

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

**PROCEDURES SPECIALES DU
CONSEIL DES DROITS DE L'HOMME**

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

**SPECIAL PROCEDURES OF THE
HUMAN RIGHTS COUNCIL**

Mandates of the Chair-Rapporteur of the Working Group on Arbitrary Detention; Special Rapporteur on freedom of religion or belief; Special Rapporteur on the human rights of migrants; Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance; Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment; and Special Rapporteur on violence against women, its causes and consequences.

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Excellency,

We have the honour to address you in our capacities as the Chair-Rapporteur of the Working Group on Arbitrary Detention; Special Rapporteur on freedom of religion or belief; Special Rapporteur on the human rights of migrants; Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance; Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment; and Special Rapporteur on violence against women, its causes and consequences. pursuant to General Assembly resolution 60/251 and to Human Rights Council resolutions 15/18, 14/11, 17/12, 16/33, 16/23 and 16/7.

In this connection, we would like to draw the attention of your Excellency's Government to information we have received concerning the continued detention in Jeddah, Saudi Arabia of 35 Ethiopian Christians, Mmes. [in original communication the names of the concerned persons are listed]

According to the information received:

On 15 December 2011, at 9:30 p.m., a Toyota van transporting eight women, part of a larger group of 35 Ethiopian Christians, to a private house-church meeting was stopped by police forces on the King Fahad Road, also known as Sitteen Street, in Jeddah. The police searched the bus and, at approximately 11:30 p.m., took the eight women and the male driver Mr. X. to the house-church where the meeting was scheduled to take place. The police subsequently confiscated Bibles and Christian magazines, means of transportation, computers and other appliances belonging to the church.

During the night of 16 December 2011, all the 35 Ethiopian Christians were taken into custody. They were informally charged with "illicit mingling" of unmarried persons of the opposite sex. The male detainees were placed in section 10 of Briman Prison and the females in Amber 2 Section of Briman Prison. It is alleged

that a few days after the arrest some members of the group were taken to court, where they were allegedly forced to affix their fingerprints to a document without being allowed to read it.

All the 35 detainees have allegedly been informed that their files are being examined by the Ministry of Interior and that they are likely to be deported. They have not had access to consular assistance. We are further informed that 11 detainees [names only provided in original communication] are known to have a valid *Iqama*, a long-term visa and residence permit for foreign nationals.

Reportedly, the 29 women detained have been allowed no visits and are subject to ill-treatment. They have allegedly been taken twice for uteral evaluation to assess signs of sexual activity and, on at least one occasion, the examiner used the same glove on each woman. Three of them, including Ms. Y, are reported to be suffering “badly” and “very sick” from womb infections, which may have occurred as a result of unhygienic internal examinations. They were also reportedly stripped, forced to jump naked and endure a breast examination.

We are also informed that one of the male prisoners, Mr. Z has allegedly been beaten following an interview he had given from prison to the news agency Voice of America (VOA). As a result of the beatings, his right leg is injured. We are informed that Mr. Z has received injections and pills, but these have not improved his condition. Messrs. Z and A are reported to have fallen seriously ill. This is due “inter alia” to the unhygienic living and sleeping conditions in prison. In addition the air-conditioning system is constantly on and the prisoners do not have enough clothing to keep warm.

Most of the male detainees are reported to be coughing up blood. Although some have allegedly been taken to a hospital, none have received adequate medication.

Concern is expressed that the arrest and continued detention of 35 Ethiopian Christians is a result of their peaceful exercise to freedom of religion. Grave concern is also expressed at the alleged ill-treatment of the 29 women and Mr. Z detained in Briman Prison and at the likelihood of detainees’ deportation.

Without expressing at this stage an opinion on the facts of the case and on whether the detention of the afore-mentioned persons is arbitrary, we would like to appeal to your Excellency’s Government to take all necessary measures to guarantee their right not to be deprived arbitrarily of their 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).

We would also like to refer your Excellency’s Government to article 36 of the 1963 Vienna Convention on Consular Relations, entitled Communication and Contact with Nationals of the Sending State, sets inter alia that “the competent authorities of the receiving State shall, without delay, inform the consular post of the sending State if,

within its consular district, a national of that State is arrested or committed to prison or to custody pending trial or is detained in any other manner.” This article also provides that “consular officers shall have the right to visit a national of the sending State who is in prison, custody or detention, to converse and correspond with him and to arrange for his legal representation. They shall also have the right to visit any national of the sending State who is in prison, custody or detention in their district in pursuance of a judgment.”

In addition, article 23 of the Convention states that migrant workers and members of their families shall have the right to have recourse to the protection and assistance of consular and diplomatic authorities of their State of origin or of a State representing the interests of that States whenever the rights recognized in the present Convention are impaired.

We would also like to refer to the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, adopted by General Assembly resolution 43/173 of 9 December 1988. Principle 16 (2): “If a detained or imprisoned person is a foreigner, he shall also be promptly informed of his right to communicate by appropriate means with a consular post or the diplomatic mission of the State of which he is a national or which is otherwise entitled to receive such communication in accordance with international law or with the representative of the competent international organization, if he is a refugee or is otherwise under the protection of an intergovernmental organization.”

In its resolution 62/156 , entitled “Protection of migrants”, the General Assembly reaffirmed “the duty of States to ensure full respect and observance of the Vienna Convention on Consular Relations, particularly with regard to the right of foreign nationals, regardless of their immigration status, to communicate with a consular official of their own State in the case of detention, and the obligation of the receiving State to inform the foreign national without delay of his or her rights under the Convention”. In addition, paragraph 80 of the Durban Programme of Action “urges States to seek full respect for, and compliance with, the Vienna Convention on Consular Relations of 1963, especially as it relates to the right of foreign nationals, regardless of their legal and immigration status, to communicate with a consular officer of their own State in the case of arrest or detention.”

