

# ERITREA

## SHADOW REPORT TO THE AFRICAN COMMISSION ON HUMAN AND PEOPLES' RIGHTS

62<sup>ND</sup> ORDINARY SESSION

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# INTRODUCTION

Eritrea acceded to the African Charter on Human and Peoples' Rights on 14<sup>th</sup> January 1999 and deposited its instrument of accession on 15<sup>th</sup> March 1999. Although it is close to two decades late, Amnesty International welcomes Eritrea's submission of its initial report covering the period 1999-2016 to the African Commission on Human and Peoples' Rights (ACHPR). Amnesty International hopes that this submission by Eritrea is the first of many more to come, and encourages the authorities to continue engaging with the ACHPR.

This shadow report to the African Commission is based on many years of Amnesty International's research on Eritrea. It covers concerns relating to the rights to life, to dignity, (including freedom from torture and other ill-treatment, freedom from servitude) freedom of association, freedom from arbitrary arrest and detention, freedom of movement, freedom of religion, and right to education.

Eritrea's initial report refers to the improvements and priorities the authorities have made about national resource exploitation, celebration of people's and communities' cultures, and access to water. Amnesty International notes and welcomes these improvements. However, the improvements do not mean much if citizens do not enjoy the freedom to live with dignity, choice and the ability to express themselves. The overall human rights situation in Eritrea is deplorable. Yet, the Eritrean government consistently refers to any human rights analysis of the country, as it does in the initial report, as politically motivated, exaggerated or unfounded.<sup>1</sup>

## RIGHT TO LIFE (ARTICLE 4)

Since 2013, Amnesty International has documented the government's infamous shoot-to-kill policy on Eritreans fleeing the country through Ethiopia-Eritrea borders, which contributed to the spike in the use of secretive human smugglers and traffickers across the borders. Amnesty International's interviews with those who left Eritrea through the border with Ethiopia as well as defected soldiers who were guarding the border from the end of 2014 through the end of 2015, revealed that the shoot to kill policy on Eritreans crossing the border to Ethiopia was still in effect as of 2015.<sup>2</sup> Due to restrictions on access to information, Amnesty International is unable to confirm whether this policy has been rescinded or not since then.

Eritrea's initial report states that police strive to respect human dignity and that law

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<sup>1</sup> Eritrea: Initial National Report to African Commission on Human and Peoples' Rights (1999-2016), 28 March 2018, para. 284.

<sup>2</sup> Amnesty International, Just Deserters: why indefinite national service in Eritrea created a generation of refugees (AFR 64/4794/2016), August 2016, p. 51.

enforcement and protection of public safety is maintained with the full support of communities and citizens.<sup>3</sup> However, Eritrean police and military have been reported to use excessive force. For instance, at least 11 people were shot and killed by security forces on 3 April 2016 when a number of national service conscripts jumped off the trucks that were transporting them through the capital, Asmara. Those killed included women, children and bystanders.

Amnesty International calls on the Eritrean government:

- To publicly announce an end of the shoot-to-kill policy on people leaving Eritrea through the Ethiopia-Eritrea border; and
- To end the use of lethal force as a method of crowd control and to allow independent, impartial, credible, transparent and thorough investigation of all incidents of excessive use of force in a manner, which is capable of leading to the identification and accountability of those responsible for abuses. Perpetrators must be prosecuted in proceedings which comply with international fair trial standards and victims must receive reparation, including rehabilitation and compensation.

## **ARBITRARY ARREST, DETENTION, TORTURE AND OTHER ILL-TREATMENT (ARTICLES 5 & 6)**

Eritrea claims that torture is not only illegal but also punishable under its domestic law. Yet, Eritrean law enforcement and security agencies regularly use torture to punish prisoners detained for criticising the government or insubordination, practising a religion not recognised by the government, attempting to escape from the country or those who allegedly failed to perform duties during national military service.<sup>4</sup>

Amnesty International's research has also found that torture, or the threat of torture is practised as punishment and during interrogation of forcibly returned asylum-seekers – those whose asylum claims in other countries had been rejected or who had no access to asylum procedures and were sent back to Eritrea. Returned asylum-seekers face torture and other ill-treatment in

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<sup>3</sup> Eritrea: Initial National Report to African Commission on Human and People's Rights (1999-2016), 28 March 2018, para. 59.

