

# Eritrea: Universal Periodic Review, 32<sup>nd</sup> Session

## Human Rights Concern-Eritrea – Stakeholder Submission

### 1. INTRODUCTION

Human Rights Concern-Eritrea (HRCE) is an independent, non-profit making, human rights organization based in UK. The organization is dedicated to the promotion and protection of human rights of Eritreans at home and all over the world. HRCE believes that all human beings are equal, regardless of race, religion, gender and political affiliation, and strives for a peaceful Eritrea where fundamental human rights are respected.

#### 1.1 METHODOLOGY

Human Rights Concern-Eritrea gathers its information from first hand witnesses from the country of Eritrea who speak from direct experience. For this reason, the information used is reliable and authentic.

### 2. INTRODUCTION TO THE NATIONAL CONTEXT

Eritrea's human rights have been reviewed in 2009 and 2014. It has received 340 recommendations. In the Second Cycle in 2014, 92 recommendations were accepted, but compliance with and implementation of these resolutions by the State is extremely rare.

### 3. CONSTITUTION

In the past, Eritrea has agreed to promulgate and fully implement its constitution and all its protections for human rights. But this has never happened.

**3.1 Recommendation: That the state party fully implement its constitution and all laws necessary to protect fully all the human rights guaranteed under it.**

### 4. RULE OF LAW AND IMPUNITY

Eritrea previously agreed to ensure respect of fundamental rights and freedoms of all, including the right to life, physical integrity and security of all persons, and to adopt measures to guarantee no impunity for perpetrators of crimes and human rights violations. Yet the rule of law is flouted with widespread impunity. In practice, there is no protection against arbitrary arrest and state-sanctioned violence, and those in power have taken no steps to end these violations. In Eritrea, enforced disappearances and extrajudicial killings continue, as a direct consequence of the failure of the rule of law and the non-functioning of both the civil and military courts. Extrajudicial killings are a deliberate use of lethal force against a person, carried out by or with the acquiescence of public officials, outside the judicial process and usually as an alternative measure to the judicial system. States have an obligation to prevent arbitrary killings by any public official. Yet there is no such prevention in Eritrea and such killings are never questioned. The very root of these extrajudicial killings is impunity. The killings are never independently investigated, perpetrators are not subjected to disciplinary procedure, the rule of law is not applied, and families may not even know for years that their loved ones are dead.

- 4.1 The lack of an independent judiciary in Eritrea means that human right cases, such as the case of the G15 ministers and the journalists arrested in 2001, and any other persons arrested by the National Security authority on the orders of the President, cannot be heard in Eritrea. Senior former fighters are held to a separate code of conduct, and violations of this code are handled by a Special Court which is outside the "normal judicial process". Those accused of violation of this code have been arrested and held for over a decade without formal charge, to be tried only by the Special Court. The creation and the continued operation of the Special Court is a clear indication of the Eritrean Government's contempt

for the rule of law. HRC-E believes that any rule of law cannot exist without an independent Judiciary, and the existence of the Special Court is incompatible with any independent system of justice.

- 4.2 Recommendations: (i) That the State party abolish the Special Court, and that an independent Supreme Court and Judicial Services Commission be established. (ii) That the criminal and civil law courts be given total independence from the government and executive. (iii) That all appointments to the Judiciary be made by the Commission which is totally independent of the executive branch of government. (iv) That all deaths be investigated by a body independent of the state authorities, and that those responsible for each death be prosecuted and punished.**

## **5. CIVIL AND POLITICAL RIGHTS**

Eritrea has agreed to recommendations to comply in law and practice with the requirements of the International Covenant on Civil and Political Rights (ICCPR), and to enhance and implement laws to promote, protect and guarantee such rights. But no progress has been evident in implementing its requirements. Article 9 of the ICCPR places firm limits on arbitrary arrest and detention and obliges signatories to ensure that those arrested are “informed” of the “charges against them” and “brought promptly before a judge”, and are “entitled to a trial within a reasonable time or to release”. Eritrea has signally failed to institute and maintain any of these vital procedures.

One of the fundamental rights enshrined in Article 12 of this Covenant, guarantees the “right to liberty of movement” and the freedom “to leave any country, including his own”. Eritrea denies this right and freedom to its citizens, and is one of the few countries which impose severe restrictions on citizens’ departure from the country. The UN Commission of Inquiry concludes that the intended objective of this policy is “to control the population and enforce compliance with obligatory national service.” Even more reprehensible are the means used to enforce it. The “shoot-to-kill” commands to border guards violate many human rights principles any humane and civilised society would observe. Human Rights Concern-Eritrea has interviewed many Eritreans who have escaped across the borders. Four of those interviewed were shot and seriously injured (one lost an eye). These interviewees actually saw the bodies of those who had been killed as they were trying to cross. Such eyewitness evidence of the “shoot-to-kill” policy at Eritrea’s borders cannot be denied. But equally unacceptable are the arrest, enforced repatriation, and punitive detention of would-be emigrants as criminals, as well as the reported torture of a number of them, punishments being used as a deterrent to others who might seek to leave their country. The Commission of Inquiry states categorically that “the right to freedom of movement, which includes the right to leave one’s own country... is binding on Eritrea under article 12 of International Covenant on Civil and Political Rights .... This right is considered to be an indispensable condition for the free development of a person. There should be no restrictions to the right to freedom of movement...”

