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Appendix

Ethiopia and Eritrea

Human rights issues in a year of armed conflict

1. Introduction

Allegations of human rights violations against Eritreans living in Ethiopia and against Ethiopian nationals living in Eritrea have been repeatedly published by both governments and their supporters since a border dispute erupted into violent conflict in May 1998. Diplomatic efforts to bring about an end to the conflict between the two former allies have tended to ignore these violations of human rights and have focussed on political solutions to the crisis. In part, this is because any comment on human rights violations occurring during this conflict in either country, has been taken by Ethiopia or Eritrea as support for the political objectives of the other. Yet the impact of human rights violations against Ethiopians in Eritrea and Eritreans in Ethiopia will continue long after a political solution to the border dispute is found.

This report examines the claims of human rights violations made by Ethiopia and Eritrea. It considers violations of international human rights and humanitarian law during the fighting between Ethiopia and Eritrea in May and June 1998 and since February 1999. The report considers the treatment of Ethiopians living in Eritrea and the treatment of Eritreans living in Ethiopia during the intervening period, when there was little or no fighting. At least 70,000 people have crossed both sides of the disputed border since the conflict began and both governments claim that people have been forced to leave against their will.

The report makes recommendations to the governments of Ethiopia and Eritrea, as well as to the international community, to ensure that the protection of human rights is seen as part of the solution to this crisis and the process towards lasting peace. It urges them to put in place measures to prevent the abuse of human rights becoming a cause for, or a part of, any further conflict between the two countries.

“Eritrean” here refers to anyone of Eritrean origin or descent, either born in Eritrea, whether before or after Eritrea gained independence in 1991, or the child of Eritrean parents. Most people referred to here may not be citizens or nationals of the new State of Eritrea but had lived in Ethiopia all or most of their lives. “Eritreans” are therefore one among several “nationalities” in the Federal Democratic Republic of Ethiopia (alongside Amharas, Oromos, Tigrayans, Afars, Somalis and other ethnic groups). Most are Tigrinya-speakers, culturally linked to Tigrayans, and form the largest of Eritrea’s nine main ethnic groups. The officially-recognized Eritrean Community

Association in Ethiopia, to which most such Eritreans have belonged, had many links with Eritrea, although most members considered themselves “Ethiopians” too and many had married Ethiopians. (People of mixed Ethiopian/Eritrean descent might also be called Eritrean.)

“Ethiopian” here means a citizen of Ethiopia.

1.1 Investigations and communications with the two governments

Amnesty International is an independent and impartial human rights organization, which takes no side on this (or any) armed conflict. The organization equally takes no position on the political issues surrounding this conflict, only on the related human rights concerns which fall within Amnesty International’s mandate.

In late 1998 and early 1999, Amnesty International undertook separate research visits to Ethiopia and Eritrea to investigate claims of human rights violations, to gather information from the victims and others, and to have meetings with government officials.

Soon after the war broke out, Ethiopia and Eritrea had started issuing almost daily communiques, often alleging human rights violations by the other country. Amnesty International’s first statement and appeal after the first air strikes in May 1998 and the Eritrean air force’s bombing of Mekele, in particular, was an immediate appeal to both sides to observe the Geneva Conventions and not harm civilians.¹ It also began a series of Urgent Action appeals to Ethiopia over the deportations of Eritreans in inhumane conditions, which started in early June. Ethiopia denied it was deporting people who were Ethiopian citizens and cited security concerns as its reasons for the deportations, claiming they were being carried out humanely. Amnesty International also called on Eritrea to investigate allegations of ill-treatment and expulsions of Ethiopians in Eritrea. Eritrea replied that it was not deporting or ill-treating Ethiopians, and that it had invited the International Committee of the Red Cross (previously not allowed to operate in Eritrea) and the UN High Commissioner for Human Rights (UNHCHR) to investigate.²

Amnesty International then began discussions with the Ethiopian and Eritrean governments to visit each country and see the human rights situation for itself, and to test information it had received from all sides on the ground. There was much less direct information coming from Ethiopians or their relatives, than from Eritreans, about

¹Amnesty International News Release AFR 25/19/98 *Civilians killed in border conflict* (16 June 1998)

²This offer was not taken up as the UNHCHR wished to investigate on both sides but Ethiopia refused to allow them access because the UN High Commissioner for Human Rights had criticised the expulsion of Eritreans. Ethiopia claimed that the UN High Commissioner was biased against Ethiopia by not having condemned the Mekele bombings.

violations of their human rights. Amnesty International remained extremely concerned about the expulsions of Eritreans from Ethiopia which were escalating.

Visits to Ethiopia and Eritrea

Amnesty International representatives visited Ethiopia from 19 to 30 October 1998 and met with government officials including the Vice-Minister of Foreign Affairs, the Director General for Legal Affairs in the Ministry of Foreign Affairs, the Speaker of the House of Representatives, the Minister of Justice, the Deputy Commissioner of Police, the President of the Federal Supreme Court, the Chief of the Special Prosecutor's Office, members of the diplomatic community, international organizations and some local NGOs. They interviewed over 60 Ethiopians who had returned from Eritrea after the conflict started. The delegation travelled to Mekele and Adigrat, in the northern Tigray region, and to reception camps for Ethiopians arriving from Eritrea, in Mille, in the northeastern Afar region.

Amnesty International visited Eritrea from 11 to 22 January 1999. In Eritrea, the delegation met with government officials including the Minister of Foreign Affairs, the Director for Europe in the Ministry of Foreign Affairs, the Minister of Justice, the Commissioner of Police and the Commissioner of Prisons, members of the diplomatic community and international organizations, the government relief agency and Citizens for Peace in Eritrea, a local civic association. The delegation also interviewed Eritreans who had been expelled from Ethiopia since the conflict started. The delegation travelled to Assab and to the nearby border crossing with Ethiopia and met people who had been expelled from Ethiopia, as they arrived in Eritrea.

The two delegations, which were international and included both Amnesty International staff and other human rights specialists, were both headed by Professor Peter Baehr, a former member of Amnesty International's International Executive Committee and a former director of the Netherlands Institute of Human Rights.

Conditions of information-gathering

Amnesty International, in accordance with its principles of independence and impartiality, gathers information on human rights issues within its mandate from a wide variety of sources, whose information it scrutinises carefully to ensure that Amnesty International's own assessment and public reporting contains no political bias for or against any government or opposition group. In studying the human rights issues in the conflict between Ethiopia and Eritrea, both of whose governments had in the past reacted strongly against criticisms of human rights violations by Amnesty International, the organization was aware of the risks of seeming to favour one side's claims against the other in the highly-charged political atmosphere of the war.

The delegations visiting Ethiopia and Eritrea aimed to interview victims of human rights violations in as neutral and private a situation as possible and also to receive the views of relevant government officials, members of international organizations and local NGOs. This was to some extent affected by the circumstances of the war and security considerations in going close to military zones and in areas which were at times closed off to all visitors. Thus in Ethiopia, the delegates were accompanied by Foreign Ministry officials to the interview sites outside Addis Ababa. In Eritrea the delegates' visits to the border were facilitated by government officials and the government relief agency (the Eritrean Relief and Refugees Commission (ERREC), although their movements and interviews were unconstrained. Amnesty International does not think its investigations were compromised by these official contacts.

As expected, there were many questions which could not be resolved and this report does not attempt to analyse or assess every single statement made by either side. There is no space to include more than a fraction of the evidence gained, which includes over a hundred interviews with victims.³ Nevertheless, the report does provide a much fuller picture of the human rights issues which Amnesty International publicly raised as concerns in January, and also explains Amnesty International's position on points of difference with its Ethiopian and Eritrean critics.

Amnesty International's preliminary public report and reactions to it

³Testimonies of Eritreans expelled from Ethiopia have been collated by the civic association Citizens for Peace in Eritrea. These have been published in two reports *The Uprooted: Case materials on ethnic Eritrean deportees from Ethiopia* (Asmara 26 July 1998) and *The Uprooted: Part two* (Asmara 22 February 1999)

After the visit to Ethiopia in October 1998, Amnesty International addressed its concerns about the expulsions and other human rights issues relating to the conflict to the Ethiopian government but received no reply. The visit to Eritrea took place in January 1999. Amnesty International decided then to put its preliminary conclusions on public record as soon as possible, and published a news statement *Amnesty International witnesses cruelty of mass deportations*.⁴ This statement reported that Amnesty International had witnessed the arrival of a group of Eritreans expelled from Ethiopia and that the numbers expelled were reportedly over 53,000. Amnesty International said that the mass expulsion of people of Eritrean origin threatened the entire Eritrean community in Ethiopia and that there was no evidence to support the Ethiopian government's claim of a systematic policy of expulsion or torture of Ethiopians based in Eritrea.

Ethiopia continued to present the same justifications for continuing with its mass detentions and expulsions of Eritreans, and the same claims that Ethiopians were being ill-treated and deported from Eritrea.⁵ However a new outbreak of border fighting in early February brought to an end the deportations as the whole border was now regarded as a war zone. Amnesty International welcomed Ethiopia's release in mid-February of the last 38 of 85 Eritrean university students detained in June 1998, whom they put on a plane back to Eritrea via Djibouti.⁶

The Eritrean government appears to have welcomed the report on the deportations issue but it did not reply to Amnesty's recommendations to allow the ICRC access to prisoners of war, to charge or try the 6 Ethiopian security detainees it admitted holding, or to open an independent inquiry into the Mekele bombings.