<sup>4</sup> Amnesty International, *Eritrea: 20 years of independence, but still no freedom* (AFR 04/001/2013), May 2013, p 36.

detention as punishment for deserting national service, but also for allegedly criticising the government in the process of asylum claims.<sup>5</sup>

Amnesty International's research also shows that Eritreans caught trying to flee from the country are routinely tortured both as a punishment as well as to extract information on the details of their plans and travel arrangements for exiting the country. They are compelled to confess and disclose who assisted them in the process.<sup>6</sup>

The Eritrean government claims that detainees are treated with dignity and enjoy the right to education, entertainment, health services, religious practice, sports and culture.<sup>7</sup> However, Amnesty International research has documented poor prison conditions, in some cases amounting to cruel, inhumane or degrading treatment, across the country. Conditions include inadequate and poor quality food and drinking water, limited access to toilet and sanitary facilities, many cells having only one jerry-can for urine, and detainees being let out of the cell only once a day to defecate in the open.<sup>8</sup>

Former detainees interviewed by Amnesty International in 2013 spoke of prison overcrowding, as well as the widespread use of underground cells and shipping containers to hold prisoners. The use of metal shipping containers as detention cells is documented in Adi Abeto, Alla, Dahlak Kebir, Mai Edaga, Mai Serwa, Sawa, and Wi'a. Some prisons detain children together with adults.<sup>9</sup>

Amnesty International calls on the Eritrean government:

- To provide all detainees with adequate shelter, food and clean drinking water, and sanitation facilities, as well as access to medical care;
- To bring an immediate end to the practice of holding prisoners in shipping containers and underground cells;
- To ensure that no one is subjected to torture or other cruel, inhuman or degrading treatment or punishment;
- To open all prisons and other places of detention to inspection by

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<sup>5</sup> Amnesty International, *Eritrea: 20 years of independence, but still no freedom* (AFR 04/001/2013), May 2013, p 36-7.

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

<sup>7</sup> Eritrea Initial National Report to African Commission on Human and People's Rights (1999-2016), 28 March 2018, paras 77 and 79.

<sup>8</sup> Amnesty International, *Eritrea: 20 years of independence, but still no freedom* (AFR 04/001/2013), May 2018, p 39 & 41.

<sup>9</sup> Amnesty International, *Eritrea: 20 years of independence, but still no freedom* (AFR 04/001/2013), May 2013, pp 39-40.

appropriate independent monitoring bodies; and

- To ensure that all allegations of torture or other ill-treatment are promptly, impartially, thoroughly and effectively investigated leading to the identification and punishment of those responsible. Perpetrators must be prosecuted in proceedings, which comply with international fair trial standards and victims must receive reparation, including rehabilitation and compensation.

## CONSCRIPTION AND INDEFINITE NATIONAL SERVICE (ARTICLES 5 & 15)

Eritrea's National Service Proclamation No. 82/1995 obligates 18 months of compulsory national service that includes a six-month military training followed by a 12-month military deployment or government service. In 2002, the government launched another mandatory National Service programme called the 'Warsai Yikealo Development Campaign' (WYDC), which the Eritrean government claims is aimed at creating employment and improving living conditions, revitalizing Eritrea's economy, and reinstating Eritrea's social fabric.<sup>10</sup> WYDC National Service conscripts are mandatorily deployed to various posts including in the civil service, national and local administrations, state-owned companies and in the military. The WYDC has therefore effectively extended the 18-month compulsory national service established under the 1995 proclamation to an indefinite period of national service with no or very little pay.

The Eritrean government claims that the Labour Proclamation has abolished forced labour, and it guarantees equality of wages among similarly skilled workers as well as health and safety of the workplace.<sup>11</sup> However, the National Service Program's use of conscript labour in mining and construction plants owned by private companies, as well as the indefinite nature of national service, amounts to forced labour. Despite promising in 2014 to end indefinite national service, there is no evidence that the Eritrean authorities have demobilized those in the national service beyond the statutory limit of 18 months.<sup>12</sup> Furthermore, the meagre income of national service

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<sup>10</sup> Eritrea Initial National Report to African Commission on Human and People's Rights (1999-2016), 28 March 2018, para 255.