**5.1 Recommendations: (i) That the state party fully implement all the Articles of the International Covenant on Civil and Political Rights. (ii) That the State party guarantee in legislation and in practice that no citizen be arrested without charge, that all detainees be informed of the charges against them and be brought to trial within a period of 3 months, or released. (iii) That lethal force endangering their lives not be used against those attempting to leave the country of Eritrea, and no person be detained or tortured for exercising this right.**

## **6. FREEDOMS WITHIN SOCIETY**

Eritrea has accepted recommendations to investigate the harm committed against journalists and human rights defenders and to prosecute the perpetrators. The state has also accepted the need to guarantee the rights of freedom of expression and opinion, as well as the right to peaceful assembly. But such rights exist only in theory.

Eritrea is a one-party state, has a single TV station, one government-owned newspaper and one Radio station. Because of arrests and repression, no Eritrean can own any form of media outlet. Freedom of

speech, freedom of association, freedom of movement and other forms of democratic liberties are totally forbidden in the country.

Arbitrary arrests are widespread and frequent in Eritrea. Such arrests often take place as a punishment for the legitimate and peaceful exercise of fundamental human rights, such as exercising the right to freedom of opinion and expression, freedom of association and assembly. Continued arbitrary arrests, enforced disappearances, and extrajudicial killings are typical of the methods used by the current Eritrean authorities.

**6.1 Recommendations: (i) That State Party ensure that freedom of expression and opinion be fully guaranteed by law, and all arrests under media laws be subject to review by an independent judiciary which has the power to order the release any detainee, whatever the charge or whichever the authority ordering detention. (ii) That a body independent of the executive government have charge of the law on matters of communication and media, in order to guarantee full freedom of expression to all journalists, editors and political representatives.**

## **7. HUMAN RIGHTS LEGISLATION AND PROTECTION**

The state of Eritrea has agreed to recommendations to reform its legislation regarding right to freedom of conscience and religion, to guarantee freedom of belief, and to protect religious communities from prosecution.

In 2002 the Minister of Information issued a decree requiring all religious groups except the Eritrean Orthodox, the Muslims, and the Roman Catholics and the Lutheran church, to cease all religious activities pending registration. Some of the Churches closed were long-established, such as the Adventists, Baptist Kale Heywet, the Mennonite Meserete Krestos and the Evangelical Faith Mission Church. Since 2002, the banned Churches have been ruthlessly persecuted both among the military as well as among civilians. The persecution extends everywhere, as the National Security preventing members of banned churches from holding religious activities within their private homes. Members of unregistered religious groups are dealt with by the National Security apparatus and are arbitrarily arrested, detained, become subject to torture and extrajudicial killings. It is certain that at least 400 Christians are currently held in detention, but some estimates put the number as high as 2,000.

Abune Antonios has been Patriarch of the Orthodox church since 2004. He resisted the growing interference of government in religious affairs. His strong opposition to the excommunication of three thousand members of the Medhane Alem Orthodox Sunday School movement, as well as his demands that the government should release imprisoned Christians accused of treason, are considered to be the reasons for his persecution by the Eritrean government. The government installed Bishop Dioscoros of Mendefera in his place in May 2007, but his installation was not recognised by other churches, and he has since died. Abune Antonios was forced to move out of his office and has since been detained by government officials under house arrest at an undisclosed location in Asmara.

Since 2005, more than 1500 Orthodox priests and deacons have been forced to serve in the military. A large number of Orthodox Churches in rural Eritrea have closed due to the shortage of clergy. The government is presently forcing all Orthodox deacons and priests below the age of fifty years to serve in the military without any time limit, thus depriving the church of its clergy.

The government's recent attempts to close the Al Daa Islamic School have antagonized the Muslim Community, especially after the death in detention in March 2018 of 94-year-old Mr Hajji Musa, who had outspokenly criticised the government's attempts to close the school. Following his arrest, there was a student demonstration in the streets of Asmara which was met with violent gunfire by soldiers. Many of those arrested (some aged under 18) were kept in prisons with no access to a lawyer or visits from family.