1.2 The border conflict - a brief background

Eritrea became independent from Ethiopia in 1991. This followed the overthrow of the regime of Mengistu Haile-Mariam in 1991 by an alliance of the two liberation movements, the Eritrean Peoples Liberation Front (EPLF) and the Tigray People's Liberation Front (TPLF), who formed new provisional governments in Eritrea and Ethiopia respectively.⁷ Eritrea officially became a separate internationally recognized

⁴ News statement AFR 25/02/99 (29 January 1999). The statement is reproduced in Appendix 1.

⁵The justification for the expulsions is explored more fully in Section 3. Ethiopia claimed that only people who were a security risk were being expelled.

⁶ News statement AFR 25/03/99 *Amnesty International welcomes Ethiopia's release of 38 Eritrean students* (16 February 1999)

⁷The EPLF was led by current Eritrean President Issayas Afewerki and the TPLF by current Ethiopian Prime Minister Meles Zenawi.

state in 1993, following a referendum in which more than 95% of Eritreans voted for independence from Ethiopia.

Eritrea's *de facto* border in 1991 was that of the Italian colony of Eritrea established in 1890. In line with the OAU principles on the integrity of colonial borders, this border was agreed to be a starting point, but both sides agreed that it was inconclusive and that some details needed to be clarified. The border had never been clearly demarcated and Italy had made several claims on Ethiopian territory prior to its full-scale invasion of Ethiopia in 1936 and five year occupation. There was no border demarcation throughout the subsequent British military administration in Eritrea, the 1952 federation of Eritrea with Ethiopia, or after the removal of Eritrea's federal status in 1962, which set off the Eritrean liberation struggle. In 1991 both Ethiopia and Eritrea accepted that there were inconsistencies in the border but full demarcation was not regarded as a high priority. After an incident in July 1997, in which Eritrea claims that Ethiopian troops occupied Adi Murang, in Bada, eastern Eritrea, a bilateral border commission was set up to address problems as they arose.⁸

⁸Eritrea claims that it did not publicise the incident at the time, preferring to address it through diplomatic channels, in the interests of good relations between the two countries.

Fig1: Map of Ethiopia and Eritrea showing key towns

Generally, relations between the two countries were good. There were large numbers of each other's citizens working in each country, who were treated the same as nationals and there was almost free movement of people across the borders. Special arrangements were in place for the use of Assab port, now on Eritrean soil, by Ethiopia (now land-locked) through which most of Ethiopia's imports and exports came. Both countries used the Ethiopian *birr* as a common currency, until 1997 when Eritrea introduced the *nakfa*. The introduction of the *nakfa* and subsequent switch to hard currency transactions between the two countries brought other economic policy differences to the fore and strained relations.

Ethiopia has a sizeable minority of people of Eritrean origin who, while voting for the independence of Eritrea in the referendum, retained their Ethiopian citizenship and considered themselves Ethiopian.⁹ Many people of Eritrean origin worked in the Ethiopian civil service, in sensitive jobs in the telecommunications and aviation sectors, and were also prominent in business, particularly in Addis Ababa.

On 6 May 1998, tensions between Ethiopia and Eritrea erupted into fighting over disputed areas running along the border. After an armed confrontation some days earlier, Ethiopia said that Eritrean troops had occupied a border area of its territory in Badme (known as the Badme or Badame “triangle” - *see maps on pages 6 and 9*), which Eritrea claimed as its own. Fighting quickly spread to the three fronts centred around the towns of Badme and Zalembezza in Tigray region and Bure in Afar region. Hundreds of soldiers on both sides were killed during the first weeks of the fighting.

On 5 June 1998, each side’s air force attacked, though which attacked first is still unclear. Ethiopian planes twice bombed Asmara airport in Eritrea, where one person was killed.¹⁰ The same day, Eritrean planes bombed Mekele in northern Ethiopia. An elementary school was hit, killing 47 civilians. Ethiopia claimed that the bombing of Asmara airport was in response to the bombing of Mekele and that Eritrea had started the air-strikes. Eritrea denied this and claims that Ethiopia attacked first. The incident is described in more detail below. Asmara’s airport was bombed again on 6 June. On 11 June, a grain warehouse in Adigrat in northern Ethiopia was bombed, causing one civilian death and tens of injuries. On 14 June, both sides agreed to a moratorium on air strikes, which had been brokered by the United States, and the fighting quickly subsided.

⁹Their numbers are not clearly known - 120,000 voted in the 1993 referendum, probably most of the adult Eritrean community. Ethiopia says its Eritrean community numbered “at least half a million.”

¹⁰Both military and civilian aircraft use this airport. Ethiopia argues that the bombing raid was aimed at military targets in the airport.

The Organization of African Unity (OAU) has been at the forefront of diplomatic initiatives to prevent further fighting and to find a framework in which the problems of the disputed border can be addressed. An OAU framework agreement for peace was accepted by Ethiopia in November 1998. This called for an immediate cessation of hostilities and all statements liable to exacerbate the hostile atmosphere and prejudice a peaceful solution. The framework calls for the redeployment of forces around Badme to positions held before 6 May 1998, supervised by UN-supported OAU military observers. This was to be followed by a redeployment of troops, under international supervision, from other contested areas and demilitarisation of the whole border. Demarcation of the border would then take place, under UN auspices - possibly within six months. In the interim, the previous civilian administration would be re-established, with the assistance of the OAU military observers.¹¹

The OAU framework also called for enquiries into the incidents of 6 May and other incidents (including those of July and August 1997), an end to the measures taken by both sides against civilians and an end to actions liable to cause suffering to nationals of the other side. The framework calls for an undertaking by both sides to deal with the negative socio-economic impact of the crisis on the civilian population, in particular on the deported, and for the deployment by the OAU, in collaboration with the UN, of a team of human rights observers to both countries.

Eritrea delayed acceptance of this agreement, seeking further clarifications.¹² Other diplomatic initiatives from several African states, the European Union and the United Nations Security Council have sought to gain the backing of both countries to the OAU peace plan.

Both sides used the period in which fighting had stopped to purchase arms and to prepare extensively for war. Ethiopian and Eritrean communities abroad as well as at home made large contributions, and opposition parties mostly supported their respective governments' position - Ethiopian groups condemned "Eritrea's aggression" while Eritreans supported the Eritrean territorial demands. It is estimated that up to 250,000 troops are stationed on each side of the border. Ethiopian armed forces were

¹¹The OAU accepted, without prejudice to the final status of the area, that the disputed area had been under Ethiopian administration before the conflict started. Ethiopia regards this as a confirmation that the area is part of Ethiopia and claims that Eritrea did not complain when, for example, the region elected representatives to the Ethiopian parliament. Eritrea argues that the area is Eritrean with an Eritrean population and that Ethiopian administration in the area does not invalidate their claims.

¹²Eritrea reportedly sought clarifications about which area around Badme their troops were to redeploy from; the significance of 6 May 1998 as the start to the dispute rather than July 1997; the nature of the civilian administration; and the OAU's views on the status of colonial borders.

supplemented by volunteers and, according to some accounts, forcible recruiting, while Eritrea mobilised national service conscripts and reservists. There was sporadic shelling over the border areas towards the end of 1998 but no new major clashes were reported until February 1999.

On 6 February 1999, fighting broke out again and quickly spread to the fronts of Badme, Zalemessa and Bure.¹³ Tens of thousands of soldiers were reportedly killed, injured and taken prisoner and both sides claimed that civilians had been deliberately targeted and killed. Both sides were reported to be using soldiers under the age of 18. On 27 February, Eritrea announced that it would accept the OAU peace proposals and on 28 February, Ethiopia announced that it had taken back control of the 'Badme triangle'.

Fig 2: Map of Ethiopia and Eritrea border. This map is for information only and does not imply support for either claim.

During March and April, neither side declared a cease-fire and they disagreed over the terms of the OAU proposal. The OAU peace plan states that Eritrea should withdraw from "Badme and its environs". Eritrea has interpreted this to mean the Badme

¹³Ethiopia claims that Eritrean planes bombed the town of Adigrat on 5 February 1999, thus breaking the US-brokered moratorium on air strikes. There has been no conclusive evidence to confirm or refute this.

triangle, whereas Ethiopia called for Eritrea to withdraw from all the disputed areas, pending a cease-fire and negotiations.

On 13 April, Ethiopian Prime Minister Meles Zenawi was reported to have said that if Eritrea announced a timetable for withdrawal from the disputed areas, then Ethiopia would implement a cease-fire. From 25 April, the UN Special Envoy for Africa Mohamed Sahnoun and the Foreign Minister of Burkina Faso, Gaetan Ouedraogo, visited Asmara and Addis Ababa to try and broker a cease-fire and implementation of the OAU framework.¹⁴

Fighting continued intermittently on the fronts near to Zalemessa. On 15 April, the Ethiopian air force bombed the towns of Adi Kaieh and Mendefera, about 60 km north of Zalemessa and 55km south of Asmara respectively. Ethiopia claimed it was attacking military targets, but Eritrea announced that 10 school children and an elderly man had been injured during the attack on Adi Kaieh. The attack was the first air strike on targets away from the front lines since the air moratorium in June 1998.