<sup>11</sup> Eritrea Initial National Report to African Commission on Human and People's Rights (1999-2016), 28 March 2018, para. 217 and 224.

<sup>12</sup> Amnesty International, *Just Deserters: why indefinite national service in Eritrea created a generation of refugees* (AFR 64/4794/2016), August 2016, p 29.

conscripts, which is also subjected to deductions and contributions to the government, remain too low for many to afford the cost of essentials including housing and food. As documented by the United Nations Commission of Inquiry on Eritrea, many national service conscripts lack adequate food, water, hygienic facilities, accommodation and medical services.<sup>13</sup>

The Eritrean government maintains that education is “respected and protected as a right through the provisions of all aspects of the established institutional and legal framework of the State”.<sup>14</sup> However, the mandatory indefinite national service program and the lack of educational prospects has led many students to drop out of school. Authorities impose the mandatory conscription of students during the final years of their secondary education by forcing them to spend their final year at the Sawa Military Training Camp. After students write their secondary school leaving exam at the Military Camp, they are forced to automatically enrol and commence the six months military training. Students that score good grades at the secondary school leaving exam are assigned to continue their education in one of the public colleges, while the majority of the students are assigned to work in the military and civil sectors of the National Service. Students not assigned to colleges remain in National Service indefinitely. Eritrean youth approaching conscription age, being aware of the indefinite nature of national service, the low pay while in national service and the lack of livelihood choices once they are in national service drop out of the education system prior to twelfth grade in an effort to evade national service.

An ever-increasing number of teenagers attempt to leave the country to avoid conscription. Others try to avoid it by hiding whilst still in Eritrea. Desertion from national service also appears to be common. Conscripts attempt to run away from their posts or do not return to their assigned posts after a period of leave. However, Eritreans face arrest and detention if caught evading or deserting national service.<sup>15</sup> The military often conducts sudden searches and round-ups of suspected national service evaders. Young people of national service age, without proper permits, are often rounded up and subject to punishment before being sent to military training camps.<sup>16</sup>

None of those arbitrarily arrested and detained that Amnesty International spoke to during its research in 2016 had access to a lawyer or their families during their detention nor were they brought before a court of law. The duration of their arbitrary detention depended on the whim of commanding officers of the unit that arrested the alleged evader or deserter.<sup>17</sup>

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<sup>13</sup> Report of Commission of Inquiry on Human Rights in Eritrea, United Nations Human Rights Council, 15 June 2015, A/HRC/29/42, para. 57.

<sup>14</sup> Eritrea Initial National Report to African Commission on Human and People's Rights (1999-2016), 28 March 2018, para. 161.

<sup>15</sup> Amnesty International, Just Deserters: why indefinite national service in Eritrea created a generation of refugees (AFR 64/4794/2016), August 2016, p 23.

<sup>16</sup> Amnesty International, Eritrea: 20 years of independence, but still no freedom (AFR 04/001/2013), May 2013, p 27.

<sup>17</sup> Amnesty International, Just Deserters: why indefinite national service in Eritrea created a generation of refugees (AFR 64/4794/2016), August 2016, p 24.



Amnesty International calls on the Eritrean government to bring to an end all practices of indefinite conscription in National Service which amounts to forced labour in violation of international law by taking concrete measures including:

- Promptly demobilizing all those who have served more than the 18 months of national service, and provide reparations, including compensation proportionate to the excess time served;
- Adopting new policies or amending existing policies on national service, including the WYDC, to end the practice of indefinite national service as well as effective demobilization of all conscripts who have served more than legally stipulated 18 months of service;
- Ending the practice of assigning National Service conscripts as labour to private companies; and
- Ensuring that all conscripts, whether during training or in their assigned posts, are provided with accommodation and conditions which comply with international human rights standards, in particular guaranteeing their rights to food, water, adequate housing and the highest attainable standard of physical and mental health.