**7.1 Recommendation: (i) That the State Party fully implement all of Article 18 of the ICCPR. (ii) That the laws discriminating against religious denominations be revoked and these bodies be**

legally allowed to register, and that the state cease its efforts to control legitimate religious activities. (iii) That the state take immediate action to release all detainees held on religious grounds. (iv) That Patriarch Abune Antonios be released from detention and recognised as the rightful leader of the Eritrean Orthodox Church.

## **8. ABUSE OF DETAINEES: TORTURE**

A recommendation to ratify and fully implement the Convention Against Torture and to prosecute and punish offenders was accepted by Eritrea.

The Civil Judicial System in Eritrea is severely hampered by the interference of the executive arm of the government. Judges and prosecutors are prevented from seeing certain prisoners. Many prisoners have no right to representation, any legal hearing, or appeal. Frequently judges and prosecutors are prevented from inspecting detention areas holding prisoners that have been designated “Nay Hadri” – that is National Security prisoners. Detainees in these cells are under the mercy of their arresting officer and his orders and very vulnerable to torture. In the majority of detention facilities, the rule of law does not appear to apply.

Despite legislation prohibiting torture, nobody is held accountable for committing torture. In the 2015 Report on the State of Human Rights in Eritrea, the UN Commission found that: “.... the recurrence and prevalence of certain torture methods constitute strong indications that torture is systemic and inflicted in a routine manner”. The Commission concluded that: “Torture is widespread throughout Eritrea. It is inflicted on detainees – in police stations, civil and military prisons, and in secret and unofficial detention facilities – but also on National Service conscripts during their military training and throughout their life in the army”.

**8.1 Recommendations: (i)That the State Party ensure that the full requirements of the international Convention Against Torture be integrated into Eritrean law. (ii)That any report of torture be immediately and fully investigated by a Commission independent of the government, under the control of an independent judiciary. (iii)That everyone accused of ordering or participating in torture, cruel, inhuman or degrading treatment be charged, be brought to trial and punished, whatever their rank or status.**

## **9. PROTECTION OF CHILDREN**

The need to develop the care and protection of children, according to Convention on the Rights of the Child, and to implement the recommendations of Committee on Rights of Child were both agreed by the state of Eritrea.

Although the 1995 National Service legislation sets the lower age limit for National Service conscription at 18 years of age, many children well below the age of 18 are in fact recruited. The recruitment of these children is in contravention of the Convention of the Right of the Child and the Optional Protocol on the involvement of Children in Armed Conflict. Testimony collected by HRCE confirms that children have been and are recruited into National Service, clearly infringing the rights of the children concerned. The requirement that Grade 12 be completed at the Sawa Military Training Camp is directly responsible for a number of children between the ages of 15 and 18 who are effectively conscripted into the military. The UN Human Rights Commission reports refer to testimonies about minors who had finished Grade 11 early and were conscripted before their 18th birthday.

**9.1 Recommendation: That the State Party end the requirement for Grade 12 schooling to be served at Sawa military camp, and that all schooling be completed outside the military; that no one under the age of 18 be admitted to National Service.**

## **10. GENDER EQUALITY**

Eritrea has in the past accepted recommendations to implement laws to protect girls and women from rape, to stop violence against women and their sexual exploitation, and notably to protect the physical integrity of women in the armed forces.

Yet the experiences of young women during National Service in the military show that they are frequently subject to sexual exploitation, rape and violence. The UN Commission of Inquiry found that “officers select the young women they find attractive when the new conscripts first arrive at the military training centre and have the young women allocated to their service team, placing the young women under their control. Young women who are selected have no way of refusing to go to the superior’s quarters or protect themselves from being sexually abused.” The Commission found that “young women are at a disproportionate risk of discrimination and violence within the military training camps and are targeted for sexual abuse on account of their gender”. The Commission considered that female conscripts are denied their rights and are extremely vulnerable to sexual violence.

**10.1 Recommendation: (i) That the State Party revise National Service to offer young women a civilian alternative to military service. (ii) That, within the military, women’s units be created, with female officers and female only accommodation. (iii) That a rigorous independent inspection system be inaugurated to ensure that sexual abuse and exploitation of women is prevented and outlawed.**

## **11. CO-OPERATION WITH INTERNATIONAL BODIES**

It was noted that, during previous Universal Periodic Review processes, the state of Eritrea agreed to co-operate fully with regional and international bodies, notably the UNHCR and its special procedures. Yet, to date, no visits by UNHCR personnel have been agreed to and no fact-finding visits permitted. There has been a pretence of co-operation with the UN, without any meaningful engagement. No UN Special Rapporteurs have been allowed to visit Eritrea.

**11.1 Recommendation: That the State Party agree without reservations to all requests from UNHCR Special procedures, and that all requests from UN Special Rapporteurs to visit the country are acceded to without delay; that all assistance is given to such visits, including access to all persons requested and to all places and parts of the country.**