

Permanent Mission of Eritrea
to the United Nations
GENEVA



ተገኘ ልዩ ስርዓት
ናብ ወደብ ሕብረት ገብረ
ደብ

البعثة الإرترية الدائمة لدى الأمم المتحدة
جنيف

Ref. : PME/054/12

The Permanent Mission of Eritrea to the United Nations presents its compliments to the Secretariat of the United Nations (Office of the United Nations of the High Commissioner for Human Rights) and, in reference to G/SO 2151/1 ERI 185, 186, 188, has the honour to make the following submission to the Human Rights Council and Treaties Division Complaint Procedure.

1. Through its communications of 18 November 2011, Ref. No. G/SO 215/1 ERI 1888, the Secretariat of the United Nations (Office of the High Commissioner for Human Rights) transmitted to the Permanent Mission of Eritrea to the United Nations two copies of egregious accusations against the State of Eritrea. The Secretariat further notified the Permanent Mission of Eritrea to the United Nations that the complaint “*will be examined by the Working Group on Communications of the Human Rights Council complaint procedure, at its tenth session, scheduled to be held from 23 April to 27 April 2012*” and requested it to respond, if it so wishes, “*no later than three months after this notification*”.
2. The Permanent Mission of Eritrea to the United Nations wishes to raise at the outset substantive issues of mandate since the communication basically originates from and is primarily motivated by, as we shall demonstrate later, sinister political considerations and motives that have nothing to do with purported “violations” of human rights. This communication is indeed part and parcel of the larger picture of incessant smear and destabilization campaigns pursued by external forces to silence and corner Eritrea to cover up their gross violations of fundamental tenets of international law and to advance their perceived interests in the Horn of Africa. In providing its response and perspectives on the present communication, the Permanent Mission of Eritrea to the United Nations will focus on: i) procedural and legal flaws of the communication; and, ii) substantive rebuttals of the accusations while digressing somewhat, as necessary, to shed relevant light on the larger setting and to put matters in their proper context.

Human Rights Council and Treaties Division
Complaint Procedure
OHCHR-UNOG
1211 Geneva 10, Switzerland

I. Procedural and Legal Issues

3. As it may be recalled, Eritrea has duly undergone through and fulfilled the requisite processes of the Universal Periodic Review in the past years. Eritrea submitted its Summary of the National Report to the Working Group of the Human Rights Council during the Sixth Session of the Universal Periodic Review on 30 November 2009. In addition, it submitted its official response to the recommendations of the Working Group at the 28th meeting of the body on 17 March 2010. Furthermore, Eritrea is scheduled to present its second report to the Working Group at its 18th session in January-February 2014 in accordance with normative procedures of the Universal Periodic Review Mechanism.
4. These ordinary and positive interactions notwithstanding, Eritrea maintains that the present communication is not admissible, and should have been rejected outright at the stage of preliminary screening, as it contravenes fundamental tenets of paragraph 87 on the “Admissibility criteria for communications” of the annex of Human Rights Council resolution 5/1 of 18 June 2007. Indeed, as we briefly illustrate below, the groundless communication is “manifestly politically motivated and its object is not consistent with the Charter of the United Nations, the Universal Declaration of Human Rights and other applicable instruments in the field of human rights law”. As we shall describe in greater detail later in subsequent sections, the tabulated cases of “*murder, rape, torture disappearances and induction of children in the national army*” are pure and malicious lies fabricated to serve the political motives of hostile extraneous forces. Under heavy-handed US prodding, the UN Security Council has for the past ten years failed to assume its legal and moral obligations to tolerate with impunity Ethiopia’s occupation of sovereign Eritrean territories in violation of the UN Charter, international law and the final and binding arbitral ruling of the Eritrea Ethiopia Boundary Commission. To cover-up and deflect attention from this grave violation of international law that has and remains a cause of tension and instability in our region as well as from other misguided policies and acts pursued in the wider Horn of Africa region, the US and the regime in Ethiopia have, and continue, to target and embroil Eritrea in a string of defamatory and fabricated cases and events. The present communication is evidently part and parcel of this intricate ploy.
5. In its communication to the Permanent Mission of Eritrea to the United Nations, the Secretariat states: “*at the request of the authors, their names, as well as those of witnesses and their representatives, have been deleted from the communication as transmitted*”. The Secretariat further states that it has “*received the same request with regard to the enclosures, containing testimonies, submitted by the authors*”. As a consequence, the Secretariat felt that its options were circumscribed and that it could only provide the Permanent

