



ERITREA

AMNESTY INTERNATIONAL SUBMISSION FOR THE UN UNIVERSAL PERIODIC REVIEW

18TH SESSION OF THE UPR WORKING GROUP, JANUARY/FEBRUARY 2014

FOLLOW UP TO THE PREVIOUS REVIEW

There has been no progress on nearly all of the issues highlighted during the previous Universal Periodic Review of Eritrea. Eritrea has failed to implement any of the major recommendations made in 2009. During the period under review, no steps were taken to hold free and fair elections, to implement the 1997 Constitution,¹ to lift restrictions on freedom expression and association and freedom of religion and belief,² and to release all prisoners of conscience and charge or release other political prisoners.³

Despite accepting seven recommendations from 10 countries on the ratification of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), Eritrea still has not ratified it.⁴ Amnesty International is concerned that torture and other ill-treatment are commonplace and systematically used against prisoners of conscience and political prisoners, for the purposes of punishment, interrogation and coercion.

During its first review, Eritrea also supported recommendations on the right of returnees, stating that "Eritrea encourages and facilitates the return of its citizens to their country".⁵ However, Eritrean asylum-seekers whose applications have been rejected or who have not been granted access to asylum procedures, and are then forcibly returned to Eritrea continue to be arbitrarily arrested and detained without charge.

Eritrea further accepted recommendations on cooperating with the UN Special Procedures and treaty bodies.⁶ However, no progress has been made on this front. The requests of the UN Special Rapporteur on the human rights situation in Eritrea for access to the country have not been granted since her appointment in 2012. Other requests for visits by Special Procedures of the Human Rights Council have also been ignored.⁷

THE HUMAN RIGHTS SITUATION ON THE GROUND

In Eritrea, there is no freedom of expression, no independent media or civil society. Only four religions are recognised by the state. Only one political party is permitted. National service conscription is mandatory for all adults and is frequently extended indefinitely. Any attempt to dissent in any way from this repressive system is met with arbitrary arrest and detention without trial. In this submission, Amnesty International highlights some of the major human rights concerns that pervade Eritrea.

ARBITRARY DETENTION

Thousands of people are currently held incommunicado in arbitrary detention without charge in Eritrea. Amnesty International has documented the arbitrary arrest and detention of thousands of people without charge or trial for criticising or questioning government policy or practice, for their work as journalists, for actual or suspected opposition to the government, for practicing a religion not recognised by the state, for evading or deserting national service

conscripted, for trying to flee the country (both those caught on the border and asylum-seekers forcibly returned from other countries) or in place of individuals who have fled the country. Amnesty International considers many of those detained to be prisoners of conscience. Hundreds of people, if not more, have been arbitrarily detained for nearly 20 years.

The due process rights of these detainees are systematically violated. Amnesty International believes that none of the many thousands of detainees arrested for any of the above reasons has ever been charged with a crime, tried or brought before a judge or judicial officer with the authority to review the legality of their detention. There is no independent judiciary in Eritrea and no way for a prisoner or their family to legally appeal against arbitrary detention.

Many government critics and suspected opponents of the government, journalists, pastors of banned churches, conscientious objectors to military service and others have been arrested and held indefinitely incommunicado without any contact with the outside world in secret detention.⁸ In countless of these cases, the detention amounts to enforced disappearance – the authorities have refused to confirm the arrests, or have concealed the whereabouts or fate of the disappeared person, placing them outside the protection of the law. In a number of cases the government has also refused to confirm or deny unofficial reports of deaths in custody.

The significant majority, if not all, of these arrests, violate Eritrea's obligations under international human rights law. The rights to freedom of opinion and expression, freedom of religion and belief, and freedom of movement are protected under the International Covenant on Civil and Political Rights (ICCPR), and the International Covenant on Economic, Social and Cultural Rights (ICESCR), to both of which Eritrea is a state party.

Examples of cases of arbitrary arrests and detention without charge during the period under review include:

- In February and March 2011, four journalists working for the government-controlled radio *Dimtsi Hafash* were arrested: Nebiel Edris, Ahmed Usman, Mohamed Osman, and Eyob Kessete. No reason was given for their arrests and they have not been charged with a crime or brought before a court, or provided with access to a lawyer or their families. They are believed to be held incommunicado in an unknown location.
- In April 2012, nine Jehovah's Witnesses were arbitrarily arrested and detained for preaching at a funeral. They are reportedly detained in Me'eter camp and Keren police station. One of them, Redae Hagos, is reported to be 85 years old.