## FREEDOM OF RELIGION (ARTICLE 8)

The Eritrean government maintains that freedom of religion is protected by law, specifically Proclamation No. 73/1995. However, since 2002, all religious groups - except the Orthodox, Catholic, Protestant (Evangelical and Lutheran) and Islam - were not able to exercise their freedom of religion because of government's ban of their operation until they re-register. Some minority religious groups reportedly attempted to re-register, but none were successful. Faith groups who receive funding from external sources are subject to particular scrutiny.<sup>18</sup>

Since 2002, scores of people have been arrested for practising their religion not recognised by the state.<sup>19</sup> Others have been arrested for conscientious objection to military service on religious grounds, for suspected links with opposition movements supported by particular religious groups and for opposing government interference in religious affairs. These arrests and restrictions amount to violations of the right to freedom of thought, conscience and religion. None of those arrested are charged with a crime or taken to court. According to

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<sup>18</sup> Eritrea Initial National Report to African Commission on Human and Peoples' Rights (1999-2016), 28 March 2018 para. 67.

<sup>19</sup> Amnesty International, *Eritrea, 20 years of independence, but still no freedom* (AFR 04/001/2013), May 2013, p 21.

testimonies and reports received by Amnesty International in 2013, the arrests often take place during raids on prayer and worship meetings in private homes, or at weddings and funerals.<sup>20</sup>

Amnesty International has documented that Jehovah's Witness faith groups are among those systematically persecuted by the Eritrean authorities. Since 1994, the Eritrean authorities have stripped citizenship rights from followers of Jehovah's Witnesses because they allegedly refused to vote in the 1993 independence referendum, because their faith demands political neutrality. They are also persecuted because of their conscientious objection to the military service as their faith prohibits bearing arms. Many Jehovah's Witnesses have been arrested and remain in prolonged detention, without charge or trial.<sup>21</sup>

Leaders of registered religious groups are not spared from arbitrary arrest and detention either. Abune Antonios, Patriarch of the Eritrean Orthodox Church, who objected government's interference into Orthodox Christianity, has been under house arrest since 2006. A group of 40 Muslim clerics and scholars from the Saho ethnic group have been in detention since 2008.<sup>22</sup>

Government restrictions on religious freedom is also manifested through government regulatory controls on operations of private schools, and religion-affiliated schools. The 31 October 2017 protests in Asmara were caused by a government directive that required the Al Dia a Islamic School to drop religious teachings, ban the use of hijab and stop the separation of sexes. The now late Hajji Musa, who was a board member of the Al Dia a Islamic School - a school that teaches Islam in addition to the secular curriculum - was arrested in October 2017 together with the rest of his colleagues on the board after publicly speaking out against the government's efforts to impose restrictions on their school. His health deteriorated after his arrest and died in custody in March 2018 but the rest of the school board members remain in detention. None of them have been charged or brought to Court.

Amnesty International calls on the Eritrean government to:

- Repeal or amend all national laws and policies that violate the rights to exercise freedom of religion and ensure these rights are fully guaranteed and protected;
- Make provision for conscientious objection to military service and ensure that, if conscientious objectors are not entirely exempted from military service, they have the option to perform an appropriate alternative non-punitive service of a civilian character under civilian control and of a length

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

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

<sup>22</sup> Amnesty International, *Eritrea, 20 years of independence, but still no freedom* (AFR 04/001/2013) May 2013, p 24.

comparable to that of military service;

- End all practice of arbitrary interference with religious institutions that violate the right to freedom of religion; and
- Release immediately and unconditionally all those arbitrarily detained because of their religious beliefs, including Abune Antonios (who is under house arrest), the 40 Muslim clerics who have been detained since 2008, and board members of Al Dia Islamic School or bring them to court with a credible charge, if any.

## **FREEDOM OF EXPRESSION (ARTICLE 9)**

Freedom of expression remains severely restricted in Eritrea. At least 17 journalists are arbitrarily detained some of whom have been in detention for many years.<sup>23</sup> The 11 former government officials and 10 journalists who were arrested in 2001 remain in arbitrary detention.

The 11 former government officials are part of the group (commonly referred to as the G15) who wrote an open letter to members of the PFDJ in May 2001 in which they made 'a call for correction [of the party's wrong path], peaceful and democratic dialogue, the rule of law and justice.' Eleven of them were arrested on 18 September 2001,<sup>24</sup> three of the remaining members were able to avoid arrest as they were outside of the country, and one member of the group retracted his signature after being arrested.