- Mission of Eritrea to the UN with a “*brief indication of the substance of the communications*”.
6. It must be pointed out at the outset that the “confidentiality” clause invoked by the “authors” is part of the game and drama that “they”, and those behind them, have mischievously concocted to imbue inordinate weight and gravity to the whole fabricated affair. It does not, otherwise, emanate from “a genuine and credible fear of possible retribution” by the Government of Eritrea. Indeed, from the incomplete communication that the Secretariat has sent to the Permanent Mission of Eritrea to the United Nations, it can be reasonably surmised that the “key authors” and ring leaders of the invective are members of a subversive armed group, the RSADO, propped up by the Ethiopian regime, with US backing, and engaged in sporadic terrorist activities against Eritrea through periodic incursions from their safe havens in Ethiopia.
 7. Another sinister motive behind the authors’ plea for “confidentiality” is their desire to circumvent provision Article 87 (g) of the annex of Resolution 5/1 of 18 June 2007 which calls for the exhaustion of domestic remedies prior to submitting any complaint to the Human Rights Council “*unless it appears that such remedies would be ineffective or unreasonably prolonged*”. By feigning fear of persecution as well as by pejoratively depicting the country as a State with “*no reliable government institutions*”, the authors apparently hope to preempt mandatory requirements of domestic recourse that Article 87 (g) envisions.
 8. In the opening paragraphs of their communication to Judge Navanethem Pillay, the High Commissioner for Human Rights, the authors of the complaint reveal, perhaps inadvertently, the real motivations of the underlying ploy. They thus state : “*This communication is on behalf of clan elders, elders and political leaders of the Afar people, gathered together at a conference of more than 800 in Samara, Ethiopia, on July 28, 2010. At that time, these delegates issued the Samara Declaration which condemned Eritrea’s oppression of the Afar people, and called for protection of the Afar people’s human rights. The leaders then gathered together and authorized the undersigned to file the present communication with you*”.
 9. As intimated above, this paragraph alone should have provoked a host of questions. Who organized the conference, and for what purposes? Why was it convened in Ethiopia? Who are the clan elders and political leaders of the “Afar people”? Do they represent the Afar language/ethnic group in Eritrea? Is there a political entity known as the Afar “people” in the first place? Who are the architects of the Samara Declaration? What are the contents and political objectives of the Samara Declaration? Are these consistent with domestic and international laws and conventions? ...etc. In our view, a cursory examination of the complaint along these lines, had it been carried out seriously, should have been sufficient in itself to elicit its outright rejection in accordance with Article

94 of the Annex of the Resolution which reads, inter alia,: “The Chairperson of the Working Group on Communications is requested, together with the secretariat, to undertake an initial screening of communications received, based on the admissibility criteria, before transmitting them to the States concerned. Manifestly ill-founded or anonymous communications shall be screened out by the Chairperson and shall therefore not be transmitted to the State concerned”.

10. In any case, what is palpably clear is that this was not an independent “conference” of duly constituted representatives of a minority language or ethnic group in Eritrea who assembled to seek redress to institutionalized policies of discrimination, deprivation or repression by the Government of Eritrea. This conference was conceived, organized and sponsored by the Ethiopian regime to cover-up and divert attention from its myriad internal problems and reckless acts of regional destabilization in Somalia as well as to advance its hostile policy objectives and designs in Eritrea. The fact is the current regime in Ethiopia, and its international backers, have been actively pursuing belligerent policies against Eritrea with multi-faceted dimensions and objectives. Indeed, as it is well known, the Addis Abeba regime has flouted international law and the Charter of the United Nations to occupy by force sovereign Eritrean territories for the last ten years in contravention of the arbitral decision of the Eritrea Ethiopia Boundary Commission. It has openly sought to barter and predicate respect and recognition of Eritrea’s sovereignty and territorial integrity with tangential issues of “normalization”; a euphemism for other ulterior objectives including “prior agreement on Assab port use etc”. To this end, it has and continues to be vainly engaged in propping up armed subversive groups to destabilize Eritrea under different and illicit rubrics. Against this backdrop of unremitting hostility, it has created various groups that do not have any constituency in Eritrea to conduct wanton acts of subversion. The “Red Sea Afar Democratic Organization (RSADO)”, which appears to have been the main protagonist in this bogus “conference”, is one of these small and inconsequential outfits. A sample of the self-incriminating press statements that it has been issuing intermittently is attached for illustrative purposes in **Annex 1**.

