and psychological abuse and neglect) which “may occur with the background of religious beliefs, etc.”, along with outlining avenues for support.

The Q&A Guidelines were developed against the background of increased scrutiny and stigmatization of some religious or belief minorities following the assassination of former Prime Minister Shinzo Abe on 8 July 2022, as some religious groups' activities were cited as possible motive for the murder. The Guidelines were drafted in consultation with the Japanese Society for Cult Prevention and Recovery (JSCPR), whose Chairperson called for the recognition of a new type of child abuse by religious groups in October 2022, and had previously made public statements denigrating the Jehovah's Witnesses and other religious or belief minorities. While the Jehovah's Witnesses are not mentioned in the Q&A Guidelines as such, their practice and activities appear to be targeted by the new policy. Neither the Jehovah's Witnesses nor any other religious or belief minority were consulted during the preparation of the Q&A Guidelines, despite the sensitivity of the context and the fact that the Q&A Guidelines concern all religion or belief communities. While the Jehovah's Witnesses had repeatedly sought a meeting with the Ministry of Health, Labour and Welfare, none was granted until the Q&A

Guidelines were complete.

Content of the Q&A Guidelines

The Q&A Guidelines make reference to article 14 of the Convention on the Rights of the Child (CRC), which protects the right of the child to freedom of thought, conscience, and religion. However, the Guidelines do not address the “rights and duties of parents and, where appropriate, legal guardians, to provide direction to the child in the exercise of his or her right in accordance with the evolving capacities of the child” which are upheld under both article 14.2 of the CRC and article 18.4 of the International Covenant on Civil and Political Rights (ICCPR).

The Q&A Guidelines provide answers to questions concerning, inter alia, acts which may constitute various forms of child abuse, including physical abuse, psychological abuse, and neglect, which ‘may occur with the background of religious beliefs.’

While question 1-1 establishes that child abuse arising from “a background of belief in religion” must be addressed “just as in other cases of abuse from other reasons”, several parts of the guidelines appear to set a lower threshold for the establishment of abuse in religious as opposed to non-religious contexts. For instance, question 2-3 asserts that “forcing a child to participate in religious activities, etc., during hours that may interfere with the child’s schooling or daily life constitutes neglect”, without clarifying what is meant by “forcing”, nor what distinguishes “religious activities, etc.” in this case from activities such as extra tutorials, music or language lessons, or other secular extra-curricular activities in ‘daily life’. Similarly, question 3-1 asserts that “imprinting fear on a child [...] to force a child to participate in religious activities or to impede a child’s own free decision-making regarding his/her career path, place of employment, etc. [constitutes] psychological abuse or neglect,” without clarifying why religious activities, or the “imprinting” of fear on the basis of religious doctrine, should imply a lower threshold for psychological abuse or neglect than other secular activities or doctrines respectively.

Several of the guidelines make vague references to deviations from “social conventions”, “social appropriateness”, or “socially accepted norms”, as the basis for establishing potential forms of abuse, thereby limiting the diversity of manifestations of religion or belief which are inherent to its free exercise. Question 3-3 asserts that “a blanket ban on entertainment deemed appropriate for a child’s age in light of socially accepted norms, on the grounds of religion, etc., constitutes psychological abuse”. Question 3-4 further states that “forcing a child to wear decorations, etc., that objectively reveal his/her beliefs in a particular religion, without taking into account the child’s will of not wanting others to know about his/her religious beliefs, etc., constitutes psychological abuse.” Question 4-1 establishes that “when a guardian is aware that there are persons who directly or through a third party incite a child to behave in a manner that deviates significantly from social appropriateness, failure by the guardian to take preventive actions [...] constitutes neglect.” Notwithstanding the centrality of the prohibition of coercion in freedom of religion or belief (in accordance with article 18.2 of the ICCPR), key concepts such as “forcing,”

and “social appropriateness,” have not been defined in relation to human rights obligations. Further, important criteria for determining the appropriateness and nature of any given State intervention, such as necessity and proportionality, are not mentioned.