2. The war and human rights

Amnesty International is concerned that the war has led to serious violations of human rights, in particular, the deliberate and indiscriminate bombing of civilians; ill-treatment, torture and displacement of civilians; the lack of international access to prisoners of war; the internment of civilians; and the ill-treatment of Ethiopians in Eritrea and Eritreans in Ethiopia. Each of these issues is dealt with separately below with a separate section on the issue of mass expulsions of Eritreans from Ethiopia.

Both international humanitarian law and international human rights law are relevant to this situation. For the first, the 1949 Geneva Conventions seek to regulate the conduct of international armed conflicts. The fundamental provisions of Additional Protocol I of the Geneva Conventions, including for the most part those concerning the protection of the civilian population, are considered to reflect customary international law and are therefore binding on all states. Such provisions contain a requirement to protect civilian lives, including the principle of distinction between military targets and civilians.

¹⁴Burkina Faso currently holds the chair of the OAU

Ethiopia signed the Geneva Conventions on 2 October 1969, and the Additional Protocols in 1994. Though Eritrea has not yet signed the Conventions, it is still under the obligation to observe many of the provisions through customary international law. Eritrea claimed that its record in the struggle for independence is sufficient testimony to Eritrea's commitment towards the protection of civilians during armed conflict.¹⁵

¹⁵Statement to the UN Sub-Commission, Geneva, 6 August 1998.

Civilians are also protected by international human rights law. These rights are outlined in a number of international treaties such as the International Covenant on Civil and Political Rights (ICCPR). Ethiopia has been a party to the ICCPR since 1993 and to the African Charter on Human and Peoples' Rights (the African Charter) since June 1998 and is therefore bound by their provisions. In the first part of the period covered by this report, Eritrea was not party to either the ICCPR or the African Charter. However, in January 1999, Eritrea ratified the African Charter although this has yet to come into force.¹⁶

Amnesty International's general concerns about human rights in Ethiopia and Eritrea, which are not detailed here but can be found in other publications, such as the relevant entries in the annual Amnesty International Report, are partly relevant to the war situation. Both governments also face both armed and non-violent opposition from their political opponents, whether internal or exile, and have reacted in various ways which have included human rights violations. In Ethiopia, arbitrary detentions of suspected government opponents, including opposition parties and the private press, "disappearances" and torture or ill-treatment of political prisoners, are widespread. The government has made blanket denials of abuses and accused Amnesty International of being biased against it. Eritreans in Ethiopia had generally been strong supporters of the present Ethiopian government on account of the former close relations between the two governments going back to collaboration in their liberation struggles. Yet they became victims of some of the forms of repression applied by the Ethiopian security forces to their opponents.

In Eritrea, where there are no opposition parties or independent NGOs, Ethiopians had not been politically active and wished to avoid government or popular hostility going back to the former Ethiopian rule in Eritrea and its gross abuses of human rights. In 1991 Eritrea had reportedly expelled an estimated 130,000 Ethiopians connected to the former armed forces and administration, although the new government subsequently adopted a more conciliatory policy to those allowed to remain. During the Amnesty International visits to Eritrea, only the second since independence, and to Ethiopia, the delegates held useful and informative discussions with government officials about others human rights issues, as well as the war issues.

2.1 The deliberate and indiscriminate bombing of civilians

¹⁶The OAU received a copy of the instrument of ratification on 14 January 1999. The African Charter will come into force in June 1999.

Both Ethiopia and Eritrea have accused each other of either deliberately or indiscriminately targeting civilians during the conflict, in violation of international humanitarian law. Ethiopia has claimed that Eritrea indiscriminately bombed civilians in Mekele and Adigrat towns, in northern Tigray.¹⁷ Eritrea has claimed that Ethiopia has deliberately targeted civilians through the use of air strikes against populated areas, in and around the front lines.¹⁸ The numbers of those killed on both sides are not known or independently reported but may total in the hundreds.

On 5 June 1998, Ethiopian planes bombed military targets at Asmara Airport. During the raid, one civilian was killed. The same day, Eritrean planes bombed Mekele Airport and a few other targets in the area. During these raids, an elementary school was hit, causing some injuries. The Ethiopian government said that an Eritrean plane returned 40 minutes later and bombed the school again. According to foreign press reports, 47 children, women and men, were killed and scores wounded as a result of this bombing of the school.¹⁹

The government of Eritrea has accepted that during air strikes on Mekele, a school was hit and civilians killed, although they have not acknowledged any particular number of casualties. Eritrea claims that the bombing of the school was a mistake and has apologised for this:

*"We were successful in attacking military installations. People in Mekele and Adigrat have witnessed it. Unfortunately civilians were killed... It was not intentional, sometimes you can miss your target. We are sorry for that."*²⁰

The bombing of the school was a major incident during the first few weeks of the fighting. Ethiopia does not accept that the bombing was a mistake and claims that by returning to the school a second time, Eritrea deliberately intended to target civilians. While the precise details are difficult to confirm, diplomatic sources do refer to two bombing raids on Mekele on 5 June. Although Eritrea says it has apologised, it has not

¹⁷Ethiopian Ministry of Foreign Affairs Statement 25 June 1998 refers to the air strikes against Mekele and Adigrat. In November 1998, Ethiopia claimed that civilians were killed by Eritrean shelling of Adigrat town.

¹⁸See, for example, Eritrean Ministry of Foreign Affairs press release of 9 February 1999 or ERINA (Eritrean News Agency) Update of 18 February 1999.

¹⁹Reuters, 6 June 1999.

²⁰Reuters, 15 June 1998, reporting Eritrean state TV interview with President Issayas Afewerki (ellipsis in original).

made any detailed or formal statement or indicated that an independent inquiry into the circumstances around the bombing will be held.

In a new outbreak of fighting on 9 February 1999, the Eritrean Ministry of Foreign Affairs issued a statement saying that a family of five had been killed by an Ethiopian air raid on the village of Lali Deda, a village in the Badme triangle. This attack was witnessed by foreign journalists. The civilians were living in tents with UN markings, and had apparently been expelled from Ethiopia. Eritrea at the same time condemned the shelling of its border town of Adiquala in which it claimed eight civilians were killed and dozens wounded by Ethiopian artillery.

Ethiopia has denied targeting civilians deliberately and on 11 February issued a statement saying that the government “sincerely regrets these civilian deaths” (referring to the Lali Deda incident) but argued that the village was near to military front lines and that Eritrea had placed civilians at risk by settling deportees there.²¹

On 15 April, Ethiopian air forces attacked two Eritrean towns, Adi Kaieh, about 60kms north of Zalemessa and Mendefera, about 55kms south of Asmara. Ethiopia also claimed to have attacked an Eritrean military training centre in Sawa, in the west of the country, but Eritrea denied this. Eritrea announced that 10 school children and an elderly man were injured in the attack on Adi Kaieh and that a church had been destroyed. Eritrea claimed that the high altitude bombing was indiscriminate.²² Ethiopia denied targeting civilians and claimed that the bombings were against “carefully selected and strategic military targets.”²³

Amnesty International’s conclusions and recommendations

Amnesty International urges Ethiopia and Eritrea to take active measures to ensure the protection of the civilian population in line with the fourth Geneva Convention and Protocol I to the Geneva Conventions.

Amnesty International believes that there have been violations of international humanitarian law during this conflict, especially through the deliberate or indiscriminate targeting of civilians in air strikes against Mekele. Additional Protocol I to the Geneva

²¹*Ethiopia Office of the Government Spokesperson statement, 11 February 1999.*

²²Eritrean Ministry of Foreign Affairs Press Release, 15 April 1999

²³Ethiopia Office of the Government Spokesperson statement and Reuters *Ethiopia launches new bombing raids on Eritrea*, 15 April 1999

Conventions prohibits attacks on civilians and states that an indiscriminate attack is, amongst others,

“An attack which may be expected to cause incidental loss of civilian life, injury to civilians, damage to civilian objects, or a combination thereof, which would be excessive in relation to the concrete and direct military advantage anticipated.”²⁴

Amnesty International considers that Eritrea’s killing of civilians in the air attack on Mekele on 5 June 1998 was a serious violation of international humanitarian law. Amnesty International is calling on the Eritrean government to establish an independent and impartial public inquiry into the killings. The inquiry should especially review the Eritrean air force’s rules of engagement and operational guidelines for implementing the principle of distinction between military targets and civilians and should make recommendations to prevent unlawful killings.

Other killings of civilians on both sides of the border can not be so clearly seen as violations of the Geneva Conventions, since independent monitoring has been particularly difficult. It is reasonably clear that the government of Ethiopia did not intentionally bomb civilians in Lali Deda. However, Amnesty International is concerned that both sides have not taken all necessary and required precautions to ensure that civilians are not attacked through the use of air attacks and indiscriminate shelling.

In the event of further fighting, Amnesty International again reminds both sides of the urgent need to take active measures to ensure the protection of the civilian population. The relevant provisions are set out in the fourth Geneva Convention and Additional Protocol I of the Geneva Conventions. Article 27 of the fourth Geneva Convention establishes the rights of civilians, to respect for their person, their honour, their family rights, their religious convictions and their manners and customs. They are entitled to humane treatment and protection from all violent acts. In addition, Protocol I provides the following protection for civilians:

- Article 48 sets out the basic rule regarding the protection of civilian lives including the principle of distinction between military targets and civilians;
- Article 51(2) states that the civilian population shall not be the object of attack;
- Article 51(4) prohibits indiscriminate attacks;
- Article 51(6) prohibits reprisal attacks against civilians and
- Article 51(7) prohibits using civilians as human shields.