11. The preamble of the “Samara Declaration” speaks about the “*Afar State President, the Afar State Cabinet, the Afar State Officials,.... who have assembled in Conference today of 1500 people together to declare to the World the solemn will of the Afar people...*”. Unless these terms and notions are in reference to institutions of the adjacent Afar Region in Ethiopia, they are simply phantom entities that do not have any existence anywhere in Eritrea. Accordingly, they have no relevance to the realities in the country. If, on the other hand, the hidden political agenda of the architects of this drama is to carve out a new, exclusivist “Afar” State by laying claim to, and amalgamating, territories in Eritrea, Ethiopia and Djibouti, this would represent, even in the realm of ideas alone, an “irredentist” objective that contravenes the AU and UN

Charters and that has nothing to do with human rights laws and conventions. This would indeed be tantamount to advocating the breaking-up and fragmentation of several, independent, sovereign States and the creation of a new political map with all the perils that this would entail to the stability and security of the region and to the well-being of its peoples. As it known, centrifugal political tendencies that are anchored on ethnic/religious exclusiveness and that strive to foment cleavages in multi-religious and multi-cultural societies are neither peculiar to our region or the African continent nor novel in our contemporary times. Ambitions of creating a Greater Somalia by curving out predominantly Issaq-speaking territories from Djibouti, the Ogaden in Ethiopia and the Northern Frontier District in Kenya; or the creation of a new Kurdish State from regions in Iraq, Iran and Turkey; the case of Kashmir are illustrative instances that can be cited in our immediate and greater neighborhood among a multiplicity of similar cases the world over. For what it is worth, the “Samara declaration” contains a hodge-podge of objectives: “(…*formation of federal autonomous regions that own and control resources including surface and sub-surface resources, sea coasts, air space ... that enjoy the right of self-determination up to and including the right of secession...etc.*)” that reek of incipient “projects” of ethnic exclusivity. But this is not the appropriate forum and we do not intend to dwell much here on an abstract discourse of the dangers or merits of re-configuring sovereign nations to accommodate wayward sentiments and aspirations. The central theme that we wish to emphasize at this juncture is that this is not within the remit of the UN Human Rights Council. Nor is it a matter that the Secretariat of the United Nations should be seized of.

II. Substantive Rebuttal of the Accusations

12. The “authors” of the invective against Eritrea do not only fabricate lies to portray events and incidents that never occurred, but they also falsify contemporary history. Thus, in their letter to the High Commissioner, they claim: “... *When Eritrea gained independence in 1993, the Afar people enjoyed autonomous rule of the Eritrean province of Dankalia. However, the land, property and economy of the Red Sea Afar became the focal point for confrontation between the Eritrean military and the neighbouring states. ...The Eritrean Afar have long been at odds with Eritrean President Afwerki, mainly due to their insistence of maintaining peaceful coexistence with other Afar communities who became separated from them by international borders after Eritrea became independent in 1993. These other Afar communities are located in Ethiopia and Djibouti.*”
13. This distorted narration of yesterday’s events is too absurd to merit lengthy exposition. Modern States in Africa, and indeed this is generally the case all

over the world, are rarely monolithic polities composed of a single language, ethnic, or racial group. As a consequence, language and ethnic groups of the same stock invariably straddle contiguous borders. This is the norm rather than the exception in our contemporary times. Some of the nine language groups in Eritrea have their “kith and kin” in the Sudan, Djibouti and Ethiopia. Those in Ethiopia have their “kith and kin” in Djibouti, Kenya, Eritrea and the Sudan. Those in Djibouti have their “kith and kin” in Somalia, Ethiopia and Eritrea; etc. The Dankalia region that the authors portray through convoluted lenses was in fact the first portion of our country that the Italians set foot first in 1869 when they set out to colonize Eritrea. The inhabitants of Dankalia have suffered the depredations of Italian, British and Ethiopian colonial rule for more than a century in the same manner and to the same extent as their compatriots in the rest of the country. The inhabitants of Dankalia also rose up in arms and took part in the 30-year liberation war of independence with the same degree of determination, resilience and heroism as their compatriots in the rest of the country and paid painful sacrifices in the precious lives of their best sons and daughters to achieve the lofty aims of national liberation and independence. And when the Eritrean people won their liberation in 1991 and chose to conduct an internationally supervised referendum in 1993, the inhabitants of Dankalia vigorously participated in the process – to the same degree and extent as the rest of the country – with a turnout of 98.5% and a “yes” vote of 99.54%, (**Annex 2**). The depiction of “an autonomous region” that incorporated the Afar language group in the Horn of Africa but that was dismembered “by international borders after Eritrea became independent in 1993” is thus a white lie that flies in front of the historical events of yesterday and that are fresh in our collective memories.