Reported increase in hate crimes targeting Jehovah’s Witnesses

The release of the Q&A Guidelines was accompanied by significant media coverage, some of which accused religious or belief minorities including the Jehovah’s Witnesses of being guilty of child abuse. Jehovah’s Witnesses have reported a 638% increase in hate crimes in 2023 as compared to the previous six years, when they reported little interference with their exercise of the right to freedom of religion or belief in Japan. Reported incidents included a violent physical assault of an elderly Jehovah’s Witness in Yachiyo City, Chiba, on 11 February 2024. The same month, letters threatening the mass murder of Jehovah’s Witnesses were left at their places of worship in Hyogo Ward and Kita Ward, Kobe City. These concerning developments were accompanied by an increase in online and offline hate speech and incitement to discrimination and violence, some of which directly referenced the Q&A Guidelines.

Subsequent developments

In November 2023, the Children and Families Agency, which took on responsibility for the Q&A Guidelines, informed the Jehovah’s Witnesses that it had launched a nationwide investigation requiring that all hospitals, schools, and regional authorities complete a survey on alleged violations of the Q&A Guidelines. The results of the investigation are expected between April and May 2024. Given the context of widespread stigmatization of religious or belief minorities, including Jehovah’s Witnesses, it is feared that this may be mobilized to foster discrimination and lead to a further increase in hate crimes.

Furthermore, in March 2024, pamphlets based on the content of the Q&A Guidelines, including content indicating that requiring children to attend religious services or teaching them certain religious doctrines may constitute child abuse, were distributed to school children by various authorities, including the Tokyo Metropolitan Government.

In this connection, it is reported that despite repeated requests, the Children and Families Agency, the Minister of State for Special Missions, the Prime Minister’s Office, and the Ministries of Education, Foreign Affairs, Internal Affairs, and Justice, have all refused to meet with the Jehovah’s Witnesses to discuss the aforementioned issues.

Without wishing to prejudge the accuracy of the information received, we wish to express our serious concern about what appears to be an emerging pattern of attacks and threats against the Jehovah’s Witnesses, against a background of heightened stigma and negative attitudes towards religious or belief minorities in Japan. According to general comment No. 36 of the Human Rights Committee, which oversees implementation of the ICCPR, ratified by Japan on 21 June 1979, States must take special measures of protection towards persons in vulnerable situations whose lives have been placed at particular risk due to pre-existing patterns of violence. This includes patterns of violence based on actual or imputed religion or

belief.

We further wish to express our concern that the content of some of the Q&A Guidelines appear to encourage a lower threshold for establishing child abuse arising from religious or belief-based activities or doctrines than from those which are non-religious in nature. As such, this may constitute a violation of the principles of neutrality and non-discrimination, as well as potentially contributing to further stigmatization and suspicion of religious or belief minorities.

Paragraph 3 of article 18 of the ICCPR provides that restrictions on manifestations of religion or belief in the *forum externum*, including the right to participate in religious worship and to wear clothing or other symbols in accordance with religious doctrine, are permitted only if the restrictions on the freedom to manifest one's religion or belief are provided for by law and are necessary to protect public safety, order, health or morals, or the fundamental rights and freedoms of others. Most importantly, these restrictions must only be applied for the purposes for which they were prescribed, and they must be directly related to and proportionate to the specific purpose they are intended to serve. These restrictions may not be imposed for discriminatory purposes or in a discriminatory manner. (See Human Rights Committee General Comment No. 22, para. 8, HRI/GEN/1/Rev.1).

We are concerned by the fact that measures ostensibly taken to ensure that child abuse can be identified and effectively addressed, while commendable in principle, may in fact undermine the rights of children, especially those from religious or belief minorities, to express their religion or belief in accordance with article 18, paragraph 1 of the ICCPR and article 14, paragraph 1 of the CRC. Similarly, the Q&A Guidelines in their current form may undermine the rights of children to freedom of thought, conscience and religion (CRC 14.1); and of parents to ensure the religious and moral education of their children in conformity with their own convictions, as set out in article 18, paragraph 4 of the ICCPR, article 14, paragraph 2 of the CRC, and article 13, paragraph 3 of the International Covenant on Economic, Social and Cultural Rights (ICESCR). We are also concerned that in the context of heightened suspicion of religious or belief minorities, the Q&A Guidelines in their current form may facilitate stigma, social pressure, or bullying of children belonging to religion or belief communities.

We are further concerned that the adoption of the Q&A Guidelines appears to have led to an increase in hate crimes and instances of hate speech and incitement of hatred, discrimination and violence.

