

Mandates of the Working Group on Arbitrary Detention; 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; the Special Rapporteur on freedom of religion or belief; and the Special Rapporteur on the situation of human rights in Eritrea

REFERENCE:
AL ERI 2/2017

17 January 2018

Excellency,

We have the honour to address you in our capacities as Working Group on Arbitrary Detention; Special Rapporteur on the right to education; Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on freedom of religion or belief; and Special Rapporteur on the situation of human rights in Eritrea, pursuant to Human Rights Council resolutions 33/30, 26/17, 34/18, 31/16 and 32/24.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the alleged violent repression of peaceful protests against Government interference at the Al Diaa school in Asmara, Eritrea, on 31 October 2017, and the arbitrary arrest and detention of several people including those linked to the school, protesters and perceived protesters, apparently in reaction to the legitimate exercise of their rights to freedom of peaceful assembly and to freedom of expression.

According to the information received:

Protests that took place in Asmara on 31 October 2017 were reportedly triggered by disagreement between the members of the Al Diaa private Islamic school and the Government over the school's independence in managing its own affairs. The Al Diaa School is a private Islamic school in Asmara's Akriya district, which offers both secular and Islamic education. So far, the school was autonomous, relying on a "parents' committee" to sustain itself financially. Reportedly, the Ministry of Education has envisaged transferring the control and financing of private, self-administered faith-based schools to the local administration, *i.e.* public entities, and align their programmes with those of secular schools. According to information received, the authorities had requested Al Diaa school to introduce co-education, prohibit female students from wearing the headscarf or 'hijab' and discontinue religious teaching.

On 31 October 2017, about 100 individuals, primarily students of the Al Diaa School walked from the school towards the Ministry of Education in central Asmara, reportedly calling for the release of the members of the school's administrative committee. According to reports obtained, armed law enforcement officers violently dispersed the crowd, using sticks and firing shots. They arrested several of the protesters.

Following the protests of 31 October, more people were arrested from the Akriya neighbourhood, including children. Reportedly, people were arrested during round-ups, as well as after being summoned to the local administration offices. Allegedly, some of those arrested were subjected to beatings and exposure to cold water during their interrogation.

While some have been released in the meantime, others continue to be detained in several locations, including the 2nd police station 'Karshela', as well as 5th and 6th police stations. Family members have not received any formal notification of the arrest and detention of their loved ones. However, some family members have been able to track their whereabouts through informal channels and deliver food and clothing.

While we do not wish to prejudge the accuracy of these allegations, we express grave concern about the allegations of violent suppression of the exercise of the right to peaceful assembly and freedom of expression through the use of force, especially the use of firearms by law enforcement officials in responding to the peaceful protests in Asmara on 31 October 2017. We further express concern at the allegations about the arbitrary arrests and detention, and acts of torture and ill-treatment of persons in detention centres. We are also deeply troubled by the allegations that there were children among those arrested and detained.

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 therefore 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 about the names of those arrested in the context of the protests in relation to the Al Diaa school, as well as for each individual the date of arrest, place of detention, date of release if applicable, and legal proceedings.
3. Please provide information concerning the legal grounds for the arrest and detention of those who were arrested in the context of the protests in relation to the Al Diaa school, and how the measures are compatible with international norms and standards as stated, inter alia, in the UDHR and the ICCPR. Kindly explain how the lack of due process and fair trial is compatible with Eritrea's obligations under international human rights law.

4. Please provide the details, and where available the results, of any investigation, and judicial or other inquiries carried out in relation to the allegations of torture and ill-treatment. If no inquiries have taken place, or if they have been inconclusive, please explain why.
5. Please explain what measures have been taken to ensure that peaceful protestors and human rights defenders in Eritrea can carry out their peaceful and legitimate activities, express themselves and protest freely without fear of harassment, stigmatization or criminalization of any kind.
6. Please explain the reason(s) for transferring the control and financing of private, self-administered faith-based schools to the public entities, and for aligning their programmes with those of secular schools. Kindly also provide explanation for prohibiting female students from wearing of the headscarf or 'hijab' and discontinuing religious teaching in Al Diaa school.