14. The claim that “*the land, property and economy of the Red Sea Afar became the focal point for confrontation between the Eritrean military and neighbouring States*” is likewise spurious and underscores, in a rather transparent manner, the underlying agenda of the architects of the invective to foment causes for destabilizing the Horn of Africa region. Eritrea strictly adheres to the cardinal principle of the sanctity of colonial boundaries that is duly enshrined in the AU Constitutive Act; fully respects the sovereignty and territorial integrity of all its neighbours; and has never entertained wild claims or ambitions to grab territory outside this over-arching framework. If some of Eritrea’s neighbours chose to violate these sacrosanct principles to pursue belligerent ambitions for internal political reasons, the blame surely rests on them; not on Eritrea. In any case, the border war between Eritrea and Ethiopia was sparked when the latter encroached on sovereign Eritrean territories mainly in western Eritrea (the town of Badme), although Ethiopia also occupied the border village of Adi Murug in the eastern part of the country. Eritrea’s 1000-km long coastline, its pristine beaches and islands, its substantial maritime resources as well as its strategic location have historically exposed the country and its people to foreign predators; particularly major powers who have and still

- use surrogates in the region to foment trouble. But these strategic and natural resource endowments are collectively owned, and the national security risks that they have unfortunately engendered jointly shouldered and mitigated, by the Eritrean nation and people as a whole; not by one particular segment of the population here or there.
15. The authors of the invective allege and insinuate the existence of Government policy to evict inhabitants of Afar stock from their home villages and towns. To this end, they claim; “...*The following Afar towns, now populated by others, have been victimized by the Afwerki regime: Assab, Borri, Wade, Bayilul, Harsiley, Rahayta and Bure...(almost) all of these are located on strategic coastlands*”. This is again a willful and devious distortion of the reality. The Government of Eritrea does not, of course, pursue an apartheid policy of ethnic exclusivity and every citizen enjoys, by law, the encumbered right to invest, seek employment and reside in any part of the country. Eritrean cities and towns – throughout the breadth and width of the country – are in general microcosms of the heterogeneous ethnic/cultural composition of the nation; populated, as they are, by citizens who belong to the different religions and linguistic groups. The land tenure law of 1994, (Proclamation No. 58/1994), however restricts rights and entitlements to non-commercial village agricultural land and to rural *real estate* to indigenous inhabitants of the village only. This is a uniform law practiced throughout the country and inspired, to a large extent, by centuries-old customary laws that pre-date the advent of colonialism in various parts of Eritrea as early as the 16th century.
 16. The authors’ litany of baseless accusations is not confined to distortions of the history and overall governance of the country. They accuse the Government of Eritrea for committing atrocious crimes against its own people. To this end, they have submitted fabricated testimonies, “*videos in English translations*” we are told, of “*11 victims of “murder, torture, rape and disappearances... etc.”*” presumably committed by the “*Eritrean army and security apparatus*”.
 17. But as the authors perhaps unwittingly reveal, all these accounts are culled from falsified data that Ethiopia’s propaganda machine churns out in its hostile smear campaigns against Eritrea. In their own words: “... *in preparation for this communication, counsel for the Red Sea Afar has assembled primary source accounts of the abuses committed against the Afar in Eritrea. The Administration for Refugee and Returnee Affairs (ARRA), a Department of the Government of Ethiopia, has interviewed 24,000 Afar in refugee camps in Ethiopia to determine their reasons for fleeing Eritrea. Attachment B is a fair sampling of ARRA’s results, being a compilation of the questionnaires of 670 Afar refugees from these different refugee camps*”. As we have pointed out earlier, purported “evidences” created, or tampered with, by institutions of a belligerent government cannot be considered as credible testimonies and should not be admissible in accordance with paragraph 87 (d) of the annex of the HRC