We would like also to recall your Excellency’s Government of its obligations under the International Convention on the Elimination of All Forms of Racial Discrimination ratified by your Excellency’s Government on 23 September 1997. In particular we would like to draw your Excellency’s Government’s attention to General Recommendation No. 30 of the Committee on the Elimination of Racial Discrimination which recommends the State party “19. To ensure the security of non-citizens, in particular with regard to arbitrary detention [...]” and “18. To ensure that non-citizens enjoy equal protection and recognition before the law [...]”. In its General Recommendation the Committee further recommends:

- “21. To combat ill-treatment of and discrimination against non-citizens by police and other law enforcement agencies and civil servants by strictly applying relevant legislation and regulations providing for sanctions and by ensuring that all officials dealing with non-citizens receive special training, including training in human rights”;

- “25. To ensure that laws concerning deportation or other forms of removal of non-citizens from the jurisdiction of the State party do not discriminate in purpose or effect among non-citizens on the basis of race, colour or ethnic or national origin, and that non-citizens have equal access to effective remedies, including the right to challenge expulsion orders, and are allowed effectively to pursue such remedies”;

- “26. To ensure that non-citizens are not subject to collective expulsion, in particular in situations where there are insufficient guarantees that the personal circumstances of each of the persons concerned have been taken into account”;

- “28. To avoid expulsions of non-citizens, especially of long-term residents, that would result in disproportionate interference with the right to family life”.

While we do not wish to prejudge the accuracy of these allegations, we wish to draw your Excellency’s attention to the right to physical and mental integrity of the aforementioned individuals.

In this context, we would like to draw the attention of your Excellency’s Government to paragraph 1 of Human Rights Council Resolution 16/23 which “Condemns all forms of torture and other cruel, inhuman or degrading treatment or punishment, including through intimidation, which are and shall remain prohibited at any time and in any place whatsoever and can thus never be justified, and calls upon all States to implement fully the absolute and non-derogable prohibition of torture and other cruel, inhuman or degrading treatment or punishment.”

With regard to the allegation that the arrest and detention of the afore-mentioned persons is linked to their practice of their religion, we would like to recall to your Excellency’s Government to ensure the right of freedom of religion or belief in accordance with the principles set forth in the Declaration on the Elimination of All Forms of Intolerance and of Discrimination based on Religion or Belief and article 18 of the Universal Declaration on Human Rights. 1981 Declaration of the General Assembly art. 1 (1) provides that "Everyone 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."

Furthermore, the General Assembly, in its resolution 64/164, urges States to step up their efforts to protect and promote freedom of thought, conscience and religion or belief, and to this end: “(c) To end violations of the human rights of women and to devote particular attention to abolishing practices and legislation that discriminate against

women, including in the exercise of their right to freedom of thought, conscience and religion or belief". "(g) To ensure, in particular, the right of all persons to worship, assemble or teach in connection with a religion or belief ...; Human Rights Council resolution 6/37 urges States [...] "(c) To ensure that appropriate measures are taken in order to adequately and effectively guarantee the freedom of religion or belief of women [...]."

In relation to the alleged treatment of female detainees, we would like to bring to Your Excellency's attention article 1 of the United Nations Declaration on the Elimination of Violence against Women which provides that the term "violence against women" means any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life.

We also wish to recall article 4 (b) of the United Nations Declaration on the Elimination of Violence against Women, which stipulates that States should pursue by all appropriate means and without delay a policy of eliminating violence against women and, to this end, should refrain from engaging in violence against women. article 4 (c & d) of the Declaration also notes the responsibility of States to exercise due diligence to prevent, investigate and, in accordance with national legislation, punish acts of violence against women, whether those acts are perpetrated by the State or by private persons.

In this context, we recall that the Committee on the Elimination of Discrimination against Women (CEDAW) in its general recommendation No. 19 (1992), defines gender-based violence against women as impairing or nullifying the enjoyment by women of human rights and fundamental freedoms, and constitutes discrimination within the meaning of article 1 of the Convention on the Elimination of All Forms of Discrimination against Women (ratified by your Excellency's Government on 7 September 2000), whether perpetrated by a State official or a private citizen, in public or private life. Thus, the Committee considers that States parties are under an obligation to act with due diligence to investigate all crimes, including that of sexual violence perpetrated against women and girls, to punish perpetrators and to provide adequate compensation without delay. In general recommendation No. 19, the Committee sets out specific punitive, rehabilitative, preventive and protective measures States should introduce to fulfill this obligation; in paragraph 9, it makes clear that "under general international law and specific human rights covenants, States may also be responsible for private acts if they fail to act with due diligence to prevent violations of rights or to investigate and punish acts of violence, and for providing compensation".

Furthermore, we would like to bring to the attention of your Excellency's Government article 4 of the United Nations Declaration on the Elimination of Violence against Women which underlines the responsibility of States to condemn violence against women and which calls on States not to invoke any custom, tradition or religious consideration to avoid their obligations with respect to its elimination.

We urge your Excellency's Government to take all necessary measures to guarantee that the rights and freedoms of the above mentioned persons 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 Excellency's Government adopt effective measures to prevent the recurrence of these acts.

In view of the urgency of the matter, we would appreciate a response on the initial steps taken by your Excellency's Government to safeguard the rights of the above-mentioned persons in compliance with the above 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 cases accurate?
2. Has a complaint been lodged with regard to the incidents mentioned?
3. Please provide information concerning the legal grounds for the arrest and detention of the afore-mentioned persons and how these measures are compatible with international norms and standards.
4. Please provide information on the measures taken to ensure the health and the safety of the afore-mentioned persons.

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

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