

NATIONS UNIES
HAUT COMMISSARIAT DES NATIONS UNIES
AUX DROITS DE L'HOMME

PROCEDURES SPECIALES DU
CONSEIL DES DROITS DE L'HOMME

Mandates of the Chair-Rapporteur of the Working Group on Arbitrary Detention; the Special Rapporteur on freedom of religion or belief; and the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.

UNITED NATIONS
OFFICE OF THE UNITED NATIONS
HIGH COMMISSIONER FOR HUMAN RIGHTS

SPECIAL PROCEDURES OF THE
HUMAN RIGHTS COUNCIL

REFERENCE: UA G/SO 218/2 G/SO 214 (56-23) Health (2002-7)
ERI 1/2012

19 July 2012

Dear Mr. Woldeyohannes,

We have the honour to address you in our capacity as Chair-Rapporteur of the Working Group on Arbitrary Detention; Special Rapporteur on freedom of religion or belief; and Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health pursuant to Human Rights Council resolutions 15/18, 14/11, and 15/22.

In this connection, we would like to draw the attention of your Government to information we have received regarding the seven-year detention of **Patriarch Abune Antonios** of the Eritrean Orthodox Tewhado Church in Asmara, Eritrea. This case was already the subject of a joint urgent appeal sent on 30 May 2007 (ERI 2/2007) to which we regret that we have yet to receive a reply from your Government.

According to the additional information received:

It was reported that a decree was issued in May 2002 requiring all religious groups in Eritrea to register and subsequently, many members of unregistered religious groups were detained. Patriarch Antonios of the Eritrean Orthodox Tewhado Church in Asmara was allegedly put under house arrest in January 2006 for having refused to excommunicate 3,000 members of the Medhane Alem Sunday School movement and calling for the release of other imprisoned Christians.

In the early hours of the morning on 27 May 2007, Patriarch Antonios was forcibly removed from his residence and taken to an undisclosed location. Since then he has been detained incommunicado. Patriarch Antonios, who is 85 years old, has allegedly been denied medical attention for his severe diabetes and deteriorating health. Patriarch Antonios also has not been able to celebrate the Holy Eucharist and observe special feast days.

Concerns are expressed regarding the violation of Patriarch Antonios' right to freedom of religion or belief and his freedom of expression. Concerns are also expressed for the long-term incommunicado detention of Patriarch Antonios and the denial of his access to medical treatment and care.

Without expressing at this stage an opinion on the facts of the case and on whether the detention of Patriarch Antonios is arbitrary or not, we would like to appeal to your Government to take all necessary measures to guarantee his right not to be deprived arbitrarily of his liberty and to fair proceedings before an independent and impartial tribunal, in accordance with 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).

While we do not wish to prejudge the accuracy of these allegations, we wish to appeal to your Government to seek clarification on the information drawn to our attention and share our concerns in relation to present circumstances in light of the applicable international human rights norms and standards.

We would appreciate information from your Excellency's Government on the steps taken by the competent authorities with a view to ensuring the right to the highest attainable standard of health of Patriarch Antonios. This right is reflected, *inter alia*, in the article 12 of the International Covenant on Economic, Social and Cultural Rights (acceded by your country on 17 April 2001), which provides for the right of everyone to the enjoyment of the highest attainable standard of mental and physical health. This includes an obligation on the part of all State parties to ensure that health facilities, goods and services are accessible to everyone, especially the most vulnerable or marginalized sections of the population, without discrimination. We also wish to refer your Excellency's Government to General Comment No. 14 of the Committee on Economic, Social and Cultural Rights, which holds that, "States are under the obligation to respect the right to health by, *inter alia*, refraining from denying or limiting equal access for all persons, including prisoners or detainees, minorities, asylum seekers and illegal immigrants, to preventive, curative and palliative health services..." (para.34).

We would also like to draw the attention of your Excellency's Government to the Standard Minimum Rules for the Treatment of Prisoners. Rule 22(2) provides that, "Sick prisoners who require specialist treatment shall be transferred to specialized institutions or to civil hospitals. Where hospital facilities are provided in an institution, their equipment, furnishings and pharmaceutical supplies shall be proper for the medical care and treatment of sick prisoners, and there shall be a staff of suitable trained officers". While Rule 25(1) provides that, "The medical officer shall have the care of the physical and mental health of the prisoners and should daily see all sick prisoners, all who complain of illness, and any prisoner to whom his attention is specially directed."

We would like to appeal to your Government to ensure the right to freedom of religion or belief in accordance with article 18 of the UDHR as well as of the ICCPR which your Government acceded to on 22 January 2002.

In addition, we would like to bring to your attention article 1 (1) of the 1981 Declaration of the General Assembly which states that “[E]veryone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have a religion or whatever belief of his choice, and 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; while article 6 (h) provides that “[T]he right to freedom of thought, conscience, religion or belief includes the freedom, “To observe days of rest and to celebrate holidays and ceremonies in accordance with the precepts of one's religion or belief.”

We further recall the Commission on Human Rights resolution 2005/40, para.4 (f) and Human Rights Council 6/37, para.9 (i) which urges States to ensure that on account of religion or belief "no one within their jurisdiction is deprived of the right to life, liberty, or security of person, [...] subjected to torture or arbitrary arrest or detention [...] and to bring to justice all perpetrators of violations of these rights;".

In this connection, we would like to kindly request your Government to take all necessary measures to guarantee Patriarch Antonios’ rights to freedom of religion or belief, liberty and health. In view of his poor health condition, we would like to urge you to take measures to provide Patriarch Antonios with adequate medical attention and treatment.

In view of the urgency of the matter, we would appreciate a response on the initial steps taken by your Government to safeguard the rights of Patriarch Abune Antonios in compliance with the forementioned international instruments.

Moreover, 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. Since we are expected to report on these cases to the Human Rights Council, we would be grateful for your cooperation and your observations on the following matters, when relevant to the case under consideration:

1. Are the facts alleged in the summary of the case accurate?
2. Have complaints been lodged with regard to the forementioned incidents?
3. Please provide information concerning the legal grounds for the continued detention of Patriarch Antonios and how these measures are compatible with international norms and standards as stated, inter alia, in the UDHR and the ICCPR.
4. Please provide a copy of the decree issued in May 2002 and explain its purpose. Please provide details of any measures taken by your Government to ensure the compatibility of the decree with international legal standards regarding the right to freedom of religion or belief.

We undertake to ensure that your Government's response to each of these questions is accurately reflected in the report we will submit to the Human Rights Council for its consideration.

While waiting for your response, we urge your Government to take all necessary measures to guarantee that the rights and freedoms of Patriarch Abune Antonios are respected and, in the event that your investigations support or suggest the above allegations to be correct, the accountability of any person responsible of the alleged violations should be ensured. We also request that your Government adopt effective measures to prevent the recurrence of these acts.

Please accept, Mr. Woldeyohannes, the assurances of our highest consideration.

El Hadji Malick Sow
Chair-Rapporteur of the Working Group on Arbitrary Detention

Heiner Bielefeldt
Special Rapporteur on freedom of religion or belief

Anand Grover
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