



# ERITREA

SUBMISSION TO THE UNITED NATIONS HUMAN RIGHTS COMMITTEE  
119<sup>TH</sup> SESSION, 6-29 MARCH 2017

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# 1. INTRODUCTION

Eritrea has been unwilling to implement international human rights standards since gaining its independence in May 1991. Though Eritrea acceded to the International Covenant on Civil and Political Rights (the Covenant) in 2002, the country has not, to date, fulfilled its obligations to submit its initial report to the Human Rights Committee (the Committee) as per Article 40.

In 2016, the report of the Human Rights Council's Commission of Inquiry (COI) concluded that there are reasonable ground to believe the Eritrean authorities have committed crimes against humanity through "enslavement, imprisonment, enforced disappearance, torture, other inhumane acts, persecution, rape and murder...since 1991."<sup>1</sup> There are, however, still no indications that the Eritrean authorities are willing to implement the recommendations made by the COI.<sup>2</sup>

This submission to the Committee is based on Amnesty International's research on Eritrea. It covers concerns relating to right to effective remedy, freedom from torture and other ill-treatment, freedom from servitude, freedom from arbitrary arrest and detention, freedom of movement, freedom of religion.

## 2. ARTICLE 2: RIGHT TO EFFECTIVE REMEDY

The legal system in Eritrea fails to provide effective remedy to victims of human rights violations and lacks necessary laws and institutions to ensure implementation of the Covenant.

The Eritrean Constitution, adopted on 23 May 1997, includes a chapter on fundamental rights, freedoms and duties. However, Eritrea has never enforced, to date, the 1997 Constitution. On the Independence Day address to the public, President Isaias Afewerki announced that the 1997 Constitution no longer exists and a new Constitution is under preparation.<sup>3</sup> The Eritrean authorities have so far not clarified the status of the 'new Constitution.'

National laws, including the Civil Code, the Civil Procedure Code, the Penal Code and the Criminal Procedure Code,<sup>4</sup> all fail to provide effective remedies for civil and political human rights violations. While some provisions in the Civil Procedure Code and the Criminal Procedure Code mention 'the Constitution,' it is unclear whether they are referring to the 1997 Constitution or the Constitution purportedly under preparation.

There is no known instance of Eritreans seeking and receiving remedies for civil and political rights violations within Eritrea.

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<sup>1</sup> Human Rights Council (HRC), *Report of the commission of inquiry on human rights in Eritrea (A/HRC/32/47)*, available at <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G16/093/42/PDF/G1609342.pdf?OpenElement> (accessed on 25 January 2017).

<sup>2</sup> Human Rights Council, Resolution 32/24 on situation of human rights in Eritrea, A/HRC/RES/32/24, 15 July 2016.

<sup>3</sup> President Isaias Afewerki, President of the State of Eritrea, Public Speech at Eritrean Independence 24 May 2014.

<sup>4</sup> In May 2015, Eritrea has adopted a new Civil Code, Civil Procedure Code, Criminal Procedure Code and Penal Code.

## 3. ARTICLE 6: RIGHT TO LIFE

A long-standing policy to shoot people crossing the border into Ethiopia remains in place. All individuals interviewed by Amnesty International who left Eritrea for Ethiopia during late 2014 and 2015 or who had been guarding the border until they left the country confirmed that this policy was still in place at the time of their assignment.

At least 11 Eritreans were killed when trucks transporting national service conscripts were passing through the capital, Asmara, on 03 April 2016. The security forces shot and killed the 11 people, including women and children as well as bystanders, and injured others, when the conscripts jumped off the trucks.

## 4. ARTICLE 7: FREEDOM FROM TORTURE AND OTHER ILL-TREATMENT

The Eritrean authorities use torture to punish prisoners detained for criticising the government, practising a religion not recognised by the State, attempted escape from or failure to perform duties during national military service (even as a result of infirmity or illness), insubordination, or for attempting to flee the country.<sup>5</sup>

Former detainees told Amnesty International that torture, or the threat of torture, was practised as punishment and during interrogation of forcibly returned asylum-seekers – those whose asylum claims in other countries had been rejected or who had no access to asylum procedures and were sent back to Eritrea. Returned asylum-seekers often faced torture and other ill-treatment as punishment for deserting national service, but also for suspected criticism of the government to foreigners in the course of trying to claim asylum.<sup>6</sup>

Former detainees told Amnesty International they were also tortured for the purposes of interrogation. In the case of detainees caught trying to flee the country, the objective is to extract information on their plans and arrangements for exiting the country. During interrogations, detainees were commonly compelled to admit they had intended to leave their country and reveal why they tried to leave and who had assisted them in doing so.<sup>7</sup>

Amnesty International's research has also revealed conditions of detention that amount to cruel, inhumane or degrading treatment or punishment. Former detainees interviewed by Amnesty International spoke of prison overcrowding, as well as the widespread use of underground cells and shipping containers to hold prisoners. The use of metal shipping containers as detention facilities has been reported at, inter alia, Adi Abeto, Alla, Dahlak Kebir, Mai Edaga, Mai Serwa, Sawa, Wi'a, and many other prisons. The Eritrean authorities also detain children together with adults.<sup>8</sup>

Detainees received little food and drinking water, both reported to be of poor quality. Detention conditions were the same in all the prison sites. Former detainees also said they had limited access to toilet facilities,

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<sup>5</sup> Amnesty International, *Eritrea: 20 years of independence, but still no freedom* (AFR 04/001/2013), May 2013, p 36.

