



## Submission to the Universal Periodic Review of Eritrea January 2019

Shortly before this submission was filed, Eritrea and Ethiopia jointly agreed to end the “state of war” between them. (Joint Declaration, Jun. 9, 2018). Assuming they carry out their pledges, the countries’ intention to open “a new era of peace and friendship” will benefit the entire region.

It is less certain that peace will benefit the citizens of Eritrea. Since at least 1998, President Isaias Afewerki has used Eritrea’s tense relationship with Ethiopia as the illegitimate justification for unrestrained oppression and the denial of human rights. With the end of the “state of war,” Isaias’s flimsy excuse for oppression is even less credible.

It is too early to know whether the Isaias government will now permit Eritrean citizens to exercise their human rights. Certainly, there have been no improvements in Eritrea since the last Universal Periodic Review.

Elections have not been held since independence in 1993. A legislatively-approved constitution has not been implemented. No institutional constraints on President Isaias Afewerki, in power for 26 years, exist. There still is no constitution, legislature, or independent judiciary to rein in the president’s exercise of complete power. The independent media, effectively eliminated in 2001, remains outlawed as are non-governmental organizations. Peaceful public assembly to protest governmental actions results in mass arrests and, occasionally, the use of security forces’ lethal force.

The Eritrean government took no steps to implement recommendations made during the 2013 UPR, with one exception. In September 2014, the government acceded to the Convention against Torture. The step is welcome but there is no evidence of any discernable change. Reports of torture continue. No decree has been issued to enforce the Convention’s requirements and Eritrea has no law criminalizing torture. No torturer has ever been held accountable by Eritrean authorities so far as is known.

Despite recommendations from the Human Rights Council and other international organizations, Eritreans over the age of 17 remain subject to “national service” for unlimited periods rather than the 18 months specified in Eritrean law.<sup>1</sup> In recent months, Human Rights Watch interviewed former national service conscripts who had been kept in service for well over a decade, in one case for over 17 years, before defecting. Thousands of Eritrean flee each month because of the endless duration of national service, the abuses to which conscripts are subject, and the financial toll endless

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<sup>1</sup> In the past decade, Human Rights Watch issued two reports describing the oppression Eritreans face in national service: *Service for Life: State Repression and Indefinite Conscriptio* in Eritrea (2009); and *Hear no Evil, Forced Labor and Corporate Responsibility in Eritrea’s Mining Sector* (2013).

conscription exacts. Children are among the thousands who flee: young teenagers and even pre-teens who fear conscription. As one young Eritrean recently told Human Rights Watch, military service is “bad treatment without any end in sight.”

Except for its accession to the Convention against Torture Eritrea has implemented few of the UPR 2014 recommendations, including some it accepted. There is still no progress on issues addressed by recommendations made in 2009 and 2014 that Eritrea “noted” but neither accepted nor rejected. The president has refused to implement the constitution approved by the then-existing national assembly in 1997. Among its provisions, that constitution guarantees an independent judicial system. It protects citizens from being deprived of life or liberty without due process. It outlaws slavery and forced labor. It guarantees freedom of speech, press, and peaceful assembly, and the free exercise of religion. It protects the right to vote and to campaign for public office. The current government does not recognize any of these protections.

On May 24, 2014, shortly after the previous UPR, President Isaias announced that he was preparing a new constitution. In 2018, on the fourth anniversary (1461 days later) there is no indication of a new constitution. Similarly, no progress has been observed on other recommendations Eritrea “noted” in 2009 and 2014. The government still jails citizens without trial or means for review. It does not permit relatives access to certain prisoners, notably government ministers and journalists arrested in 2001 without trial and held incommunicado ever since. In 2015, the government promulgated a new Criminal Procedure Code theoretically guaranteeing a right to independent judicial habeas corpus proceedings. Those provisions remain unimplemented.

In addition to seeking implementation of recommendations made during the 2014 UPR, states should also raise recommendations contained in reports issued by the Commission of Inquiry and by the Special Rapporteur for Eritrea. They should urge Eritrea to cooperate with and admit the Special Rapporteur and all other United Nations special rapporteurs investigating human rights violations. Eritrea should work with the incoming Special Rapporteur to develop benchmarks for progress in improving the situation of human rights and a time-bound action plan for their implementation, in accordance with the most recent Human Rights Council resolution adopted in June 2018.

Major areas of concern:

### **Indefinite National Service**

The government’s repressive policies most severely affect Eritrea’s younger generations conscripted into national service. National service has become a misnomer. The UN Commission of Inquiry aptly characterized it as “enslavement.” Prolonged national service is not the sole reason so many thousands flee each month but it remains the primary one. As one escaped conscript told Human Rights Watch, he fled the country because he saw no future except living “like a slave.”

As noted above, the law establishing national service limited conscription to 18 months. Conscription for a limited time is not a human rights violation but, since about 1998, the government requires service indefinitely; conscription can last a decade or more. A former conscript told Human Rights Watch, “I don’t mind military service but in Eritrea it never ends and you have no rights.” Another said he fled because he didn’t want to be “in the military the rest of my life.”