Under such circumstances, the apparent refusal of the relevant authorities to engage with religion or belief minorities in relation to issues which concern their right to freedom of religion or belief, minority rights, and the safety and well-being of their members, also raises concerns.

In the light of the above comments, which the Special Rapporteurs wish to share for consideration, we respectfully call on your Excellency's Government to review and reconsider certain key aspects of the Q&A Guidelines to ensure that they comply with Japan's international human rights law obligations.

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.

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 on the steps taken to prevent, investigate, and prosecute acts of violence, or planned acts of violence, targeting Jehovah's Witnesses and/or their places of worship.
3. Please provide information about steps taken by your Excellency's Government, in accordance with international standards, towards addressing intolerance, discrimination or violence, as well as hate speech and acts of discrimination or intimidation against Jehovah's Witnesses, and other religion or belief minorities.
4. Please explain how the Q&A Guidelines are compatible with international human rights standards regarding the right to freedom of religion or belief, as well as the rights of parents to ensure the religious and moral education of their children in conformity with their own convictions, including as provided for in the ICCPR, ICESCR and CRC, to which Japan is a party.
5. Please provide information on positive measures taken to facilitate a meaningful dialogue on the Q&A Guidelines, and other related materials, with all stakeholders, including religion or belief groups and religious or belief minorities in the country.

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.

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 may 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.

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

Nazila Ghanea
Special Rapporteur on freedom of religion or belief

Farida Shaheed
Special Rapporteur on the right to education

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

Clement Nyaletsossi Voule
Special Rapporteur on the rights to freedom of peaceful assembly and of association

Annex

Reference to international human rights law

In connection with the 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 International Covenant on Civil and Political Rights (ICCPR), ratified by Japan on 21 June 1979, and, in particular, its article 18 which stresses that "Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom [...] either individually 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 emphasised in its General Comment No. 22 (HRI/GEN/1/Rev.1) at paragraph 3 that article 18 of ICCPR "distinguishes the freedom of thought, conscience, religion or belief from the freedom to manifest religion or belief. It does not permit any limitations whatsoever on the freedom of thought and conscience or on the freedom to have or adopt a religion or belief of one's choice. These freedoms are protected unconditionally, as is the right of everyone to hold opinions without interference in article 19.1; "the freedom to manifest religion or belief may be exercised "either individually or in community with others and in public or private. The freedom to manifest religion or belief in worship, observance, practice and teaching encompasses a broad range of acts. The concept of worship extends to ritual and ceremonial acts giving direct expression to belief, as well as various practices integral to such acts." (paragraph 4).

We would also like to refer to article 21 of the ICCPR which states that the right to freedom of peaceful assembly should be enjoyed by everyone, as provided for by article 2 of the Covenant and resolutions 15/21, 21/16 and 24/5 of the Human Rights Council. In its resolution 24/5, the Council reminded 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.

We further recall that article 22 of the ICCPR protects the right to freedom of association, including the rights of everyone to associate with others and to pursue common interests. Freedom of association is closely linked to the rights to freedom of expression and to peaceful assembly and is of fundamental importance to the functioning of democratic societies. These rights can only be restricted in very specific circumstances, where the restrictions serve a legitimate public purpose as recognized by international standards and are necessary and proportionate for achieving that purpose. The expression of one's thought and conscience cannot be restricted unless it has fulfilled stringent tests of legality, proportionality and necessity. According to the Human Rights Committee, "in interpreting the scope of permissible limitation clauses, States parties should proceed from the need to protect the rights guaranteed under the Covenant, including the right to equality and non-discrimination on all grounds specified in articles 2, 3 and 26. Limitations imposed must be established by law and must not be applied in a manner that would vitiate the rights guaranteed in article 18. The Committee observes that paragraph 3 of article 18 is to be strictly interpreted: restrictions are not allowed on grounds not specified there, even if they would be allowed as restrictions to other rights protected in the Covenant, such as national security. Limitations may be applied only for those

purposes for which they were prescribed and must be directly related and proportionate to the specific need on which they are predicated. Restrictions may not be imposed for discriminatory purposes or applied in a discriminatory manner” (see General Comment No. 22, paragraph 8).