²⁴Article 51 (5) (b) Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Additional Protocol I).

In addition, Articles 57 and 58 set out the active precautions that must be taken before engaging military objectives.

Amnesty International calls on Eritrea to ratify the four Geneva Conventions and the two Additional Protocols.

2.2 Displacement, torture and ill-treatment of civilians

Up to 600,000 people, mainly small farmers and nomads have been displaced on both sides of the border as a result of the fighting and areas up to 50 kilometres along the length of the border becoming closed military zones. Ethiopia has alleged that civilians have been tortured and forced to flee from their homes in the Badme area since Eritrea took control of the area in May 1998 and that Eritrea systematically destroyed property and looted churches in the disputed areas.²⁵ UN agencies estimate that over 300,000 people have been displaced in Tigray province as a result of the conflict and 245,000 people have been displaced inside Eritrea.²⁶

The Ethiopian government raised the plight of the displaced in meetings with the visiting Amnesty International delegation and raised the question of violations of their human rights. Amnesty International delegates met with representatives of the displaced villagers who are now living in desperate circumstances in and around Adigrat. The villagers described the circumstances in which they had fled their homes as their land became the front line. Many fled as the fighting started, leaving all possessions behind. Some of the displaced had been injured in the fighting. Others said they had seen victims of ill-treatment and torture.

²⁵Statement by Ethiopia to the UN Sub-Commission, Geneva 18 August 1998. Also News release, 27 November 1998 issued by the Ethiopian Embassy, London.

²⁶In March 1999, the World Food Programme (WFP) stated that fighting between the two countries had displaced 337,300 Ethiopians in Tigray province. Most of these were farmers in areas along the border, or living on land in the Badme triangle. In April 1999, WFP announced that there were 246,500 displaced persons in Eritrea.

Many of the dozens of people that Amnesty International interviewed in Ethiopia told of stories that they had heard about the ill-treatment of people in the Zalemessa area at the outbreak of the fighting. For example, a spokesman for a group of Irob people displaced by the fighting told Amnesty International representatives in Ethiopia that their property had been destroyed and looted. He also said that women had been raped and that Ethiopians had their identity cards taken and replaced with Eritrean identity cards.²⁷ Among residents of Zalemessa town, who were now living in Adigrat, one man told Amnesty International that he had been forced to dig trenches for Eritrean soldiers, and was then imprisoned for 45 days, before he was able to escape. Another woman said that she and a friend had been raped by Eritrean soldiers on their way to church.²⁸

Amnesty International's conclusions and recommendations

The lack of access to military areas for independent observers makes it very difficult to assess accusations of breaches of humanitarian and human rights law. Displacement of civilians is a breach of humanitarian law if it involves the deliberate or indiscriminate targeting of civilians which then forces them to flee. Similarly attacks or threats of violence intended to terrorize the civilian population would breach the fundamental principles of the Geneva Conventions, including the principle of a distinction being made between military and civilian targets.

Rape is also frequently committed against enemy civilians in war-time. It is not only a violation of the Article 27 of the fourth Geneva Convention, protecting the rights of civilians, but is also a form of torture or cruel, inhuman or degrading treatment, which is outlawed by the UN Convention against Torture as well as the ICCPR.

Amnesty International has also received reports of the looting, of churches in the area occupied by Eritrea. It has not been possible to either verify or disprove these stories.²⁹

Amnesty International's delegates made serious attempts to get at the truth behind allegations. Amnesty International is not convinced that there had been systematic or even widespread deliberate ill-treatment of Ethiopians by the Eritrean forces which occupied Badme, although individual cases almost certainly did occur. Many of the

²⁷Interviewed by Amnesty International, Adigrat 25 October 1998.

²⁸Interviewed by Amnesty International, Adigrat 25 October 1998.

²⁹Article 53 of Protocol I of the Geneva Conventions states that places of worship must not be the objects of any acts of hostility, nor be used in support of the military.

accounts given to Amnesty International were not first-hand and precise details were difficult to establish.

In conclusion, no clear pattern of violations has emerged from Amnesty International's investigations into this situation. Further inquiries would be needed and efforts to ensure the evidence and the conditions of inquiry were not being manipulated by the authorities on either side.

Several of the tragic consequences of the war causing immense suffering to local communities are outside Amnesty International's mandate, even though they involve human rights issues. These include the war displacement of up to 600,000 people, which has necessitated action and relief programs by UN agencies in particular on an emergency basis and with regard to the long-term impact on the local economies.

2.3 The treatment of prisoners of war

Both Ethiopia and Eritrea are holding several hundreds, if not thousands, of prisoners of war (POWs) captured during the fighting.

In February 1999, Eritrea reported that it was holding 147 Ethiopian prisoners of war.³⁰ In August 1998, it released 71 Ethiopian POWs, which it described as the "first batch...[as part of] the stated policy of the government of Eritrea to release unconditionally Ethiopian soldiers captured in [this] unfortunate conflict."³¹ There have been no further releases to date, and Eritrea has not disclosed how many POWs it is holding, although it has published interviews with some of them criticising the Ethiopian government.

Ethiopia has not said how many Eritrean prisoners of war it is holding. There are around 100 Eritrean prisoners of war captured during the fighting in May and June 1998 held in Bilate camp in south-eastern Ethiopia. In March 1999, Ethiopia published interviews with Eritrean POWs captured during the February fighting, but it did not give any indication of where they were being held.³² On 6 May 1999, the ICRC announced that it had visited some 300 Eritrean POWs held in a transit camp in Ethiopia and interviewed them in accordance with the Third Geneva Convention. In line with the ICRC's position on the confidentiality of their work, no details about their location, or conditions of detention were given.

³⁰United Nations IRIN Update No. 612 for Central and Eastern Africa, 18 February 1999.

³¹ERINA update 28 August 1998.

³²Office of the Government Spokesperson 18 March, 1999

Eritrea has not allowed the ICRC access to POWs, although it did allow access to some journalists and has offered to give other human rights bodies access to prisons and to Ethiopian prisoners of war though none is known to have taken up this offer.³³

³³IRIN Op cit.

According to the Geneva Conventions, the ICRC is the international body charged with ensuring that POWs are treated according to international standards. These include the fundamental rights to be treated humanely and for their families to know what has happened to them and to be able to correspond with them. In addition, for the ICRC to carry out its work, there are certain precise criteria such as the right to confidential interviews, regular repeat visits and access to all places of detention where these detainees are found.³⁴ ICRC access to POWs on both sides is regarded by the international community as the most important and reliable guarantee of respect for the rights of POWs and protection of their physical safety and humane treatment.

Eritrean officials told Amnesty International that during the fighting for independence up to 1991, they had treated Ethiopian POWs well, despite refusing access to the ICRC. International standards on the treatment of POWs, however, specify the need for independent monitoring even when a government such as Eritrea maintains that it treats POWs well in conditions of secrecy.³⁵

Article 118 of the Third Geneva Convention states that the release of prisoners of war shall take place “without delay after the cessation of active hostilities.”

Amnesty International’s recommendations

Amnesty International calls for the ICRC to be given immediate access to all prisoners of war in both Ethiopia and Eritrea, as the best guarantee of their humane treatment and observance by each side of the Geneva Conventions.

Amnesty International calls on both governments to commit themselves to release all prisoners of war as soon as the fighting ends.

2.4 Internment of civilians

Large numbers of civilians, not captured in the fighting or under arms, have also been arrested and detained in connection with the conflict, particularly in Ethiopia. They fall into three categories:

- “internment” designed as a preventive security measure, where the cases can be regarded as falling under the Geneva Conventions: this only concerns some 1,200 Eritreans detained in Bilate camp in Ethiopia, to whom the ICRC has access;

³⁴The Third Geneva Convention and Additional Protocols I and II refer to the protection of prisoners of war. Article 9 concerns ICRC access to prisoners of war in order to carry out humanitarian activities.

³⁵The EPLF held thousands of Ethiopian soldiers as POWs during the armed struggle but did not allow access to the ICRC, despite numerous requests. There were no reports of its POWs being ill-treated or killed.

- arrests of Eritreans in Ethiopia for deportation as soon as possible to Eritrea: these cases are described in section 3.2 below - there may now be a considerable number of such people still in detention who have not yet been deported, on account of the suspension of deportations in February 1999 due to the border fighting;
- arrests of people suspected of having committed a security offence and being investigated for possible charge and trial: some Eritreans arrested for deportation were interrogated for suspected security offences, although without being taken to court or charged, and there may be a considerable unknown number of such detainees. In Eritrea, there may have been several arrests of this nature, of which the authorities acknowledged six were still held without charge or trial in January 1999. These are referred to in more detail in section 3.1.

In Ethiopia, around 1,200 Eritrean civilians have been interned at Bilate detention camp in south-eastern Ethiopia.³⁶ Most were arrested in June 1998, reportedly because they had either received military training in Eritrea as part of a national service requirement or were former EPLF guerilla fighters. Although detained because of the war and not within the provisions of the Ethiopian criminal justice system, these are not 'prisoners of war' as defined by the Geneva Conventions. Most are between the ages of 20 and 40 years but Amnesty International has received reports of the detention of children as young as 14 years and of elderly persons as old as 70 years. They have not been charged with any offence or brought before a court, and the government evidently has no intention of doing so, regarding them as 'war detainees' to whom it has given regular access to the ICRC.