President Isaias tries to justify endless conscription as necessary while Eritrea faces a “no-war, no-peace” stalemate with Ethiopia following the end of a bloody border conflict two decades ago. Many national service conscripts, however, are not assigned to the military. Rather, they are used in civilian capacities, as farm laborers, teachers, construction workers, civil servants, and lower level judges. Conscripts have told of assignments to farms and other properties belonging to military commanders. Other conscripts are assigned to government-owned construction firms which, in turn, assign them to work on building infrastructure at foreign-owned mineral mines. Conscripts are also physically abused and mistreated while in service.<sup>2</sup> Beatings and imprisonment in extremely harsh conditions is common. Recent interviews reveal that little has changed in national service since the last UPR review. Punishment in national service can be imposed by military commanders at whim, without the possibility of review or redress. Physical abuse, including punishments that qualify as torture, remains extensive. Among conscripts Human Rights Watch recently interviewed are defectors who spoke of being trussed in stressful configurations and being imprisoned in scorching or freezing zinc sheds (*zingoes*) for days or in underground cells for weeks or months.

Physical punishment begins early. Students are initially assigned to a defense training center at Sawa for their last year of high school before being drafted into national service. In recent interviews, defectors told of physical punishments for even minor infractions, such as being late for class: “they hit you hard, until you are injured”; victims were ordered to roll on the ground, “some would fall and vomit when they stood up.” One conscript summarized the Sawa experience as “[t]hey are making us into slaves, not educating us.”

Pay during national service remains inadequate. Pay increased after 2016 but those interviewed insisted it remains insufficient to support a family. Pay increases were partially offset by higher deductions for food. A teacher told Human Rights Watch, “Sometimes I didn’t even have enough money to go and visit my children.” As a result, conscripts still provide the state, foreign mining companies, and high military officials with cheap labor.

Conscripts report that they receive a minimal diet of lentils or faro, occasionally supplemented by pasta. Living conditions, other than for those assigned as teachers, civil servants, or to other professional positions, are generally in barracks that are cramped and insufficiently protected from the elements. Medical care is rudimentary, provided by conscripts with elementary training, and consisting of a few pills.

While conscripts are technically allowed about a month’s leave each year, this leave is routinely denied and they have no say about when it occurs. Conscripts have told Human Rights they were denied leave to attend to sick or dying family members.

#### Recommendations:

- Enforce the 18-month time limitation in Article 8 of the national service Proclamation and allow substitute service for conscientious objectors;

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<sup>2</sup> See art. 1.1 of the Convention against Torture.

- Prohibit the use of national service conscripts on private projects as forced laborers, including, but not limited to mineral mines and government officials' farms and businesses.

### **Interference with religious beliefs and practices**

Since 2002, Eritrea has "recognized" only four religious groups: Sunni Islam and the Eritrean Orthodox, Roman Catholic, and Evangelical (Lutheran) churches. Although the government professed it would allow other groups to be recognized, it has not acted on applications for recognition pending since 2002, including those of the Baha'i community and the Presbyterian, Methodist, and Seventh-day Adventist churches.

At times, security personnel raid private homes where devotees of unrecognized religions meet for communal prayer. Arrests and imprisonment of attendees often follow. Imprisonment can involve being packed together with others in shipping containers or being subject to other harsh conditions. Reliable sources reported as many as 170 arrests of Evangelical Christians in May-June 2017 alone. Some reportedly were sent to an infamous Red Sea Dahlak Island prison.

Torture intended to compel renunciation of "unrecognized" religious beliefs happens with some frequency. Repudiation of the "unrecognized" religion is typically the price of a prisoner's release. Jehovah's Witnesses have been especially harshly treated since independence. Because of their religious beliefs, they declined to participate in the 1993 referendum on independence and refuse to serve as soldiers in national service. Eritrea provides no substitute service for conscientious objectors. President Isaias revoked their citizenship in 1994. Since then, their punishments have been severe. They have been denied ration cards and work permits. Young and old, including some individuals in their 70s, have been imprisoned for long periods. Fifty-three are known to be imprisoned at the time of this submission, including three arrested and sent to Sawa 24 years ago.

Prison conditions for Jehovah's Witnesses improved somewhat in 2017 when all, including those held in Sawa, were transferred to the Mai Serwa prison. There, they have been allowed visitors for the first time during incarceration and conditions are believed to be less oppressive. Nevertheless, a 77-year-old Jehovah Witness died in custody at Mai Serwa in 2018. His cause of death is unknown.

"Recognized" religions are not immune from government repression. The government deposed Eritrean Orthodox Patriarch Abune Antonios in 2007, placed him under house arrest, and imposed their own Patriarch on the church. In July 2017, the 89-year-old former patriarch was brought to a church service for the first time in 11 years but not allowed to speak. He has not been seen in public since. The government has also interfered in Islamic affairs, including by appointing the Mufti of Eritrea's Muslim community. Religious leaders and laymen who protested the Patriarch and Mufti appointments remain imprisoned.