Furthermore, we recall that while not all advocacy of hatred reaches the threshold for prohibition under article 20, paragraph 2 of the ICCPR, States are nonetheless called upon to prohibit, and take active positive measures to address advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence which inhibit the practical and effective enjoyment of Covenant rights, including freedom from discrimination and freedom of religion or belief. Since 2011, the Human Rights Council and General Assembly have adopted annual resolutions on combatting intolerance, negative stereotyping, stigmatization, discrimination, incitement to violence, and violence against persons based on religion or belief. In her 2024 report to the Human Rights Council (A/HRC/55/47), the Special Rapporteur on freedom of religion or belief has highlighted several measures called for in these resolutions as necessary to effectively address the root causes of hatred based on religion or belief. These include combatting denigration and negative religious stereotyping, such as through education and awareness-raising; taking effective measures to ensure that public functionaries do not discriminate on the basis of religion or belief in the conduct of their duties; and encouraging the representation and meaningful participation of individuals, irrespective of their religion, in all sectors of society. The latter point includes engagement of religious communities in issues of concern through consultation and dialogue mechanisms.

We also wish to draw the attention of your Excellency’s Government to article 14, para. 1 of the CRC, whereby States Parties shall respect the right of the child to freedom of thought, conscience and religion. Para. 2 provides that States Parties shall respect the rights and duties of the parents and, when applicable, legal guardians, to provide direction to the child in the exercise of his or her right in a manner consistent with the evolving capacities of the child. In addition, as indicated above, freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health or morals, or the fundamental rights and freedoms of others (para. 3).

In that connection, we would also like to stress that both articles 18, para. 4 of the ICCPR and 13, para. 3 of the ICESCR, request States parties to respect the liberty of parents and, when applicable, legal guardians to ensure the religious and moral education of their children in conformity with their own convictions.

In addition, 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) establishes in article 6 that the right to freedom of thought, conscience, religion or belief shall include, inter alia, the freedom to “worship or assemble in connection with a religion or beliefs”. The Commission on Human Rights (resolution 2005/40, paragraph 4d), the Human Rights Council (resolution 6/37) and the General Assembly (resolution 65/211, paragraph 12g) have reiterated the obligation of the States to ensure the right of all persons to worship or assemble in connection with a religion or belief”, including of those not belonging to a religion or belief recognised by a State through a registration procedure.

We would also like to remind your Excellency's Government that according to article 2 of the 1981 Declaration, "discrimination based on religion or belief means any distinction, exclusion, restriction or preference based on religion or belief and having as its purpose or as its effect nullification or impairment of the recognition, enjoyment or exercise of human rights and fundamental freedoms on an equal basis". The 1981 Declaration further states in its article 2 (1): "[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 establishes 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 [...]"

We would further like to stress that ICCPR specifically recognizes the rights of members of religious minorities to "profess and practices his or her own religion" (article 27). In connection to the coexistence of different religious groups, the 1981 United Nations Declaration on Religious Tolerance and Non-Discrimination urges states "to take all appropriate measures to combat intolerance on the grounds of religion" (article 4.2). In 2005, the Commission on Human Rights emphasized the importance of promoting "a continued and strengthened dialogue among and within religions or beliefs, encompassed by the dialogue among civilizations, to promote greater tolerance, respect and mutual understanding" (Resolution 2005/40, paragraph 10).

宗教または信仰の自由に関する特別報告者、教育の権利に関する特別報告者、意見および表現の自由の促進および保護に関する特別報告者、平和的集会および結社の自由に関する特別報告者権限受任者ら

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(返信の際にはこの参照番号を使用してください)

2024年4月30日

閣下

私たちは、宗教または信仰の自由に関する特別報告者、教育の権利に関する特別報告者、意見および表現の自由の促進および保護に関する特別報告者、ならびに平和的集会および結社の自由に関する特別報告者として、国連人権理事会決議 49/5、53/7、52/9 および 50/17 に基づき、閣下にご連絡申し上げます。

これらの関連で、「宗教的信仰等に関連する児童虐待への対応に関する Q&A」の公表に関して、エホバの証人およびその他の宗教的または信仰的少数派に対するヘイト・クライムおよびヘイト・スピーチの増加が報告されたことに関する情報に関して、閣下の政府にご注意いただきたく存じます。児童虐待に対する保護の重要性は言うまでもありませんが、この点に関していくつかの懸念を提起させていただきたいと思えます。