<sup>6</sup> Amnesty International, *Eritrea: 20 years of independence, but still no freedom* (AFR 04/001/2013), May 2013, p 36-7.

<sup>7</sup> Amnesty International, *Eritrea: 20 years of independence, but still no freedom* (AFR 04/001/2013), May 2013, p 36.

<sup>8</sup> Amnesty International, *Eritrea: 20 years of independence, but still no freedom* (AFR 04/001/2013), May 2013, pp 39.

many cells having only one jerry-can for urine, with detainees being let out of the cell only once a day to defecate in the open. They also had almost no access to washing facilities.<sup>9</sup>

## **5. ARTICLE 8: FREEDOM FROM SLAVERY AND SERVITUDE**

The National Service Proclamation No. 82/1995 envisages 18 months of compulsory national service including six months of military training followed by 12 months of military deployment or government service.

However, national service amounts to slavery and servitude due to its indefinite nature and the use of conscript labour in mining and construction plants owned by private companies. Despite promising in 2014 to end indefinite national service, there is no evidence that the Eritrean authorities have demobilized those in national service beyond the legal limit of 18 months.<sup>10</sup>

## **6. ARTICLE 9: FREEDOM FROM ARBITRARY ARREST AND DETENTION**

The Eritrean authorities carry out arbitrary arrest and detention for attempted evasion of national service or desertion from the same. Other common grounds for arbitrary arrest and detention are expressions of political dissent and worship of unregistered religions. None of the people formerly in arbitrary detention interviewed by Amnesty International had fair trials, access to a lawyer and family members or judicial review of their detention by a competent court.

### **6.1. GROUNDS FOR ARBITRARY ARREST AND DETENTION**

#### **6.1.1. EVASION OF OR DESERTION FROM INDEFINITE NATIONAL SERVICE**

Eritrean youth approaching conscription age are aware of the indefinite nature of national service, the low pay while in national service and the lack of livelihood choices once they are in national service. An ever-

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<sup>9</sup> Amnesty International, *Eritrea: 20 years of independence, but still no freedom* (AFR 04/001/2013), May 2013, p 39 & 41.

<sup>10</sup> Amnesty International, *Just Deserters: why indefinite national service in Eritrea created a generation of refugees* (AFR 64/4794/2016), August 2016, p 29.

increasing number of youth, therefore, many of them teenagers, attempt to leave the country to avoid conscription. Others try to avoid it by hiding whilst still in Eritrea. However, Eritreans face arbitrary arrest and detention if caught evading or deserting national service.<sup>11</sup>

The military conducts round-ups in cities and on known routes to leave the country. Information gathered by Amnesty International suggests that people of national service age, without proper permits, caught in round-ups are often punished before being sent for military training, on suspicion of attempts to evade conscription.<sup>12</sup>

Desertion from national service also appears to be common. Conscripts attempt to run away from their posts or do not return to their assigned posts after a period of leave.

None of those arbitrarily arrested and detained that Amnesty International spoke to had access to a lawyer, their family or a court during their detention. The duration of their arbitrary detention depended on the whim of commanding officers of the unit that arrested the evader or the deserter.<sup>13</sup>

## 6.1.2. RELIGION AND BELIEF

Thousands of people have been arrested for practising a religion not recognised by the state. Others have been arrested for conscientious objection to military service on religious groups, for suspected links with opposition movements supported by particular religious groups and for opposing government interference in religious affairs. These arrests are violations of the right to freedom of thought, conscience and religion. None of those so arrested were charged with a crime or taken to court.

Amnesty International has documented that Jehovah's Witnesses are among those systematically persecuted by the Eritrean authorities. Since 1994, the Eritrean authorities have stripped Jehovah's Witnesses of their citizenship because they refused to vote in the independence referendum, as their faith demands political neutrality, and their on-going refusal to take part in national service because their faith prohibits bearing arms. Many Jehovah's Witnesses have been arrested for conscientious objection to national service and have been indefinitely detained, without charge or trial.

Leaders of registered religions are not spared from arbitrary arrest and detention either. Abune Antonios, Patriarch of the Eritrean Orthodox Church has been under house arrest since 2006, while 40 Muslim clerics and scholars from the Saho ethnic group have been in detention since 2008.