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

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<sup>23</sup> Committee for Protection of Journalists, CPJ welcomes release of six Eritrean journalists, <https://cpj.org/2015/01/cpj-welcomes-release-of-six-eritrean-journalists.php>, 23 January 2015.

<sup>24</sup> Those arrested were Haile Woldetensae; Mahmoud Ahmed Sheriffo (who was later Vice-President); Petros Solomon; Aster Fissehatsion, a prominent female EPLF leader; General Ogbe Abraha, Major-General Berhane Gebregziabeher; Brigadier General Estifanos Seyoum; Beraki Gebreselassie; Hamad Hamid Hamad; Saleh Kekiya; and Germano Nati.

democratic reform, including interviews with the G15 members and their own opinions on democratic reform. There is no publicly available information on the fate of these detainees except some unconfirmed reports of deaths while in detention.<sup>25</sup>

The incommunicado detention of political dissenters and journalists in secret locations and denial of their rights to lawyers, a fair trial, and access to family for such a long time is a severe violation of Articles 9, 10 & 11 as well as Articles 4,6,7,8, and 13 of the African Charter on Human and Peoples' Rights.

Amnesty International calls on the Eritrean government:

- To release, immediately and unconditionally, all people detained arbitrarily, including the 11 former government officials and 10 journalists.

## ACCESS TO INFORMATION (ARTICLE 9)

The Eritrean government claims that Eritrean public media reflects the truth and reality of national development, and that it is a platform for critical reflection, constructive opinion and knowledge.<sup>26</sup>

Since 2001, the government has withdrawn licenses of all independent newspapers and arrested 10 prominent journalists.<sup>27</sup> Even journalists working for government controlled media outlets are not spared of arbitrary arrest. For instance, on 22 February 2009, an estimated 50 people, comprising the entire staff of Radio Bana – a station broadcasting educational programmes under the sponsorship of the Ministry of Education – were reportedly arrested. Most were reportedly released soon after, but at least 12 remain in arbitrary detention. They

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<sup>25</sup> The only information the public has been given regarding the prisoners' fates is through a former prison guard's interview with Human Rights Concern Eritrea in 2011. <http://www.asmarino.com/interviews/1182-interview-with-eyob-bahta-english-version> (last accessed 23 March 2018). The interviewee stated that Fessehaye (Joshua) Yohannes (journalist), Ogbe Abraha (PFDJ official), Mohammed Sherifo (PFDJ official), and Aster Fissehatsien (PFDJ official) have all died. Haile (Durue) Woldetensae's (PFDJ official) death was reported in February 2018. It is also widely reported, but not verified, that Fessehaye (Joshua) Yohannes (journalist), Medhanie Haile (journalist), Yusef Muhamed Ali (journalist), Mattewos Habteab (journalist), and Said Abdulkadir (journalist) have also died in prison.

<sup>26</sup> Eritrea Initial National Report to African Commission on Human and Peoples' Rights (1999-2016), 28 March 2018, paras. 72 and 74.

<sup>27</sup> Amnesty International, Eritrea, *20 years of independence, but still no freedom* (AFR 04/001/2013), May 2013, p 19

have not been charged or brought before court.<sup>28</sup> In February and March 2011, four journalists working for the government-controlled radio Dimtsi Hafash were arrested but have not been charged or brought to court.<sup>29</sup>

According to the Internet World Stats, only 1.3 percent of the Eritrean population has access to internet.<sup>30</sup> That makes Eritrea the country with the lowest percentage of internet users in Africa. Access to phone SIM cards is allowed only for people who have clearance from the government or are excused from national service.

Amnesty International calls on the Eritrean government to:

- allow journalists and all media workers to operate freely and independently including ensuring effective legal protection against arbitrary arrest, harassment and intimidation; and
- allow the establishment and operation of private media institutions and services, including reinstating licenses of all independent newspapers revoked since 2011.