According to a statement from the Ethiopian government received by Amnesty International on 25 June 1998, those detained in this camp would be allowed to leave to any country of their choice after the investigation of their cases. In February 1999, 38 from a total of 85 students from the University of Asmara, who had been interned there while on an exchange program between the Addis Ababa University and the University of Asmara, were released by the Ethiopian authorities, citing "humanitarian grounds." Despite the Ethiopian government assurance, no investigations into the cases of the internees appear to have been carried out.

³⁶Bilate camp (also known as Bilattein) had previously been used for the detention of some 20,000 Oromo Liberation Front suspects in 1992-94.

An undisclosed number of actual captured prisoners of war, possibly over 100, are also held at the same prison camp. Eritrea has accused the Ethiopian government of keeping internees in inhumane conditions in Bilate camp.³⁷ To date, six detainees have died, according to the Eritrean government, utilising information given to them by the ICRC.³⁸ This information said that on 7 October 1998, Gebrekidan Zekarias, a civilian internee, died of an inflammatory bowel disease. Another civilian detainee Dawit Tewolde, died on 13 October, Mohamed Zaeyn Said Kahsay died on 25 November and Mohamed Said Abdulbeker Idris on 4 December. Said Sahada Ahmed, a prisoner of war held in Bilate, died of a malign tumour with bleeding on 7 October 1998.

The Eritrean Ministry of Foreign Affairs on 18 March 1999 reported a further death in Bilate of Gebrenegus Awalom Gebresaik. It said that “poor living conditions, mental and physical torture and lack of medical attention” were the main causes of his death. In an unusual step the ICRC issued a press release “deploring the public use of [its] information” saying that this could jeopardise their humanitarian operation and stating that the allegations of the cause of death are “unfounded.”³⁹

Amnesty International’s conclusions and recommendations

Internment of enemy civilians during armed conflict is legally permitted by Article 42 of the Geneva Conventions (IV), although under certain conditions and with detailed safeguards to protect their human rights. Article 43 of the Geneva Conventions (IV) states that:

“Any protected person who has been interned shall be entitled to have such action reconsidered as soon as possible by an appropriate court or administrative board designated by the detaining power for that purpose. If the internment ... is maintained, the court or administrative board shall periodically, and at least twice yearly, give consideration to his or her case, with a view to the favourable amendment of the initial decision...”

Civilians may be interned only if this is absolutely necessary for security reasons. In terms of Article 35 of the fourth Geneva Convention, all protected persons who desire to leave Ethiopia at the outset of, or during a conflict, shall be entitled to do so, “unless their departure is contrary to the national interests of the state.”

³⁷ A press release by the Eritrean Ministry of Foreign Affairs on 18 November 1998 referred to “the notorious, malaria infested, Bilate concentration camp.”

³⁸ The ICRC notified the Eritrean authorities of the deaths under the provisions of the Fourth Geneva Convention but the ICRC had not itself published this information.

³⁹ ICRC Press release 99/12 (22 March 1999).

As internment is a drastic restriction of personal freedom, it is permitted only if security requirements can not be met by less severe measures, such as an obligation to register with the police, or an order for an assigned residence.⁴⁰ Therefore in terms of the fourth Geneva Convention, the Ethiopian authorities are required to establish a link between each person interned and a threat to public security for the internment not to be in violation of international humanitarian law. Furthermore, the Ethiopian authorities are required to establish a procedure by which a decision of internment will be made. Such procedure should provide for the right of the person to be heard. Procedures should also be established for the examination of internment orders and for the person to challenge the order before a judicial or administrative body. A regular periodic review, no later than each six months, by a special independent body of all decisions regarding internment is also necessary.

To Amnesty International's knowledge, there has been no such review by an independent body of the cases of the civilian internees.

Amnesty International calls for the government of Ethiopia to review immediately the cases of all the remaining civilian internees in Bilate camp with a view to securing their immediate release. Amnesty International also calls on the government of Ethiopia to ensure that the civilian internees and prisoners of war held in Bilate camp, are given access to all necessary medical treatment and other rights afforded in accordance with the provisions of the Geneva Conventions.

3. Expulsions and the treatment of Eritreans in Ethiopia and Ethiopians in Eritrea

The outbreak of military hostilities has led to a total of over 70,000 people having to move across both sides of the border. Both governments have alleged that their own people have been subjected by the other side to ill-treatment, arbitrary detention and expulsion in violation of their human rights. This section will examine the situation of Eritreans in Ethiopia and of Ethiopians in Eritrea. In addition it will consider the situation of people of Eritrean origin in Ethiopia who have been stripped of their Ethiopian citizenship and deported to Eritrea.

3.1 Ethiopians in Eritrea

Before the conflict started, there were an estimated 100,000 Ethiopians working in Eritrea. They consisted of long-term residents, some married to Eritreans, and more recent migrant workers especially from the bordering Tigray region. The Red Sea port of

⁴⁰Articles 41-3 and 78, paragraph 1 of the fourth Geneva Convention.

Assab, in particular, was host to a community of an estimated 35,000 Ethiopians, most of whom worked in the port or ran supporting businesses. Many other Ethiopians were living and working in Asmara, Massawa and other Eritrean towns.

Many Ethiopians lost their jobs as a result of the conflict, through the economic downturn of Assab port, or through arbitrary dismissals. Without work and income, they lost rented accommodation because of non-payment. Many became homeless and destitute. Ethiopia has alleged that many Ethiopians were ill-treated by the Eritrean police, taken into detention without charge or trial and prevented from leaving Eritrea after the border was closed. Ethiopia has also claimed that Ethiopians were expelled from Eritrea.

At the end of June 1998, the Eritrean authorities said that Ethiopians were free to return to Ethiopia or to stay in Eritrea as they wished. Many did want to leave, as there was no longer any employment for them or because they feared retaliation as enemy nationals or that Assab and other towns in Eritrea would become military targets for Ethiopian military attacks.

However, before the Ethiopians could leave Eritrea, they had to clear any tax debts or utility bills and purchase an exit visa. Without work, many Ethiopians were unable to meet these demands and complained that they were thereby being prevented from leaving. In September 1998, the Eritrean authorities relaxed the requirements for exit visas and many Ethiopians registered to leave with the assistance of the ICRC. According to ICRC figures, they had assisted about 22,000 Ethiopians to return from Eritrea by the end of January 1999. A few thousand others probably returned by other means. It is not clear how many Ethiopians still remain in Eritrea. Ethiopia claims that over 40,000 have returned to Ethiopia.

The situation in Assab

Until the conflict started, Assab was the major port for Ethiopian imports and exports. The loss of Ethiopia's access to the sea through Assab was a major issue at the time of Eritrean independence. Many Eritreans believe that Ethiopia might seek to use the conflict to reincorporate Assab into Ethiopia, despite Ethiopian government assurances that it has no territorial ambitions on Assab or Eritrea in general.

At the start of the conflict, Ethiopian trade was routed away from Assab and to Djibouti, leading to the effective closure of Assab port. It is estimated that 30,000 people, mostly Ethiopian labourers, lost their jobs as a result. Small-scale Ethiopian businesses such as teashops and restaurants were also affected by the lack of employment for their compatriots, and many went out of business. Many other Ethiopians, house servants in particular, became jobless.

In October 1998, Amnesty International interviewed Ethiopians who had been living and working in Assab. Some of these had returned to Ethiopia during July and August, and others had returned a few days before the Amnesty International delegation visited. Their stories suggested that the situation in Assab had eased considerably, particularly since the ICRC opened an office there in September 1998. Some of those interviewed said that they had no problems in Eritrea, and had managed to leave within three days of applying to do so.

Some of the Ethiopian returnees from Assab referred to a demonstration or strike that was held by jobless labourers in July 1998. The 300 demonstrators were calling for food, work and the opportunity to return to Ethiopia. They claimed that the police broke up the demonstration using force. Mohammed Tsayne, a trader, and Tesfaye Mariam Dagne, aged 10, both told Amnesty International that they had been beaten on the legs by the police in front of foreign journalists.⁴¹ The demonstration was reported by Reuters, who quoted some of the protestors who had met with Eritrean officials, but did not refer to any police ill-treatment.⁴²

Amnesty International discussed this incident with the Eritrean authorities in Asmara and Assab, who said that it was not a demonstration but a large gathering of Ethiopians applying to leave who became frustrated at the delay in the processing of their application on account of insufficient staff. The Eritrean authorities denied that police had beaten anyone. Amnesty International delegates were unable to obtain independent eye-witness accounts to confirm or deny these contradictory accounts.

In July 1998, Ethiopia alleged that up to 60 Ethiopians had died in Assab after being locked in a shipping container by the Eritrean police in daytime temperatures of over 40C.⁴³ Amnesty International has tried to investigate these allegations but has found no eyewitness accounts or independent corroboration of this incident.

⁴¹Interviewed by Amnesty International, Addis Ababa, 20 October 1998. Amnesty International has used names either when permission has been given, or where the names have been published elsewhere.

⁴²Reuters news report *Unemployed Ethiopians demonstrate at Eritrea port* 18 July 1998. An Ethiopian Embassy in London press release on 31 July 1998 *Demonstration in Assab* also referred to the demonstration and Reuters report, but did not refer to police ill-treatment.

⁴³Memorandum by the government of Ethiopia, 16 July 1998, *Eritrean Aggression against Ethiopia and continued gross violations of the human rights of Ethiopians in Eritrea*.