## 6.1.3. PERCEIVED POLITICAL DISSENT

Among those still in arbitrary detention are former top officials of the ruling party, the People's Front for Democracy and Justice (PFDJ), merely for exercising their right to freedom of expression and opinion. When a group of 15 PFDJ top officials (the G15 as they became known), wrote an open letter to members of the PFDJ in May 2001 in which they issued 'a call for correction, a call for peaceful and democratic dialogue...a call for the rule of law and for justice,' 11 were arrested on 18 September 2001.<sup>14</sup> Three of the remaining members avoided arrest and the final member retracted his signature from the open letter.

On 19 September 2001, the day after the G15 arrest, the government withdrew the licenses of the country's eight independent newspapers and arrested ten leading journalists. Other journalists who had been warned of the crackdown managed to escape the country. The ten journalists included: Fessahaye Yohannes (also known as Joshua'), an Eritrean People's Liberation Front (EPLF) veteran, poet, dramatist and founder of Setit newspaper; Dawit Habtemichael, co-founder of Meqaleh (Echo) newspaper; Seyoum Tsehaye, former director of Eritrean state television; Temesgen Gebreyesus, a sports reporter and actor; and Dawit Isaak, a writer, theatre producer and co-owner of Setit newspaper. These journalists had published articles about democratic reform, including interviews with the G15 members and their own opinions on democratic reform.

Currently, at least 17 journalists are arbitrarily detained in Eritrea.

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<sup>11</sup> Amnesty International, Just Deserters: why indefinite national service in Eritrea created a generation of refugees (AFR 64/4794/2016), August 2016, p 23.

<sup>12</sup> Amnesty International, Eritrea: 20 years of independence, but still no freedom (AFR 04/001/2013), May 2013, p 27.

<sup>13</sup> Amnesty International, Just Deserters: why indefinite national service in Eritrea created a generation of refugees (AFR 64/4794/2016), August 2016, p 24.

<sup>14</sup> Haile Woldetensae; Mahmoud Ahmed Sheriffo (who was later Vice-President); Petros Solomon; Aster Fissehatsion, a prominent female EPLF leader; General Ogbe Abraha, Major-General Berhane Gebregziabeher; Brigadier General Estifanos Seyoum; Beraki Gebreselassie; Hamad Hamid Hamad; Saleh Kekiya; and Germano Nati.

# 7. ARTICLE 12: FREEDOM OF MOVEMENT

The Eritrean authorities restrict freedom of movement, including the right to leave the country. People moving without permits within the country or trying to leave Eritrea are subject to arbitrary arrest and detention and, if crossing the border into Ethiopia, the shoot-to-kill policy. The Eritrean authorities prohibit anyone between 5 to 50 years from leaving the country. Hence, Eritreans leaving for family reunifications abroad are forced to cross the borders by land and take their flights from another country. If the military catches them attempting to leave, they are held in detention until they pay an exorbitant penalty. The amount of the fee varies according to the whims of the commanding officer, the time of the year, the distance from the border and the border they target to cross. If they are caught during the national holiday celebrating the struggle for independence, the fee is higher. The amount will increase if they are caught trying to cross the border with Ethiopia. If those caught are of the national service age, they are sent to Sawa military training centre.

# 8. ARTICLE 18: FREEDOM OF RELIGION

In 2002, the Eritrean authorities withdrew the registration of minority religious groups and ordered all unregistered religions to register, providing details of their members and finances and closing their places of worship until registration. Some minority religious groups reportedly attempted to re-register, but none were successful. Only four religions – Islam and the Orthodox, Catholic and Lutheran churches – are currently officially recognised.

Since then, thousands of adherents of religions not recognised by the state, including Pentecostal and Evangelical Christian denominations, have been arrested for practising their religion. According to testimonies and reports received by Amnesty International, the arrests often take place during raids on prayer and worship meetings in private homes, or at weddings and funerals.<sup>15</sup>

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<sup>15</sup> Amnesty International, Eritrea: 20 years of independence, but still no freedom (AFR 04/001/2013), May 2013, p 21.



# 9. RECOMMENDATIONS FOR ACTION BY THE STATE UNDER CONSIDERATION

Amnesty International recommend that the Eritrean authorities:

- promptly adopt laws and establish institutions that provide effective remedy for violations of human rights enshrined in the Covenant;
- stop the shoot-to-kill policy against people leaving Eritrea through the Ethio-Eritrea border;
- stop any act of torture and other ill-treatment of people in detention;
- demobilise national service conscripts that have served more than 18 months;
- stop the assignment of national service conscripts as labour for private companies;
- release, immediately and unconditionally, people in detention for the legitimate exercise of their rights;
- ensure the right to freedom of movement, including the right to leave the country; and
- amend its laws so as to officially recognise all religions.



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