## **RESTRICTIONS ON THE FORMATION AND OPERATIONS OF CIVIL SOCIETY ORGANIZATIONS (ARTICLES 10 & 11)**

The Eritrean government states that it respects freedom of association and assembly, and that all national associations in Eritrea are autonomous bodies that work independently once they are registered.<sup>31</sup> However, the reality of many civil society organizations (CSOs) is far from independence and non-interference by the authorities. Eritrean government severely restricts the formation and operation of independent CSOs. Proclamation 145/2005, *A Proclamation to determine the Administration of Non-Governmental Organizations*, limits the operations of

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<sup>28</sup> Amnesty International, Eritrea, *20 years of independence, but still no freedom* (AFR 04/001/2013), May 2013, p 20

<sup>29</sup> Amnesty International, Eritrea, *20 years of independence, but still no freedom* (AFR 04/001/2013), May 2013, p 20

<sup>30</sup> Internet World Stats, Internet Users in Africa, June 2017, available at <https://www.internetworldstats.com/stats1.htm>, (Seen on 26 February 2018).

<sup>31</sup> Eritrea Initial National Report to African Commission on Human and Peoples' Rights (1999-2016), 28 March 2018, paras 69 and 71.

CSOs only to relief and rehabilitation organizations.<sup>32</sup> CSOs that wish to undertake development projects may only be allowed if they implement the projects in partnership with government ministries.<sup>33</sup>

Amnesty International calls on the Eritrean government:

- To ensure, respect and guarantee freedom of association, including the freedom to form independent associations for any and all lawful purposes; and
- To amend Proclamation 145/2005 to allow the formation and operation of independent civil society organizations without any restriction other than those which are prescribed by law and which are necessary in a democratic society in the interests of national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others.

## FREEDOM OF MOVEMENT (ARTICLE 12)

The Eritrean authorities impermissibly restrict the right to freedom of movement, including the right to leave the country. People moving without permits within the country or trying to leave Eritrea are subjected to arbitrary arrest and detention. The authorities also continue to implement the infamous shoot-to-kill policy on Eritreans trying to cross the border into Ethiopia. Eritreans within the age range of national service, 18 to 50 years, in accordance with the national service proclamation, are allowed to travel abroad only upon producing evidence of exemption from national service or a certificate of service.<sup>34</sup> This affects significant portion of the Eritrean population, where the national service in Eritrea is indefinite.

The Proclamation allows travel abroad upon the deposit of 60,000 Birr (Eritrean currency at the time of proclamation) as a guarantee for returning back to the country.<sup>35</sup> However, there is no available information on the implementation of this provision of the proclamation.

Because of the severe restrictions on freedom of movement, Eritreans have resorted the use of

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<sup>32</sup> Proclamation 145/2005, A Proclamation to determine the Administration of Non-Governmental Organizations, Article 7(1).

<sup>33</sup> Proclamation 145/2005, A Proclamation to determine the Administration of Non-Governmental Organizations, Article 7(4).

<sup>34</sup> Eritrea, National Service Proclamation No.82 1995, Article 17.

<sup>35</sup> Eritrea, National Service Proclamation No.82 1995, Article 17.

people smugglers and crossing the borders in hiding from the security forces operating in boarder areas. Those caught attempting to leave are subjected to arbitrary detentions, fines and extortion.

Amnesty International calls on the Eritrean government:

- to respect, protect, promote and ensure the right to freedom of movement, including the right to leave the country.

## COOPERATION WITH INTERNATIONAL HUMAN RIGHTS MECHANISMS

The Eritrean government has had very little interaction with international human rights bodies since its independence. United Nations Commission of Inquiry on Eritrea and the Special Rapporteur on Eritrea both repeatedly sought permission to visit the country, but the Eritrean Government refused to grant them access.

In 2003, the African Commission issued a decision calling for the release of the 11 former government officials in arbitrary detention since 2001 but it was never implemented.<sup>36</sup> In 2005, the African Commission adopted *Resolution 91 on the Human Rights Situation in Eritrea* including calling upon the Eritrean government to implement the decision to release the 11 former government officials.<sup>37</sup> The Eritrean government has still not complied with the decision of the Commission.

In 2007, the African Commission decided another case regarding 18 journalists who were arbitrarily detained without being charged. In *Article 19 v Eritrea*, the African Commission found that the rights to liberty, freedom from torture, and freedom of expression of the 18 journalists had been violated. The Commission reiterated its recommendations to the Eritrean government that it lift the ban on free press and either release the journalists or grant them access to a speedy and fair trial.<sup>38</sup> The African Commission also stressed the fact that the

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<sup>36</sup> See *Zegveld and Another v Eritrea*, African Commission on Human and Peoples' Rights, 34th Ordinary Session, 6-20 November 2003.