Amnesty International was also told that, at the beginning of the conflict, Ethiopians in Assab were arrested by police and ill-treated while being questioned about their alleged support for Ethiopia's war effort. For example, Hadish Wolde-Negus, a trader who had been living in Assab for about 20 years, told Amnesty International he had been arrested by the police at his home, taken to the police station and questioned about his monthly donations to the Tigray Development Association (TDA).⁴⁴ He was told to report to the police every day and was questioned about the activities of TDA. He said that he disclosed all the relevant documents the first time, but that the police refused to accept them. During his questioning he said he was beaten on his back and legs when he failed to answer to their satisfaction. The Amnesty International delegation saw faint marks on his legs, consistent with healing injuries. He returned to Ethiopia in August 1998.

Similarly, Demos Desta, a priest from Assab, said he had been questioned for three days about payments to the TDA. During that time he says that he was beaten with electrical cable and kicked repeatedly. After his release, he returned to Ethiopia on 22 June.⁴⁵

Other interviewees in Ethiopia mentioned that Girmay Amare, the secretary of the Ethiopian Community in Assab, Tesfaye Desta, a member of TDA, and Abebe Fanta, the chair of the Amhara Development Association, are believed to be in detention in Assab. Amnesty International was not able to confirm either this information or their whereabouts. From the beginning of the conflict the Ethiopian embassy in Eritrea had been compiling and distributing lists of Ethiopians allegedly detained. The Eritrean authorities said that while some Ethiopians were detained for purely criminal reasons, none were detained for such reasons as were alleged. Amnesty International was told by the Eritrean Police Commissioner that six Ethiopians, including some students, were in custody in January 1999 and under investigation for security offences. No names were given. The authorities in Asmara and Assab said there were no Ethiopians in detention simply for being Ethiopians.

Asmara and other towns

After the bombings of Asmara Airport by Ethiopia on 5 and 6 June 1998, many Ethiopians working in Eritrean towns were sacked, apparently as a reprisal, and subsequently lost their rented housing through losing their means of income or, in some

⁴⁴Interviewed by Amnesty International, Adigrat 25 October 1998. The Tigray Development Association is registered in Eritrea as an Ethiopian non-governmental organization supporting development programs in Tigray region.

⁴⁵Interviewed by Amnesty International, Mille 27 October 1998.

cases, by being evicted for being Ethiopian. Many Ethiopians were forced to sleep on the streets outside the Ethiopian embassy in Asmara, in church compounds or elsewhere.

At the beginning of the conflict, there were instances of Ethiopians in Eritrea who told Amnesty International they were ill-treated by the police solely on the basis of their Ethiopian origin. For example, Wolde Hagos, a hotel worker, was dismissed on the day that Asmara Airport was bombed. He told Amnesty International that he was arrested and taken to the 1st Police Station where he was beaten with his hands tied behind his back. After one month, he was released but the police tore up his identity card and work permit. When he went to register at the Ethiopian embassy, the police questioned him and asked for his identity card. He said he was taken to another police station and beaten for not having an identity card.⁴⁶

On 26 June 1998, the Eritrean National Assembly made an explicit guarantee to all Ethiopians residing in Eritrea that their rights would be respected. The statement said that the government of Eritrea:

*“...will not take any hostile action against Ethiopians residing in the country. Their right to live and work in peace is guaranteed. If this right is infringed under any circumstances, or by any institution, they have the full rights of redress.”*⁴⁷

In September 1998, the ICRC was permitted to open offices in Asmara and Assab and to assist the repatriation of Ethiopians who wished to return to Ethiopia.

Amnesty International’s findings and recommendations

Amnesty International does not believe that there has been a systematic policy of ill-treatment of Ethiopians by the government of Eritrea or its security forces. However, the evidence presented to Amnesty International convincingly indicates that, particularly in the first few weeks of the conflict, there were several incidents where police officials or private citizens violated the rights of individual Ethiopians. From late June 1998, the announcement of the National Assembly of Eritrea appears to have ensured that such incidences were reduced.

With regard to the allegations of deportations, none of the Ethiopians who had returned from Eritrea and were interviewed by Amnesty International in Ethiopia said that they had been expelled from Eritrea. They had not been ordered to leave by an

⁴⁶Interviewed by Amnesty International, Adigrat 25 October 1998.

⁴⁷Statement of the 11th Session of the National Assembly of Eritrea, 26 June 1998.

Eritrean official or the police, nor had there been any official policy of withdrawing their ability to stay in Eritrea as foreign nationals or migrant workers.

Amnesty International representatives visiting Eritrea in January 1999 were informed by officials that around 10 Ethiopians were in detention in Eritrea for security reasons. Amnesty International calls on the Eritrean authorities to either take them to court without further delay, charge them with a recognizably criminal offence and guarantee them a fair and prompt trial, or release them.

Amnesty International's visit to Eritrea did not remove all doubts about whether there had been detentions of Ethiopians nor has the organization been able to monitor the treatment of Ethiopians after its visit. Amnesty International considers that it would be useful for the Eritrean government to allow an independent body to act as an Ombudsman for Ethiopians so as to safeguard Ethiopians against any ill-treatment or abuse of their rights, and report impartially on the situation of Ethiopians in Eritrea. This could be one of the functions of an office of the UN High Commissioner for Human Rights, should it establish a presence in Eritrea. Alternatively the human rights monitors mentioned in the OAU framework agreement should consider how this is best to be achieved.

3.2 Eritreans in Ethiopia

Mass expulsions

On 12 June 1998, the government of Ethiopia announced that officials of the Eritrean government and ruling party were required to leave the country. The government also announced that individual Eritreans found spying and mobilising financial resources to support Eritrea in its war with Ethiopia would be expelled and sent to Eritrea. At the time of the announcement, the government estimated that this affected 1,045 Eritreans. On 11 July 1998, Ethiopia announced that another 1,000 Eritreans would be expelled for the same reasons of national security.

The expulsions continued throughout the year and into early 1999, rising to a peak rate of more than 1,500 people per week being expelled through the border with Eritrea. Hundreds of Eritreans have also been dumped at Moyale on the Kenyan border and at the border with Djibouti. Eritrean men, women, children and their elderly dependents have been expelled, and also some people of part-Eritrean origin too. Eritreans abroad have had their Ethiopian citizenship cancelled by Ethiopian embassy officials.

A total of 54,000 Eritreans origin were detained and then expelled between June 1998 and the resumption of fighting on 6 February 1999.⁴⁸ With the resumption of

⁴⁸These figures were compiled by the government ERREC, which collects information on all deportees as they arrive. Amnesty International delegates observed their procedures and have no reason to doubt the accuracy of this

military conflict on 6 February 1999, and the whole border becoming military fighting zones, the deportations were stopped.

Some of the first to be expelled included Gebre-Tensai Tedla, an 87 year old owner of a pastry business in Addis Ababa; Gebre-Yesus Shirum, a 65 year old building contractor from Awassa in southern Ethiopia; Tewelde Habte-Mariam, an Aeroflot employee; Yusuf Alemayeh, Bisu-Amlak Haddish, Binyam Welday, Ethiopia Gebre-Michael (f) and her brother Mehret-Ab Gebre-Michael (all students); Fisseha Berhane, businessperson; Mekonnen Gebre-Amlak, merchant; Zakarios Habtom, garage owner; Teame Hagos, businessperson; Tekle Mezengeh, visitor from Eritrea; Asmalesh Tekle (f), retired bank worker from Nazareth; Wolde-Michael Tekle, hotel-owner in Mojo near Debre Zeit; and Arefayne Tekle-Haimanot, businessperson. They had all been arrested in Addis Ababa or other towns and placed in buses and trucks and taken to the border town of Omer Hajer, near Humera in northwestern Ethiopia.

Over 50 Eritreans working for foreign embassies including the United States of America and the United Kingdom, the OAU, UN agencies including the Economic Commission for Africa, and international NGOs, have also been expelled.

Cruel, inhuman & degrading treatment during the expulsion process

Amnesty International witnessed the arrival in Eritrea, and was able to interview, people of Eritrean origin who had been expelled in January 1999. The expulsion of people of Eritrean origin was often carried out in an inhumane manner that amounts to cruel, inhuman or degrading treatment. Most people were arrested in the middle of the night to conceal the security operation under way. The expelled were only allowed to take one bag with them, though among the first, there was one old man who arrived in Eritrea wearing only pajamas and sandals, as he had not been allowed to take anything else. In some cases mothers were taken away without being allowed to arrange for the care of their children and families and families were deliberately and systematically split up and expelled in different batches, months apart. This created special hardship for family support and relationships, and considerable anxieties about when parents and children and their elderly dependants might be reunited.

The deliberate break-up of families and creation of suffering for children put Ethiopia in violation of the UN Convention on the Rights of the Child, which the government in all other respects has worked hard to implement.

information.

Universally, those expelled feared they would never see their personal, domestic or business properties again. After expulsion, Eritreans' property was often auctioned off to pay for supposed tax or loan debts, or was in some cases illegally acquired by other people. According to some estimates, the value of this property may run into hundreds of millions of US Dollars.

During the ordeal of the long journey lasting several days, toilet stops were few, food and water were minimal, and despite the suffocating heat windows were kept shut. At night they slept in the bus and were not allowed to take belongings or even medication from their luggage on the roof. Several elderly people suffering from diabetes arrived in Eritrea extremely ill and needing emergency hospital treatment. Many of the expelled arrived at the Eritrean reception centres traumatized and exhausted.