In addition to cases of arbitrary arrest during the period under review, thousands of people remained arbitrarily detained from previous years; many hundreds of them for well over a decade. The longest known case is that of Mohamed Meranet, a judge who has been arbitrarily detained since 1991 for suspected opposition to the government.

PRISONS AND DETENTION CONDITIONS

Detention conditions in Eritrea violate international law. Amnesty International considers that conditions of detention in Eritrea amount to cruel, inhuman or degrading treatment. Cells and other confinement spaces are generally severely overcrowded, damp and unhygienic. Provisions of food, water and sanitation are inadequate. Numerous detention centres use underground cells or metal shipping containers as cells. Many of these detention centres are in desert locations, meaning that those held in cells underground or constructed of metal experience extreme heat during the day and extreme cold during the nights. Underground cells and shipping containers are usually unventilated and the prisoners have only severely restricted access to daylight. The cells have no sanitation facilities and prisoners are only allowed out for very short periods for toilet purposes, once or twice a day, according to numerous testimonies from former detainees. These conditions are exacerbated by overcrowding.

Detainees in a number of prison camps are forced to do hard labour as part of their punishment. Former detainees told Amnesty International that they were forced to work as agricultural labourers, for example in Mai Edaga and Wi'a camps; breaking stones for road building, for example at Alla camp; and as construction workers in a number of locations, including Dahlak Kebir island.

While the ICCPR states that the prohibition on forced labour does not preclude hard labour imposed as punishment for a crime in pursuance of a sentence imposed by a competent court,⁹ this exception does not apply where detainees are arbitrarily detained without trial and with no judicial oversight of detention, and punishments are not imposed as part of a sentence by an independent and impartial court. The requirement for prisoners in Eritrea to carry out forced labour as a punishment, like the detention itself, violates international law.¹⁰

Torture and other ill-treatment are commonplace, used for the purposes of punishment, for example of government critics, dissenters and draft evaders, for failure to perform duties during national service, insubordination, or as punishment for the escape of another prisoner; for interrogation, for example, people who attempted to flee the country are tortured to extract information on who assisted them; and for coercion – adherents of religions not recognised by the state have reported that they were tortured to force them to recant their religion. Common methods of torture and other ill-treatment include prisoners being tied with ropes in painful positions for extended periods, being beaten with sticks, whipped with electric wires, being forced to walk on sharp objects barefoot or to roll on the ground over sharp stones or rough terrain.

FREEDOM OF EXPRESSION

The Eritrean government continues to use arbitrary detention to silence anyone who holds a dissenting opinion, criticises the government or is suspected of opposition to the government. People that are arbitrarily detained for actual or suspected opposition to the government include politicians, journalists, artists, merchants, employees of the UN, foreign non-governmental organisations and foreign embassies, members of regional and national authorities.

The entire private press was suspended in 2001, and 10 leading journalists were arrested, who to date remain in arbitrary detention without charge. Since that time there has been no independent media in the country. Nevertheless, journalists employed by state radio and television media continue to be arrested for any suspicion of criticism of the government, and arbitrarily detained without charge. Many of the journalists arrested since 2001 are also held indefinitely, incommunicado without any contact with the outside world in secret detention.

Examples of cases of arbitrary arrest for the exercise of the right to freedom of expression during the period under review include:

- On 22 February 2009 the entire staff of *Radio Bana* – a station broadcasting educational programmes under the sponsorship of the Ministry of Education – were reportedly arrested. Of the 50 or so people arrested, most were quickly released. However, an unknown number, but believed to be at least 12 remain in arbitrary detention at time of writing. The reason for the arrests is unknown. None of the detained journalists has been charged a recognizable criminal offence or brought to a court. Their families have not been informed of their whereabouts.
- Senay Kifleyasus, a prominent businessman and the husband of the current Minister of Tourism was arrested in October 2011. His arrest is believed to be in relation to an un-redacted Wikileaks cable, in which he was reported to have criticised President Isaias' "disastrous governance of the country".¹¹ According to available information Senay has not been brought before a court or charged with a crime.