- Resolution 5/1 of 18 June 2007. Other grossly untrue claims such as the existence of 200,000 “Eritrean Afar refugees” in Ethiopia while, in their own words, those presumably registered with the ARRA is 24,000 and when the actual number of the entire Afar language group in Eritrea, which constitutes less than 3% among a population of 3.5 million, is less than that number, only underscore the extravagance of the authors with their facts and with truth; unless the inflated figure includes the Afar population in Ethiopia.
18. On a more substantive note, the human rights violations that the authors allege are grave crimes that elicit severe punishment by the country’s independent judicial system on the bases of domestic civil and penal codes as well as the international conventions that Eritrea has signed in the past 20 years and that have been duly enshrined in the country’s laws. These laws are invariably based on equal citizenship rights; irrespective of any language/ethnic and religious divide.
 19. Indeed, Eritrea is a party to a number of global and regional human rights treaties; including almost all of the seven core international human rights conventions and associated optional protocols (**Annex 3**). Eritrea is also a party to several legal instruments dealing with international humanitarian and labour laws. In discharging its national and international obligations, the Government of Eritrea is fully committed and undertakes continuous efforts to harmonize existing legislation with the international human rights instruments to which it is a party, and to other human rights concepts that have gained the status of customary international law.
 20. In terms of domestic legislation, the essential body of laws that have relevance to the protection of human rights in Eritrea include, *inter alia*, the Transitional Civil Code of Eritrea, the Transitional Civil Procedure Code of Eritrea, the Transitional Penal Code of Eritrea, and the Transitional Criminal Procedural Code of Eritrea.
 21. The Transitional Penal Code criminalizes arrest, confinement, detention or otherwise restraining the freedom of any person, contrary to law or without lawful order, as illegal restraint. Article 281 of the Transitional Penal Code of Eritrea criminalizes the killing, bodily harm or serious injury to the physical or mental health of members of a national, ethnic, racial, religious or political group with intent to destroy such a group in whole or in part as a crime against humanity. The Transitional Criminal Procedure Code also contains explicit provisions governing criminal detention and arrest; they cover such matters as applicable criteria, procedure, time limit and place of custody. The Transitional Civil Code as well protects persons from their freedom being restricted, or from being subjected to a search, otherwise than in those cases which are provided by law. Offences such as rape and other sexual offences are seriously handled by the Transitional Penal Code and Eritrean courts and entail up to fifteen years of imprisonment. Furthermore, Article 9 of the National Military Service Act,

- (Proclamation 82/1995), expressly prohibits enrolment in the mandatory military service or any military training before the age of 18 years.
22. The administration of justice is carried out through the independent judiciary consisting of the Courts and the various bodies of the Prosecution. Their powers are expressly spelt out in Proclamation No.1/1991, issued promptly in the early months after the country's liberation on 24 May 1991. With regard to initiating public prosecutions and lodging protests in accordance with the law and overseeing the investigatory activities of the police and law enforcement officials in prisons, the Attorney General's Office is the normative organ of State which is mandated with the required powers.
 23. The authors of the invective are wilfully oblivious to these statutory provisions and State practice as their primary objective is to advance the destabilizing political agenda of extraneous forces outlined before; not to seek redress to grave crimes perpetrated by individuals or institutions of the Government of Eritrea. In this vein, they invoke and cite, as "corroborating evidence", often unrelated US State Department Human Rights Reports, the Report of the Eritrea Somalia Monitoring Group etc., to give credence to their groundless accusations. Leaving aside controversies on whether the United States has the moral high ground to pontificate about human rights to other sovereign nations, and whether its periodic reports on Eritrea, or on any other country for that matter, are factually accurate, objective, and not motivated by specific political aims and considerations, generic reports of this kind cannot be materially relevant to the specific communication in question.
 24. In as far as the Somalia Eritrea Monitoring Group is concerned, the credibility of its report has been seriously questioned by several important members of the UN Security Council. Eritrea, for its part, has seriously questioned its evident political bias, impartiality and professional judgement and submitted its considered response to the UN Security Council and Sanctions Committee (**Excerpts on Annex 4**). Eritrea has also questioned the methodology of its evidence collection and validation (by its own admissions, its findings are based on "*interviews and discussions with foreign law enforcement agencies, active Eritrean government contacts, former/defected military or diplomatic officials and Eritrean individuals directly involved in people smuggling operations*") and urged the UN Secretary General to establish MG anew with credible composition, clear ground rules, and appropriate mandate in the interests of fairness and justice (**Annex 5**).

III. Conclusion

25. The Communication submitted to the UN High Commissioner for Human Rights does not reflect realities prevailing in the country. As we have amply demonstrated in previous paragraphs, the complaint is a simple invective

against Eritrea, part and parcel of a larger smear campaign of disinformation and destabilisation, pushed by extraneous forces to serve perceived interests and agendas in the Horn of Africa region that have nothing to do with international law or human rights laws. The communication is also in breach of key provisions of the “Admissibility criteria for communications” of the annex of Human Rights Council resolution 5/1 of 18 June 2007. The Permanent Mission of Eritrea to the United Nations accordingly asks the Secretariat to take note of all these facts and dismiss the invective on the basis of the procedural and legal grounds outlined above.

The Permanent Mission of Eritrea to the United Nations avails itself of this opportunity to renew to the Secretariat of the United Nations (Office of the United Nations of the Human Commissioner for Human Rights) the assurances of its highest consideration.

15 February 2012