Pregnant women and women with small babies were not spared from expulsion. Amnesty International delegates met elderly men and women who had been taken by police from hospital, even some recovering from surgery, and put on buses to be expelled.

According to the testimonies received, the pattern of treatment of the expelled was so similar and uniform that it was clearly carefully planned and centrally coordinated by the security forces, as were the arrests, which took place in every part of Ethiopia and led to convoys of over 40 buses ferrying victims to different border areas.

All of the people expelled were arrested, usually at night, and kept in detention for periods ranging from one or two days to several months. In one typical case, Michael Zewde, a former photographer at the Sheraton Hotel in Addis Ababa was taken by plainclothes security men to Shogole Prison camp on 27 August 1998. He was told that he would be deported to Eritrea or Nairobi. He was kept in an isolation cell for 15 days, while being questioned about whether he 'knew the commandos.' The police searched his house (in his presence) seeking films of the Eritrean embassy, but found nothing. Although his children knew that he was being arrested, he was not allowed to tell them where he was being taken. After three months in prison, he was expelled to Eritrea on 27 November.⁴⁹

Abade Haile, an administration and finance manager, was interviewed by a security official on 28 June. He was detained overnight in a police cell, having been told another official would interview him the next day. His wife was allowed to bring him warm clothes. He carried an Ethiopian passport and considered himself an Ethiopian. On 29 June, he was taken to Shogole prison camp and questioned again, alongside about 150

⁴⁹Interviewed by Amnesty International, Asmara 15 January 1999.

Eritreans. At 4:30am on 30 June, they were taken to buses and driven to Gondar. They were fed but not given water. On 2 July, they arrived at Humera, where they were ordered to cross the border.⁵⁰

Shogole is a large camp on the Gojjam road on the outskirts of Addis Ababa, used as a clearing-house for Eritreans detained for expulsion. They were crammed 150 into a room in a large iron-sheet building, holding an average of about 500 prisoners. No food was provided and there were no washing facilities or toilets. Prisoners had to use an open, muddy field for toilet purposes in full view of guards. There was no medical care, even for pregnant women or babies or sick prisoners.

Two other testimonies are cited here, of numerous others received, to depict the harsh experiences of those expelled:

Kessete Tewelde-Berhan, director of the school of nurse anaesthesiologists at Black Lion Hospital in Addis Ababa, a health service employee for 31 years, was suspended from work in June 1998 and arrested on 28 August at 5.30am. After two days imprisonment he was put onto a convoy of buses with two of his children and sent to the Eritrean border. His wife and other child were ordered to stay behind. His Ethiopian passport, identity card and driving licences were confiscated. After an 8-day journey "packed in buses like sardines", they were ordered out in the middle of the night. "We were told to go down off the buses and walk along a rough road which is mined with personnel mines on both sides...[The soldiers] started pushing us and we started walking in the dark stumbling over stones and going into water ditches and puddles and falling here and there". After an hour and a half, carrying the few belongings they were allowed to take, they reached the border, with another 16 kilometres walk from there.

"Habtemichael", who was born in Eritrea but went to Ethiopia at the age of five together with his parents, was expelled from Ethiopia in January 1999. He had never been to Eritrea since, and was now aged 43, married with 2 children. He had worked in government service for over 20 years. In July, along with all Eritreans working in government departments, he was dismissed without explanation or warning or payment of employment benefits. He fled to Addis Ababa with his wife and two children, aged six and nine years. He was caught and arrested one night six months later. Interviewed by Amnesty International on arrival in Assab, he said: "I asked what my crime is. They said, 'You are an Eritrean'. I asked, 'Have I broken any civil or military law?' I was told, 'No'. I asked what the reason was. They said, 'You are an Eritrean, that's all'."

⁵⁰Interviewed by Amnesty International, Asmara 15 January 1999. Ironically, Abade Haile said that during the Dergue regime, he had been imprisoned for five years on suspicion of making financial contributions to Meles Zenawi's TPLF, now the main ruling party in Ethiopia.

3.3 The citizenship issue for Eritreans in Ethiopia

Most of the Eritreans ordered to be expelled were born, or long resident, in Ethiopia, held Ethiopian passports and had lived or worked in Ethiopia all, or most of, their lives.

Under Article 33 of the Ethiopian Constitution, no Ethiopian national shall be deprived of their nationality against their will. Article 11(b) of the Ethiopian Nationality Law states that people lose their Ethiopian nationality when they willingly take up a foreign nationality.⁵¹ Dual citizenship is not permitted for Ethiopians.

Ethiopian government officials have asserted that people of Eritrean origin who registered to vote in the Eritrean Independence Referendum in 1993 thereby forfeited their Ethiopian citizenship. Although those expelled had identity cards, which entitled them to vote in the referendum, and were entitled to take up Eritrean citizenship if they wished, they had not formally done so, and so had not formally renounced their Ethiopian citizenship.⁵²

3.4 Expulsions as violations of international human rights law

The government of Ethiopia has claimed that the expulsions have been carried out in conformity with international human rights law, and that in a state of war, it is fully entitled to take measures to ensure the protection of national security.

Under certain circumstances, the ICCPR allows for states “to take measures derogating from their obligations under the present Covenant to the extent strictly required by the exigencies of the situation, providing that such measures are not inconsistent with their other obligations under international law and do not involve discrimination solely on the grounds of race, colour, sex, language, religion or social origin.”

This derogation can only happen after a state of emergency has been declared and this must be communicated to the Secretary General of the UN.⁵³ The government of Ethiopia has not declared a state of emergency and has not announced that it is derogating

⁵¹Article 33 (1) Constitution of the Federal Democratic Republic of Ethiopia, 8 December 1994 and Article 11(b) Ethiopian Nationality Law, 22 July 1930.

⁵²There seems to have been no comparable issue regarding Ethiopians in Eritrea, who were (and are) Ethiopian citizens.

⁵³Articles 4(1) and 4(3) ICCPR.

from any provision in the ICCPR. The ICCPR must therefore be considered as being in force so as to protect peoples' rights in respect of arbitrary expulsions as well as arbitrary detention. The African Charter on Human and Peoples' Rights does not allow for any derogations at all, even in time of war.

None of the people expelled was given the opportunity to challenge the reasons for their expulsion, which were rarely made specific and were not made in the form of a written order. None of the expelled were taken to a court of law or charged with any offence.

Article 13 of the ICCPR stipulates that deportations may only take place in pursuance of a decision reached in accordance with law and that the persons being expelled must be allowed to challenge the deportation before the competent authority. Amnesty International delegates visiting Ethiopia raised the question of appealing against an expulsion order with the Ethiopian Ministry of Justice and with senior police officers. They said that the expulsion orders could be reviewed by more senior members of the security forces (most arrests and expulsion orders come from local security officials) but they were not able to give any details about the mechanisms of the appeal process nor could they give any numbers of people who had used this process successfully or not.⁵⁴ Information received by Amnesty International indicates that an appeals process does not exist, which puts the Ethiopian government in breach of Article 13 of the ICCPR.

The African Commission on Human and Peoples' Rights has stated in several decisions that the deportation or expulsion of individuals without affording them the right to appeal to the national courts against such deportation or expulsion is a violation of Article 7.1(a) of the African Charter. In 1997, the Commission ruled that a decision by Zambia to expel 517 West Africans violated the following articles of the African Charter: Article 2 which prevents discrimination against an individual on the grounds of (amongst others) race, ethnic group, national and social origin; Article 7.1(a) which guarantees the right to appeal to a national authority if those rights are violated and Article 12 (5) which prohibits the mass expulsion of non-nationals.⁵⁵

⁵⁴Meetings with Amnesty International, Addis Ababa, October 1998.

⁵⁵Decisions of the African Commission on Human and Peoples' Rights 1986-1997 (ACHPR/LR/A\1, Banjul 1997) *Case 71/92 Recontre Africaine pour la Défense des Droits de l'Homme/ Zambia*. See also *Case 27/89 Organisation Mondiale Contre La Torture and Association Internationale des juristes Démocrates/ Rwanda* which ruled that the expulsion of Burundian refugees on the 'vague grounds of "subversive activity"' amounted to discrimination on the grounds of nationality and was in contravention of Article 12 of the African Charter.

The ICCPR also prohibits states from arbitrarily depriving citizens of the right to enter their own country.⁵⁶

3.5 Amnesty International's conclusions and recommendations

Amnesty International concludes that a huge number of Eritreans expelled from Ethiopia had their Ethiopian citizenship arbitrarily removed and were illegally and forcibly deported and sent into exile. The removal of Ethiopian citizenship and expulsion of people of Eritrean origin is a clear breach of international law.

Amnesty International has not found that Eritrea has deported or expelled any Ethiopians, in any legal or administrative sense. On the other hand, it could not be said that Ethiopians returned from Eritrea willingly or out of their free choice: they had been rendered destitute, though not as a result of government action in violation of their rights. As they were clearly not welcome to stay in Eritrea in such conditions, they had no alternative but to return to Ethiopia, whatever their prospects of employment or assistance there.

Amnesty International calls on the Ethiopian government to announce publicly a halt to the arbitrary expulsion of people of Eritrean origin.

Amnesty International believes that the human rights violation of mass expulsion of Eritreans from Ethiopia will not be remedied as long as the victims are not able to return safely to their homes and reclaim their properties. The Ethiopian government should publicly announce that people of Eritrean origin expelled have the right to return to Ethiopia if they wish. The question of their citizenship should be dealt with through legislation in conformity with human rights law.