<sup>37</sup> Resolution 91 of the African Commission on Eritrea called on the Eritrean government to guarantee, at all times, the right to a fair trial, freedom of opinion and expression as well as the right to peaceful assembly immediately free the former cabinet ministers, government officials, members of Parliament, journalists, media practitioners and other individuals who have been arrested and detained without trial for many years.

<sup>38</sup> *Article 19 v Eritrea*, African Commission on Human and Peoples' Rights, 41st Ordinary Session, 16-30 May 2007.

Eritrean government lacked the legal remedies to effect the human rights protections guaranteed in the African Charter on Human and Peoples' Rights. However, none of the Commission decisions and recommendations have been implemented or even considered by the Eritrean government.

Most recently in 2017, the African Commission released a decision reaffirming its findings in *Article 19 v Eritrea*, where it held that the Eritrean government should lift its ban on the free press and release, or bring to a speedy and fair trial, the 18 journalists detained since 2001.<sup>39</sup> However, all the Commission decisions remain simply ignored by Eritrea.

The United Nations Commission of Inquiry on Eritrea, established in 2014, was mandated to investigate international human rights violations reported by the Special Rapporteur on Eritrea.<sup>40</sup> The Commission's first report documented a wide range of human rights violations, including enforced disappearances, torture, arbitrary detention, enforced servitude, extra judicial executions and different forms of gender-based violence.<sup>41</sup> The Commission of Inquiry's second report, which was adopted at the United Nations Human Rights Council's 32nd Session in July 2016, reiterates its initial findings, and sets forth various recommendations.<sup>42</sup> After the Commission's report, the United Nations Human Rights Council called for an amelioration of the human rights situation in Eritrea (echoing the requests made by the African Commission regarding the jailed journalists and former government officials, among others). The Council also highlighted the importance of an accountability mechanism through the African Union and/or through another regional mechanism in order to ensure implementation of the Council decisions and recommendations.<sup>43</sup>

The United Nations Special Rapporteur on Eritrea and the United Nations Commission of Inquiry on Eritrea have made several recommendations, which have never been implemented by Eritrea.

Eritrean government's response to these piling amounts of independent reports and recommendations has been either a deafening silence or a simple dismissal of the reports, evidences, decisions and recommendations. If the Eritrean government is genuinely

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<sup>39</sup> *Dawit Isaak v the Republic of Eritrea*, African Commission on Human and Peoples' Rights, 16<sup>th</sup> Extra-Ordinary Session, 16-25 February 2016.

<sup>40</sup> See generally Report of the United Nations Special Rapporteur on the Situation of Human Rights in Eritrea, 28 May 2013, Document No. A/HRC/23/53; Report of the United Nations Special Rapporteur on the Situation of Human Rights in Eritrea, 13 May 2014, Document No. A/HRC/26/45; and Report of the United Nations Special Rapporteur on the Situation of Human Rights in Eritrea, 19 June 2015, Document No. A/HRC/29/41.

<sup>41</sup> See generally Report of the United Nations Commission on Human Rights in Eritrea, 5 June 2015, Document No. A/HRC/29/CRP.1.

<sup>42</sup> See Report of the United Nations Commission of Inquiry on Human Rights in Eritrea, 8 June 2016, Document No. A/HRC/32/CRP.1, paras. 347-364.

<sup>43</sup> See UN Resolution on the Human Rights Situation in Eritrea, 28 June 2016, Document No, A/HRC/32/L.5/Rev.1, para. 18.



committed to engagement with the international and regional human rights mechanisms, it should demonstrate it by implementing the long pending recommendations and decisions of the African and international human rights bodies.

- Amnesty International urges the Eritrean government to respond to requests and grant unhindered access to regional and international human rights bodies and monitors so that accurate human rights reporting and recommendations can be made to improve the human rights situation; and
- Amnesty International also calls on the Eritrean government to implement, as a matter of urgency, all pending African Commission decisions, specifically:
  - Release immediately and unconditionally all those arbitrarily detained including journalists and former government officials; and
  - Lift the ban on independent press.

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