提供された情報

2022年12月27日に厚生労働省は「宗教の信仰等に関係する児童虐待等への対応に関する Q&A」(「Q&A ガイドライン」)を公表しました。児童虐待の防止等に関する法律第2条に基づき、ガイドラインは児童虐待の定義を明確にし、その具体例(身体的および心理的虐待やネグレクトなど)を「宗教的信仰等の背景により発生する可能性がある」として示すことを目的とし、支援の方法も概説しています。

Q&A ガイドラインは、2022年7月8日に発生した安倍晋三元首相の暗殺事件後、一部の宗教的または信仰的少数派への監視とスティグマ(汚名)が増加した背景の中で策定されました。一部の宗教団体の活動が暗殺の動機として挙げられたためです。ガイドラインは、2022年10月に宗教団体による新しいタイプの児童虐待が存在することを認識するよう求めた日本脱カルト協

会(JSCPR)と協議の上で作成されました。同協会の会長は、以前からエホバの証人やその他の宗教的または信仰的少数派を中傷する発言を公にしていた。Q&A ガイドラインにはエホバの証人の名前は明記されていませんが、その実践や活動は明らかに新しい政策の対象となっています。この Q&A ガイドラインは極めてセンシティブな内容を含み、全ての宗教や信仰のコミュニティに関わるものであるにもかかわらず、ガイドライン作成にあたり、エホバの証人やその他の宗教的または信仰的少数派との間に一切協議はありませんでした。エホバの証人は厚生労働省との面会を繰り返し求めていましたが、Q&A ガイドラインが完成するまで、一度も面会が許可されませんでした。

Q&A ガイドラインの内容

Q&A ガイドラインは、思想、良心および宗教の自由を保護する児童の権利に関する条約(CRC)の第 14 条に言及しています。しかし、ガイドラインは、CRC 第 14 条 2 項および市民的および政治的権利に関する国際規約(ICCPR)の第 18 条 4 項に基づく、「父母及び場合により法定保護者が児童に対しその発達しつつある能力に適合する方法で指示を与える権利及び義務」については触れていません。

Q&A ガイドラインは、身体的虐待、心理的虐待、ネグレクトなど、さまざまな形態の児童虐待を構成する可能性のある行為に関する質問に対する回答を提供しており、それらは宗教的信仰の背景により発生する可能性があるものとしています。

質問 1-1 では宗教的信仰の背景に基づく児童虐待は他の理由による虐待と同様に対処されなければならない旨回答していますが、ガイドラインのいくつかの部分は、非宗教的な場合と比較して宗教的理由による虐待の成立要件が低く設定されているように見えます。たとえば、質問 2-3 では、「児童の就学や日常生活に支障が出る可能性がある時間帯まで宗教活動等への参加を強制するような行為はネグレクトに該当する」と述べていますが、「強制」とは何を意味するのか、また、この場合の「宗教活動等」が、日常生活の一環としての補習、音楽や語学のレッスン、その他の世俗的な課外活動とどのように区別されるのかは明確にされていません。同様に、質問 3-1 では「進路や就職先などに関する児童本人の自由な意思決定を阻害するために、子供に恐怖の刷り込みを行うことは、心理的虐待又はネグレクトに該当する」と主張していますが、なぜ宗教活動や宗教教義に基づく恐怖の「刷り込み」につ

いて、他の世俗的な活動や信条と比較して心理的虐待やネグレクトの成立要件を低くするののかについては明確にされていません。

ガイドラインのいくつかは、「社会的慣習」、「社会的相当性」、または「社会通念」からの逸脱を虐待の潜在的な形態を確立する基準として曖昧に言及しており、これによって宗教や信仰の自由な行使に内在する多様性が制限されます。質問 3-3 では「社会通念に照らして、児童の年齢相応だと認められる娯楽等について宗教等を理由に一律に禁止することは心理的虐待に該当する」と主張しています。質問 3-4 ではさらに、「児童本人が自身の信仰する宗教等を他者に知られたくない意思を有していることを考慮することなく、他者に対して信仰する宗教等を明らかにすることを強制する行為(特定の宗教を信仰していることが客観的に明らかとなる装飾品等を身につけることを強制する行為を含む。)は心理的虐待に該当する」と主張しています。質問 4-1 では「児童に対して社会的相当性を著しく逸脱する行動をとるよう直接又は第三者を介して唆す者があることを認識しながら、そうした宗教に入信させる行為を含め、行動を防止する行動を保護者がとらないことについてはネグレクトに該当する。」と述べています。宗教または信仰の自由において強制の禁止は中心的であるにもかかわらず(ICCPR 第 18 条 2 項)、「強制」や「社会的相当性」などの重要な概念は人権義務に関連して定義されていません。さらに、国家の介入の適切性と性質を決定するための重要な基準である必要性と比例性についても言及されていません。

