



Coordination des Associations et des Particuliers pour la Liberté de Conscience

Conditions against fair-trial principles in the Czech Republic regarding the Path of Guru Jara case as an example of religious minority investigated by state apparatus in a long term

CAP Liberté de Conscience represents a case study of a 22 year-old minority religious group undergoing long-term investigations by state bodies. The issue of freedom of religion and the protection of religious minorities shows the need for genuine respect for all human rights according to the United Nations principles despite the possible prejudice in secular society. The case of the followers of the Path of Guru Jara, ongoing since 2010, shows the current problems and limits of the secular state apparatus of an atheist country when it encounters unfamiliar religious discourse.

One of the basic democratic principles of every society is the presumption of innocence of every citizen, as well as impartiality of the police observing violations of law and thus also the guarantee of a fair trial.

During the pre-trial period, the members of the Path of Guru Jara religious society had to undergo rigorous investigations by the special police department unit in 2010 – 2012. This investigation was developed in cooperation with the Czech anti-cult movement. Anti-cult members also participated as “neutral” forensic experts in the criminal proceedings against the PGJ. The whole trial has been very non-standard from its very beginning. Based on an analysis of the available information in the case of the Path of Guru Jara there is a reasonable concern that the fair-trial guarantee has been severely limited - precisely because of aggravating context of religion, social hostility towards religious minority, discrimination and reluctance for effective protection of its members.

The case of Path of Guru Jara has long been watched by the US report on the state of religious freedom in the country and is regularly referred to in the framework of the OSCE HDIM conferences. The situation is monitored also by international and local human rights organizations. Unfortunately, the situation is not improving.

Questionable trial in 2014-2018

In 2014 the leaders of the Path of Guru Jara were sentenced in their absence for 10 and 9.5 years for alleged abuse in 2004-2006 on 8 of their spiritual students during tantric healing rituals. In 2015, however, the Court of Appeal in Olomouc fully abolished previous verdict for a lack of evidence and several procedural errors and returned the case back to the first instance court for proper fair-trial. The court in Zlin had waited for over 2 and half years to re-open the trial and in January 2018 again sentenced the leaders of the religious minority in their absence to 7.5 years of imprisonment. The case is now again in the stage of appeal to the higher court. Actions of the first instance court show a gross violation of the procedural law in the country.

Both religious leaders Jaroslav Dobes (alias Guru Jara) and Barbora Plaskova have been seeking asylum in the Philippines since 2015. Their asylum application is still pending and is complicated by the aggravated court case in Czechia. Because of intervention from the side of Czech representatives, both religious leaders have been forced to stay in very poor conditions of the immigration detention in the Philippines for almost 3 years now.

Main problems of the trial, situation from January 2018:

- **The judge has consistently violated basic procedural procedures that would meet the fair-trial category.**
- In May 2015 the Court of Appeal in Olomouc ordered a rigorous examination of all available evidence and thus hearing of all available witnesses - including the hearing of all suspected offenders. This did not happen again during the re-trial in Zlín in January 2018 and is therefore a direct violation of the Order of the Court of Appeal in Olomouc.

A) The court in Zlín heard only 2 of the 8 allegedly damaged witnesses. Against Jaroslav Dobes and Barbora Plášková two other persons were summoned, who were not in any way harmed or damaged.

However, 2 of the allegedly damaged were completely removed from the evidence of the damaged, on the basis of missing evidence, leaving only 6 damaged witnesses.

B) Only 1 witnesses in favor of Guru Jara and Barbora Plaskova was reviewed, the other and important witness proposed by advocates were completely rejected.

C) The serious discrepancies in the expert opinions have not been properly taken into account and reviewed.

- **The whole court in Zlín was again guided by the principle of upholding the guilt of Guru Jara and Barbora Plaskova at all costs, and despite available testimony and proofs of their innocence, which were deliberately ignored. It is a violation of the constitutional principle of the functioning of the judiciary and of justice - it is not only the ignorance of the presumption of innocence, but selectively and deliberately creates the construct of a criminal case, even if the available evidence points to the opposite.**
- **The judge Sperlichova did not want to take the evidence to the benefit of Jaroslav Dobes and Barbora Plaskova, that she cannot let them defined as a fugitive anymore,** even though Czech lawyers have included this evidence in to the court file (fugitive status created by court in 2014 had several damage consequences both for Dobes and Plaskova, as i.e. was the negative approach to Asylum in the Philippines from local authorities).
- **The judge refused to objectify Dobes and Plaskova attitude to court proceedings as ordered by the Olomouc Court of Appeal,** but also in any other way since the judgment of the Olomouc Court in May 2015.