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 might decide to publicly express our concerns in the near future, in which case we would indicate that we have been in contact with your Excellency's Government's to clarify the issues 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.

We would like to inform your Excellency's Government that after having transmitted an allegation letter to the Government, the Working Group on Arbitrary Detention may transmit the case through its regular procedure in order to render an opinion on whether the deprivation of liberty was arbitrary or not. Such letters in no way prejudice any opinion the Working Group may render. The Government is required to respond separately to the allegation letter and the regular procedure.

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

Elina Steinerte
Vice-Chair of the Working Group on Arbitrary Detention

Koumbou Boly Barry
Special Rapporteur on the right to education

David Kaye
Special Rapporteur on the promotion and protection of the right to freedom of opinion
and expression

Ahmed Shaheed
Special Rapporteur on freedom of religion or belief

Sheila B. Keetharuth
Special Rapporteur on the situation of human rights in Eritrea

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 would like to draw the attention of your Excellency's Government to the rights to freedom of expression and opinion and freedom of peaceful assembly as set forth respectively in articles 19 and 21 of the International Covenant on Civil and Political Rights (ICCPR), which Eritrea acceded to on 22 January 2002, and articles 9 and 11 of the African Charter on Human and People's Rights (ACHPR), which Eritrea ratified on 14 January 1999.

In addition, we would like to draw the attention of your Excellency's Government to Principle 4 of the UN Basic Principles on the Use of Force and Firearms by Law Officials, which provides that law enforcement officials, in carrying out their duty, shall, as far as possible, apply non-violent means before resorting to the use of force and firearms. They may use force and firearms only if other means remain ineffective or without any promise of achieving the intended result.

We would also like to draw the attention of your Government to the rights not to be arbitrarily arrested or detained and to a fair and public trial guaranteeing due process as enshrined in articles 9 and 14 ICCPR.

In this respect, we would also like to remind your Government of the absolute and non-derogable prohibition of torture and other ill-treatment as codified in articles 2 and 16 of the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), which Eritrea acceded to on 25 September 2014, and its article 12 which requires the competent authorities to undertake a prompt and impartial investigation whenever there are reasonable grounds to believe that torture has been committed, and its article 7 which requires States parties to prosecute suspected perpetrators of torture.

We would also like to remind your Government to about international standards regarding the arrest and detention of children as established in articles 9 and 14 of the ICCPR, articles 37 (d) and 40 (2) of the Convention on the Rights of the Child, which Eritrea ratified on 3 August 1994.

Furthermore, we would also like to draw your attention to the right of freedom of religion or belief in article 18 of ICCPR. Article 18 (4) of ICCPR specifically provides that "The States Parties to the present Covenant undertake to have respect for 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."

Article 26 (3) of Universal Declaration of Human Rights provides that parents have a prior right to choose the kind of education that shall be given to their children.

The 1981 Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief (A/RES/36/55) in its article 5 (1) states that “The parents or, as the case may be, the legal guardians of the child have the right to organize the life within the family in accordance with their religion or belief and bearing in mind the moral education in which they believe the child should be brought up.” It was further stressed in article 5 (2) of the 1981 Declaration that “Every child shall enjoy the right to have access to education in the matter of religion or belief in accordance with the wishes of his parents or, as the case may be, legal guardians, and shall not be compelled to receive teaching on religion or belief against the wishes of his parents or legal guardians, the best interests of the child being the guiding principle. [...]”

Moreover, the right of parents and guardians to ensure the religious and moral education of their children in conformity with their own convictions and the liberty of individuals and bodies to establish and direct educational institutions are also provided for in article 13 (3) and (4) ICESCR, which Eritrea acceded to on 17 April 2001.