### **Recommendation:**

- Permit all religions, end interference with religious practices, and release all prisoners being held for their religious beliefs and practices.

## **Absence of the Rule of Law**

Eritrea's citizens remain subject to arbitrary mistreatment without legal protections. No means exist for citizens to express personal views or to question government policies affecting them. They have no legislative representation, no independent press, and no non-governmental organizations to which they can turn.

Citizens who speak out or question policies during government-called community assemblies have been punished without trial or means of appeal. Indefinite imprisonment is the most likely punishment, sometimes accompanied by corporal abuse. In addition, families are denied government ration cards to buy scarce but essential provisions.

Arrests based on suspicion are frequent. Incarceration without judicial review is the norm, except for petty crimes. Prisoners are seldom told the reason for the arrest. If they learn why, it is because of questions raised during interrogations.

Incarceration can be indefinite and is often incommunicado; relatives are not given the whereabouts of a prisoner, much less allowed to visit. Family members have told Human Rights Watch about relatives who disappeared for years until their bodies were returned without explanation; they were warned not to ask questions and directed not to have an autopsy conducted.

In November 2017, the government arrested 93-year old Hajji Musa Mohammed Nur, chairman of Al-Dia, a private Muslim school in Asmara, after he criticized a government-plan to take over administration of the school. Two weeks later, a rare protest at the school took place was broken up when security forces fired into the air. Students and others then began to march toward government offices in protest. They were met by security forces firing into the air. Dozens were arrested. Hajji Musa remained jailed without trial for over four months until March 2018, when the government returned his body to the family. The cause of death is unknown. Multiple sources report that members of the school's executive board remain jailed without trial as of the date of this submission.

The most prominent prisoners who have disappeared are journalists and government officials arrested in September 2001 after newspapers reported the contents of a letter the officials – the so-called "G-15" – signed protesting President Isaias' policies and rule.<sup>3</sup> They have not been publicly seen since 2002 and are believed to be held at a remote jail at Eiraeiro. A guard, who fled in 2004, reported that half of them had died by then. Haile Woldetensae, a former foreign affairs minister incarcerated at Eiraeiro, died in early 2018 according to an unconfirmed report.

Eritreans are not allowed to leave the country without permission, which is seldom granted for those under 50 unless it profits the government in some way. The government confiscates property without recompense. In 2015, it confiscated traditional Afar land near Assab for construction of a military base for use by the United Arab Emirates. No compensation was paid and Afar leaders were reportedly told not to complain.

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<sup>3</sup> See Human Rights Watch, *Ten Long Years* (2011).

### Recommendations:

- Release unconditionally all persons detained without trial, including the G-15 officials and journalists held incommunicado for nearly two decades;
- Fully implement the right to habeas corpus review embodied in the 2015 Criminal Procedure Code;
- Fully implement other protections in the 2015 Criminal Procedure Code, including, but not limited to, the requirements for appointed defense counsel and search and arrest warrants;
- Establish an independent, impartial, and transparent judiciary;
- Inform family members of the whereabouts of prisoners and permit reasonably frequent visit to places of incarceration;
- Immediately respect international standards of law on treatment of prisoners including providing prisoners adequate food, water, medical assistance and ending overcrowding;
- Allow independent monitors access to all Eritrean detention facilities;
- Investigate all government officials suspected of torture or cruel and degrading treatment;
- Permit the establishment of independent media outlets, both print and electronic;
- Allow the establishment of independent non-governmental organizations, including labor unions, and allow them to operate without interference;
- Implement immediately the human rights provisions of the 1997 constitution, especially articles 8 (independent justice system), 15 (due process of law), 16 (slavery and forced labor), 17 (fair criminal procedures), 19 (freedoms of speech, press, peaceful assembly, religion, and citizen access to travel documents permitting unrestricted travel to and from Eritrea);
- Hold democratic elections, with independent monitoring, to a legislature and to the offices of president and vice president. In that connection, issue a proclamation permitting independent political parties to operate;
- Allow the incoming Special Rapporteur on the situation of human rights in Eritrea access to the country and cooperate in the Rapporteur's work, including identification of reform benchmarks and an implementation plan, as requested by the Council in its most recent resolution;
- Issue standing invitations to other UN special procedures and allow independent monitors such as the International Committee of the Red Cross (ICRC) and UN and African Commission special mechanisms access to all detention facilities;
- Ratify the Rome Statute and implement the statute in national legislation, including incorporating provisions to cooperate promptly and fully with the International Criminal Court and to investigate and prosecute genocide, crimes against humanity and war crimes before its national courts in accordance with international law;
- Sign, ratify, and enforce the International Convention for the Protection of All Persons from Enforced Disappearance, Optional Protocols to the International Covenant on Civil and Political Rights, and Worst Forms of Child Labour Convention.