Secondary problems:

- **Only 2 days of trial for such a complicated case**, where it was already recommended to thoroughly examine all available witnesses and evidence by the Court of Appeal in Olomouc in May 2015, is totally inadequate and is a non-standard procedure under Czech law.
- The allegedly injured were questioned behind the closed door, while Lenka Čumplová (former director of the Poetrie School) was questioned in the presence of the wide public and media in the same intimate affairs.
- **The judge was extremely hostile to the defendants of GJ, BP and witnesses in their favor, which can be associated with her prejudice towards religious minorities and religious discourse in general.**
- The court has found evidence that at least Dr. Bučková, a member of the court in Zlín, was involved in tantric rituals and has been for many years in connection with GJ and one of the mentors of his doctrine, contrary to what she claimed publicly in the media as well as the press spokesperson of the Zlin Court in 2016. The judge further refused to deal with this fact.
- **All aspects of religious discourse and freedom of religion were dropped out of the court proceedings**, and Guru Jara was viewed only in the perspective of a "perverse freak leading a criminal group" as it is typical for anti-cult rhetoric.

The religious minority group, its leaders and its followers have been in a long-term in a severe situation, when the pending case threatens their basic existence and activity of the spiritual movement itself, although without any legally valid verdict indicating any violation of the law.

Third and important circle of interest regarding UN UPR

In the second UN UPR for Czechia (2012) there were no traces about the protection of religious discourse. Why is not the religious dimension reached as an important UN UPR recommendation implementation outcome? This third UPR, as result of human rights activism, there were also some concrete recommendations, even some of them adopted by Czech government. But religious dimension was again omitted from the suggested adoption of UN UPR recommendation in the government proposal of implementation (December 2017). There is a high need for protection of religious practitioners in Czechia, though.

We are again putting this attention as not only for the Path of Guru Jara religious society, but also other religious groups and individuals who are threatened by ignorance of this dimension of human rights in Czechia. This is obvious from the attitude in the media, hostility and intolerance across the whole Czech society and thus as well on administration level of state apparatus on wide scale.

Religion minorities are dealing with similar problems as national minorities or LGBT and other vulnerable groups within society, but have not yet been visible enough for governmental bodies or recognized by national human rights institutions as worthy of practical protection.

The Path of Guru Jara – a Czech religious minority mentioned repeatedly in the USA International religious freedom reports for the Czech Republic in 2015, 2016, and repeatedly giving recommendations to the Czech government at OSCE HDIM (2015 – 2017) regarding their situation and also situation of other religious minorities, is still unheard.

So again:

We recommend Czech government to start implementing in practice the recommendations received by Czechia UPR 2017 regarding the freedom of religion and belief, protection of religious minorities. These steps are also directly connected to the protection of the Path of Guru Jara followers in Czechia in order to stop and rectify their persecution.

- 1. Develop and implement a set of measures aimed at promoting peaceful co-existence between all groups of the population and at combating marginalization that may target individuals or communities, including ethnic and religious minorities (Belarus);**
- 2. Enhance efforts to address islamophobia, racial discrimination and intolerance including towards Roma, religious minorities and immigrants, as well as other related intolerance (Indonesia)**
- 3. Take steps to prevent crimes motivated by racial or religious discrimination through education, awareness-raising and training, and ensure that any hate crimes are effectively and promptly investigated (Canada);**
- 4. Publicly condemn hate crimes and hate speech, and ensure the investigation, prosecution and punishment of discrimination or violence motivated by the victim's national, ethnic or religious identity (Austria)**
- 5. Combat all manifestations of religious hatred within the Czech society (Iraq)**
- 6. Continue implementing and strengthening, if necessary, measures against all expressions of prejudice and discrimination such as hate speech, extremist movements and violent extremism, paying particular attention to expressions of racism, xenophobia, and other hate speech against a particular religion or ethnicity (Nicaragua)**