エホバの証人を標的としたヘイトクライムの増加報告

Q&A ガイドラインの発表には多くのメディア報道が伴い、その一部ではエホバの証人を含む宗教的または信仰的少数派が児童虐待を犯していると非難しました。エホバの証人は、日本で信教の自由の行使にほとんど干渉がなかった過去 6 年間と比較して、2023 年にヘイトクライムが 638%増加したと報告しました。報告された事件には、2024 年 2 月 11 日に千葉県八千代市でエホバの証人の高齢者が暴行を受けるという暴力的な身体的攻撃が含まれています。同じ月に、神戸市兵庫区と北区の礼拝所にエホバの証人を大量殺害するという脅迫状が残されました。これらの懸念すべき事態には、オンラインおよびオフラインでのヘイトスピーチや差別・暴力の扇動の増加も伴っており、その一部は直接 Q&A ガイドラインを引用していました。

その後の展開

2023年11月、Q&Aガイドラインの責任を担うこども家庭庁は、全国規模の調査を開始し、全ての病院、学校、地方自治体に対してQ&Aガイドライン違反の疑いに関する調査を完了するよう要求したことをエホバの証人に伝えました。調査結果は2024年4月から5月にかけて発表される予定です。エホバの証人を含む宗教的または信仰的少数派に対する広範なスティグマを考慮すると、これが差別を助長し、ヘイトクライムのさらなる増加を招く恐れがあります。

さらに、2024年3月には、東京都庁を含む様々な機関によって、Q&Aガイドラインの内容に基づくパンフレットが配布されましたが、これには、子供たちに宗教的なサービスへの参加を要求したり、特定の宗教的信条を教えることが児童虐待に当たる可能性があるとする内容が含まれていました。

これとの関連で、エホバの証人は、こども家庭庁、特命担当大臣、内閣官房、および文科省、外務省、総務省、法務省の各省庁との会談を重ねて要求しましたが、全て拒否されたと報告されています。

入手した情報の正確性を判断する前に、私たちは日本における宗教的または信仰的少数派に対する高まるスティグマと否定的な態度を背景に、エホバの証人に対して現れつつある攻撃と脅威のパターンについて深刻な懸念を表明したいと思います。日本が1979年6月21日に批准し国際人権委員会がその実施を監視するICCPRの一般コメント第36号によれば、国家は、事前に存在する暴力的パターンによって特に危険にさらされた脆弱な状態にある人々を保護する特別な措置をとらなければなりません。

さらに、一部のQ&Aガイドラインの内容が、宗教または信仰に基づく活動や教義に起因する児童虐待の成立要件を、非宗教的なものよりも低くすることを奨励しているように見えることに対する懸念も表明したいと思います。したがって、これは中立・平等原則に違反する可能性があり、宗教的または信仰的少数派に対するさらなるスティグマや疑念を助長する恐れがあります。

ICCPR の第 18 条第 3 項は、宗教または信仰の表現に対する制限(外部の場での宗教礼拝への参加や宗教教義に従った服装や他のシンボルの着用など)は、それが法律によって規定され、公共の安全と秩序、公衆衛生、道徳、または他者の基本的権利と自由を保護するために必要である場合にのみ許容されます。これらの制限は、何よりも重要なことに、その目的に応じて規定され、それが意図された特定の目的と直接関連し、比例していなければなりません。これらの制限は、差別目的でまたは差別的方法で課されてはなりません(人権委員会一般コメント第 22 条第 8 項参照、HRI/GEN/1/Rev.1)。