MILITARY CONSCRIPTION

In Eritrea, national service was declared mandatory for men and women between the ages of 18 and 50, under the Proclamation of National Service (No. 82/1995). The initial national service period is 18 months long, generally consisting of six months' military service followed by 12 months' deployment in military or government service. However, this period is frequently extended indefinitely. Much of the adult population of Eritrea is currently engaged in mandatory national service; many of them have been conscripted for over ten years.

There is no exemption from military service for conscientious objectors.¹² Women with children are reportedly exempt from military service, but are required to undertake various duties in the civil sector within the framework of national service. However this unwritten policy, as with all aspects of written and unwritten national service policy, appears to be arbitrarily implemented.

Within the national service framework conscripts are assigned to a wide variety of roles - from agricultural labour to roles in the military administrative infrastructure, without any choice as to the nature of the work they are assigned to. The basic level national service salary is 450 Nakfa (approximately 30US\$) per month, which is widely reported to be insufficient to meet the basic needs of conscripts and their families.

The system of indefinite, involuntary conscription imposed in Eritrea amounts to forced labour and a violation of human rights.¹³ Furthermore, it provides a context for other human rights violations, including the violent methods used to enforce conscription, the lack of any recognition of a right to conscientious objection, detention without charge or trial of those who evade or desert, and the detention of and reprisals against the family members of those who evade military service.

Because of the violations inherent in the framework of national service, as well as the indefinite nature of conscription precluding other economic or educational opportunities, a large number of Eritreans have tried to avoid conscription by going into hiding or fleeing the country. There is also a high rate of desertion from national service.

The usual punishment for evading or deserting national service is arrest and detention without charge or trial. Amnesty International has also received information of cases in which people were arrested on the suspicion that they were intending to desert. Many thousands of draft evaders and deserters have been detained without charge or trial since 1995. Detention periods for people detained on these bases vary. In many cases, individuals arbitrarily arrested for avoiding or deserting national service conscription are detained for periods of one to two years. Detention lengths are arbitrarily decided, with no basis in law.

When caught, draft evaders and deserters have been subjected to torture and other ill-treatment, including brutal beatings and being tied in contorted positions, as punishment. The families of draft evaders and deserters are subject to fines or arrest and detention in reprisal for the flight of a family member.

CHILD SOLDIERS

Eritrea is party to the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, and upon ratification Eritrea made the specific declaration that "the minimum age for the recruitment of persons into the armed forces is eighteen years."¹⁴ However, all schoolchildren are required to complete their final year of schooling (grade 12) at Sawa military training camp, where military training is conducted alongside schoolwork. The emphasis of this year is significantly weighted towards the military training and it is consistently reported that the education provided is of very poor quality. This system effectively involves the conscription of children into the military, and is therefore in violation of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict. Amnesty International has received a number of reports of children of 15 and 16 years old being conscripted through this system. A number of children aged between 15 and 17 are also reported to have been caught in national service 'round-ups'— when the authorities sporadically go around houses, offices and shops searching for people of national service age who appear to be avoiding conscription and take them to Sawa military training camp.

RECOMMENDATIONS FOR ACTION BY THE STATE UNDER REVIEW

Amnesty International calls on the government of Eritrea to:

Arrest and detention

- Bring an immediate end to the unlawful practices of arbitrary detention without charge or trial, incommunicado detention without access to the outside world, and detention in secret detention centres;
- Immediately and unconditionally release all prisoners of conscience – those detained because of their peaceful exercise of their rights to freedom of expression or freedom of thought, conscience, religion or belief, including because of their peaceful opposition to the government, or because of their identity as a family member of someone who has refused conscription or fled the country;

- Ensure that any detainee suspected of a recognizable criminal offence is promptly charged and tried within a reasonable time in a fair and public trial which complies with international fair trial standards; where such proceedings do not take place within a reasonable time detainees should be released pending trial, in particular those who have to date been detained for a prolonged period without charge;
- Immediately provide detainees' families with information on their whereabouts and fate, including their current health status or official confirmation of any death in custody. In the latter case there must be an independent and impartial investigation into the death in order to establish the facts with a view to ensuring that those responsible are held accountable, with the families afforded reparation, including compensation;
- Ensure that anyone who is detained:
 - is able without delay to inform, or have the authorities notify, their family or another third party of their detention, including information on the place of detention, and any transfers;
 - is given prompt access to family members, including the right to receive visits, and to a lawyer of their choice, with whom they must be able to communicate in private, and to medical care;
 - is brought promptly before a judicial or other authority whose status and tenure afford the strongest possible guarantees of competence, impartiality and independence, and is able to challenge the lawfulness of their detention before a court at the outset or at any time thereafter and to have the lawfulness of their detention reviewed by a court or other authority at reasonable intervals.