4. Conclusions and summary of recommendations

Both the government of Ethiopia and the government of Eritrea have used the allegations of human rights abuses against their nationals in the other country as justification for their own actions in this conflict. Although both governments and the international community describe the conflict as principally a border dispute, which requires a "technical" solution, the abuse of human rights has greatly added to the tension between the two countries. It follows, therefore, that both countries have a responsibility to ensure that the protection of human rights is a part of any negotiated settlement.

⁵⁶Article 12 (4) of the ICCPR

Both sides have publicised widely the allegations of human rights violations against their own people and both sides have a responsibility to take steps to redress the violations. Unless this is done, the tension between Ethiopia and Eritrea will continue with the possibility of further conflict and human rights violations, even if the border dispute can be resolved in a satisfactory manner.

During the implementation of the OAU framework agreement, or any other peace agreement, there should be effective and independent monitoring of the human rights situation in each country. This would help prevent human rights abuses and also contribute towards building confidence between the parties to the agreement. Human rights monitoring could be undertaken by an OAU team of human rights observers, working in collaboration with the UN Office of the High Commission for Human Rights. Human rights monitors should have adequate powers to investigate reports of human rights abuses, to bring these to the attention of the relevant authorities and to make recommendations for increased human rights protection. Regular reports on human rights should be made public. In addition, the OAU human rights observers, should work closely with, and train, Ethiopian and Eritrean groups and individuals for the long term monitoring of the human rights situation in both countries.

As set out in the different sections above, Amnesty International calls on

The **government of Ethiopia**, in addition, to:

- Announce publicly a stop to the arbitrary expulsion of people of Eritrean origin
- Review immediately the cases of all remaining civilian internees, in Bilate camp, with a view to securing their speedy release in line with Articles 43 and 133 of the Geneva Conventions.
- Ensure that the civilian internees and prisoners of war held in Bilate camp, are given access to all necessary medical treatment and other rights afforded in accordance with the provisions of the Geneva Conventions.
- Publicly reassure Eritreans living and working in Ethiopia that they are not at risk of ill-treatment because of their Eritrean origin and that their rights will be protected under Ethiopian and international law.
- Rescind the removal of citizenship, through the issuing of new identity cards and passports, to any Ethiopians of Eritrean origin who wish to return to Ethiopia.
- Clarify the laws relating to citizenship and the status of Eritreans within the country.
- Establish an independent and impartial enquiry into the allegations of ill-treatment of persons of Eritrean origin during their detention and deportation, and to bring to justice anyone responsible for such ill-treatment.

The **government of Eritrea**, in addition, to:

- Instigate an independent and impartial public inquiry into the killings at Mekele. The inquiry should especially review the Eritrean air force's rules of engagement and operational guidelines for implementing the principle of distinction between military targets and civilians and should make recommendations to prevent unlawful killings.
- Ratify the four Geneva Conventions and the two Additional Protocols.
- Grant full access to the International Committee of the Red Cross to all places of detention and all prisoners of war.
- Establish an independent and impartial inquiry into the claims of ill-treatment of Ethiopians in Eritrea and bring to justice anyone responsible for such ill-treatment.
- Review with a view to releasing, and allowing to return to Ethiopia, any Ethiopians held in detention (including the six cases cited above), unless they are charged with a recognisably criminal offence and given a fair and prompt trial in accordance with international standards. They should also be allowed to exercise their right to challenge the legality of their detention in court.
- Establish an independent body to act as an Ombudsman for Ethiopians so as to safeguard them against any ill-treatment or abuse of their rights.

Both the **government of Ethiopia** and the **government of Eritrea** to:

- Take active measures to ensure the protection of the civilian population in the fighting zones in line with the fourth Geneva Convention and Protocol I to the Geneva Conventions.
- Give immediate access to the ICRC to all prisoners of war, civilian internees and security detainees as the best guarantee of their humane treatment and observance by each side of the Geneva Conventions.
- Commit themselves to release all prisoners of war as soon as the fighting ends.
- Publicly announce that Ethiopians and Eritreans who were forced to leave each country as a result of the conflict are free to return to their former homes and reclaim their property.
- *Provide full access to their territories and the necessary guarantees to ensure the security and freedom of OAU and UN human rights monitors.*
- Establish an independent review panel to address issues of property taken away from, and where appropriate compensation for, Ethiopians resident in Eritrea and Eritreans resident in Ethiopia at the time of the conflict.

The **international community** to:

- *Press for an OAU or UN human rights presence in Ethiopia and Eritrea and for it to be given the necessary political and financial support for its effective functioning.*
- Speak out against all human rights violations committed in the conflict by whatever side.
- Press for the protection of basic rights of citizens of the opposite side, so that none is detained simply on account of their nationality or origin and anyone suspected of a security offence is not detained indefinitely without charge or trial but formally charged and given a fair and prompt trial or else released.
- Press both sides to respect the laws of war.
- Press for the release of all prisoners of war and civilian detainees as soon as possible.

APPENDIX

29 January 1999

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Ethiopia/Eritrea: Amnesty International witnesses cruelty of mass deportations

"I was picked up at night, thrown into prison, not allowed time to pack. I asked what my crime was. 'You're an Eritrean,' they said."

Amnesty International representatives returning from investigations in Ethiopia and Eritrea warned today that forced mass deportation now threatens everyone of Eritrean origin in Ethiopia, causing untold suffering to thousands of families every week.

Last week in Eritrea, Amnesty International's representatives witnessed the arrival of some 1,280 women, men and children of Eritrean origin who had been rounded up and deported by the Ethiopian authorities. Most of those Amnesty International spoke to either had Ethiopian passports, or had been born or spent their entire working lives there, and considered themselves Ethiopians.

Ethiopia's policy of deporting people of Eritrean origin after war between the two countries broke out in May 1998 has now developed into a systematic, country-wide operation to arrest and deport anyone of full or part Eritrean descent. Fifty-two thousand Eritreans have been arbitrarily deported from Ethiopia over the last seven months, 6,300 so far in January 1999.

"Women, some of them pregnant, children, the elderly -- even hospital patients -- are now being arrested and detained in the middle of the night," Amnesty International's representatives said.

"People of all ages, from babies to pensioners, are imprisoned in harsh conditions for several days before being forced to board buses under armed guard with only one piece of luggage each -- if that -- and being dumped at the border. They arrive hungry and exhausted, and often ill, after the three-day journey."

Families have been split up, the male head usually deported first, and his wife, parents and children weeks or months later. The many Ethiopians married to Eritreans are forbidden to leave and forced to watch helplessly while their spouse and children are deported.

Deportees have had to abandon their homes, possessions, businesses and other property with no guarantee of ever recovering them. Individuals who have protested have been threatened or beaten. *The deportees were arbitrarily stripped of their Ethiopian citizenship without any warning, legal process or right of appeal.*

Ethiopia's Prime Minister Meles Zenawi has said that the deportees posed a threat to national security and that they had forfeited their Ethiopian citizenship by voting in Eritrea's independence referendum in 1993.

Amnesty International representatives visited Ethiopia in October 1998 and Eritrea in January 1999 to examine allegations from both sides of human rights abuses arising from the May 1998 conflict. *They met government officials and interviewed returnees from both countries.*

At least 22,000 Ethiopians have returned to Ethiopia from Eritrea since May, most after losing their jobs and being rendered destitute as a result of the hostilities, and some in fear of reprisals. No evidence was found to support Ethiopia's allegations that 40,000 of its citizens have been seriously ill-treated and forcibly deported from Eritrea since May 1998.

Enquiries were also made into the Eritrean bombing of a school in Mekelle, northern Ethiopia, in June 1998. The Eritrean government admitted the resulting deaths of 48 civilians, including women and children, were a "mistake", but has established no independent investigation into the bombings. An Ethiopian plane bombed and killed one person at the airport in Asmara, the Eritrean capital, the same day.

Amnesty International is reiterating its appeal to the Ethiopian government to put an immediate stop to the deportations and ill-treatment of deportees, and arbitrary detentions of thousands of other Eritreans, including 38 students in Blattein military camp. They contravene Ethiopia's laws and Constitution, as well as the international human rights treaties Ethiopia has ratified.

In the event of further fighting, the human rights organization urges both sides to respect the Geneva Conventions, which Eritrea should immediately ratify. They should also ensure that civilians do not become targets or victims of the fighting, and that no Eritreans in Ethiopia, or Ethiopians in Eritrea, should suffer reprisal because of their national origin.

"The international community -- particularly government representatives stationed in Ethiopia -- must break their silence and

make a joint stand against the deportations and other human rights violations,” Amnesty International said.

Background

The deportations of Eritreans from Ethiopia began on 12 June, one month after war broke out in May 1998 between the former close allies who fought together as guerrilla movements to overthrow the Dergue government in Ethiopia in 1991, when Eritrea became a separate independent state. What began as a border conflict led to some ground fighting, then air attacks by both sides, and occasional artillery firing along the border.

Mediation by the Organization of African Unity (OAU), the United Nations, the United States and other governments is continuing to avert a near-imminent all-out war which would be devastating for both sides. Each side has re-armed and has mobilized massive forces along the border, and the fighting has already displaced up to a quarter-million people.

Ethiopia is state party to International Covenant on Civil and Political Rights, the African Charter on Human and Peoples’ Rights, the Convention on the Rights of the Child, and the Geneva Conventions.

ENDS....\