児童虐待の特定と効果的な対処を表向きの目的とした措置は、本来賞賛されるべきであるにもかかわらず、実際には特に宗教的または信仰的少数派の子供たちが ICCPR 第 18 条第 1 項および CRC 第 14 条第 1 項に従って宗教または信仰を表現する権利を弱める可能性があることに私達は懸念を抱いています。同様に、現行の形態の Q&A ガイドラインは、子供たちの思想、良心、宗教の自由(CRC 第 14 条第 1 項)や、親が自分の信仰に従って子供の宗教的および道徳的教育を行う権利の保障(ICCPR 第 18 条第 4 項、CRC 第 14 条第 2 項、ICSECR 第 13 条第 3 項)を弱める可能性があります。また、宗教的または信仰的少数派に対する高まる疑念の文脈において、現行の Q&A ガイドラインは宗教または信仰共同体に属する子供たちへのステイグマ、社会的圧力、いじめを助長する可能性があることも懸念しています。

さらに、Q&A ガイドラインの採用が、ヘイトクライムやヘイトスピーチの増加、憎悪の扇動、差別、暴力の事例を引き起こしたように見えることについて懸念しています。

このような状況下で、関係当局が宗教や信念の少数派と、彼らの宗教や信念の自由、少数派の権利、およびそのメンバーの安全と福祉に関する問題について関わろうとしないように見えることも、懸念を引き起こしています。

特別報告者たちが共有し考慮する以上の言及に基づき、閣下の政府に対し、日本の国際人権法の義務に適合するよう Q&A ガイドラインの特定の核となる側面を再考し見直すよう、敬意を持って要請いたします。

本書面添付の国際人権法に関する参考文献は以上の主張や懸念に関連する国際人権法の条約や基準を引用していますので、ご参照ください。

人権理事会から与えられた権限に基づき、私たちの責任として、私たちは注意を向けられた全ての事案を明確にすることを求めていますので、以下の事項に関する貴殿のご意見をお聞かせいただければ幸いです。

1. 上記の主張に関する追加情報やコメントを提供してください。
2. エホバの証人および/またはその礼拝所を標的とする暴力行為、または計画された暴力行為を防止し、調査し、起訴するために取られた措置について情報を提供してください。
3. 貴殿の政府が、国際基準に従って、エホバの証人やその他の宗教または信仰的少数派に対する不寛容、差別、暴力、ヘイトスピーチ、および差別や威嚇行為に対処するために取った措置について情報を提供してください。
4. 宗教や信仰に関する自由権利、および親が自らの信仰に従って子供の宗教的および道徳的教育を確保する権利に関して、Q&A ガイドラインが、日本が批准しているICCPR、ICESCR、CRC 等の国際人権基準とどのように調和しているのかについて説明してください。
5. Q&A ガイドラインおよびその他関連資料について、宗教または信仰団体および宗教または信仰的少数派を含む全ての関係者との有意義な対話を促進するために行われた積極的な措置について情報を提供してください。

60 日以内に回答をいただけると幸いです。この期限を過ぎた場合、この連絡及び貴殿の政府からのいかなる回答も、コミュニケーション報告ウェブサイトを通じて公開されます。また、後に人権理事会に提出される通常の報告書にも掲載されます。

回答をお待ちしている間にも、申し立てられている違反を停止し、それらの再発を防止するために必要な暫定措置を講じていただくことを強く求めます。そして、調査により申し立てが正しいことが判明し、あるいは示唆された場合には、申し立てられている違反に関する責任者の責任を明確にするようお願いいたします。

我々は、根拠情報が即座の対応を必要とする事案であるとして、近日中にプレスリリースを通して公に懸念を表明する可能性があります。また、一般人に対しても、上記申立が示唆するところに関して警告する必要があると考えています。問題の明確化のため、プレスリリースにおいては、貴殿の政府と連絡を取ったことを明らかにします。

閣下、最高の配慮をもってお伝えしますのでお受け取り下さい。

宗教または信仰の自由に関する特別報告者 ナジラ・ガネア

教育の権利に関する特別報告者 ファリダ・シャヒード

意見及び表現の自由の促進及び保護に関する特別報告者 アイリーン・カーン

平和的集会および結社の自由に関する特別報告者 クレメント・ニャレトソシ・ヴーレ

「訳者：近藤徳茂」