Restrictions on freedom of expression and association

- Respect and promote the right to freedom of expression, peaceful assembly and association, including by representatives of political parties, media and civil society groups, as set out in international and regional human rights treaties to which Eritrea is a party, in particular the International Covenant on Civil and Political Rights.

Conscription for national service

- Make provision for conscientious objection to military service;
- Bring an end to practices amounting to forced labour within the context of indefinite conscription for national service;
- End the policy of children undertaking the final year of schooling at Sawa military camp, a system that effectively involves the conscription of children into the military; ensure that no-one under the age of 18 years is conscripted.

¹ Human Rights Council. *Report of the Working Group on the Universal Periodic Review of Eritrea*, A/HRC/13/2, Paras 79.15-79.19 (Australia, Canada, Slovakia, Spain, Slovenia)

² A/HRC/13/2, Paras 79.89 to 79.98 (Australia, Netherlands, Austria, Ireland, Chile, Sweden, Canada, Brazil, Norway)

³ A/HRC/13/2, Paras. 79.77 – 79.80 (Canada), 79.82 (Switzerland), 79.95 (Sweden), 79.97 to 79.99 (Brazil, Norway, United Kingdom)

⁴ A/HRC/13/2, Paras.79.1 (Mexico), 79.2 (Azerbaijan), 79.3 (Poland, Turkey, Austria, Norway), 79.4 (Netherlands), 79.8 (Spain), 79.12 (Chile), 79.13 (Switzerland). Eritrea accepted these recommendations stating that "these recommendations are consistent with Eritrea's laws. Article 417 of the Transitional Penal Code treats torture as a criminal offence". However, this statement is not a clear and sufficient acceptance of the recommendation. See: A/HRC/13/2/Add.1

⁵ A/HRC/13/2/Add.1, Para. 33, The rights of returnees

⁶ A/HRC/13/2, Paras. 79.24 to 79.32 (Brazil, Netherlands, Turkey, Chile, Spain, Ireland, Azerbaijan, Latvia, Norway). The government of Eritrea accepted these recommendations. See: A/HRC/13/2/Add.1 Paras. 15 and 16.

⁷ UN Special procedures have not been granted country visits by the Eritrean authorities despite several requests. These include the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression (invitation requested in 2003,

renewed in 2005); the Special Rapporteur on freedom of religion or belief (2004); the Special Rapporteur on the right to food (2003); the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment (2005, 2007, and 2010), and the Special Rapporteur on extrajudicial, summary, or arbitrary executions (2010).

⁸ The International Convention for the Protection of All Persons from Enforced Disappearance defines enforced disappearance as “the arrest, detention, abduction or any other form of deprivation of liberty by agents of the State or by persons or groups of persons acting with the authorization, support or acquiescence of the State, followed by a refusal to acknowledge the deprivation of liberty or by concealment of the fate or whereabouts of the disappeared person, which place such a person outside the protection of the law” - <http://www.ohchr.org/EN/HRBodies/CED/Pages/ConventionCED.aspx>

⁹ International Covenant on Civil and Political Rights (ICCPR), Article 8 - 3(b)

¹⁰ ICCPR, Article 8- 3(a)

¹¹ See for example <http://awate.com/wikileaks-reprisal-senay-kifleyesus-arrested-corrected/>

¹² The right to conscientious objection to military service is recognised under international law as deriving from the right to freedom of thought, conscience and religion or belief, under Article 18 of the International Covenant on Civil and Political Rights (ICCPR). Accordingly states must make provision for conscientious objectors and must, if conscientious objectors are not entirely exempted from military service, ensure the availability of alternative non-punitive civilian service.

¹³ See Article 6(1) International Covenant on Economic, Social and Cultural Rights (ICESCR); Article 8(3) of the ICCPR; Committee on Economic, Social and Cultural Rights, General Comment 18, <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/Go6/403/13/PDF/Go640313.pdf?OpenElement>. See also International Labour Organisation, Forced Labour Convention (C29), 1930; and Abolition of Forced Labour Convention (C105), 1957.

¹⁴ See http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-11-b&chapter=4&lang=en#EndDec