



Human Rights Concern Eritrea
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A Submission on the Initial Report of the Government of Eritrea (1999 -2016)

**To the African Commission for Human
and Peoples Rights (ACHPR)**

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Table of Content

Abbreviations	4
Map of Eritrea	6
Glossary.....	7
A. Introduction.....	8
B. Background.....	10
C. Rule of Law - Legal and Institutional Drive for Development - Establishing Political base 11	
Transition of Provisional Government of Eritrea (PGE)	11
EPLF/PFDJ 3 rd Congress 1994; G15 Dissidents (2001)	13
PGE, Constitution, National Assembly Elections.....	16
1997 Ratified Constitution	17
Plans for New Constitution	18
Transitional Codes /2015 Codes	18
D. Rule of Law – Erosion	19
Judiciary /Special Court	19
Judiciary /Village/Community Courts.....	25
Judiciary /Military Courts	27
Military Justice and 2013 mutiny.....	29
E. Arbitrary Detention- Extrajudicial Killing – Torture.....	30
Rights of persons in Detention.....	30
Detention – Nay Hadera Prisoners	32
Detention – Arbitrary Arrests	32
Detention and Torture	34
Extrajudicial killing	37
F. Freedom of Expression- Freedom of Association and Assembly – Freedom of Religion 40	
Erosion of Rule Freedom of expression media	40
Freedom of Movement	46
Freedom of Assembly / Association.....	47
Freedom of Religion	50
G. National Service.....	52
National Service and Warsai Yikaalo Development Campaign.....	52
Militarisation of Education.....	54
Hizbawi Serawit – National Defence Units	56
Forced Labour.....	56
Underage Recruitment.....	58
H. International and Regional Instruments.....	63
I. Testimony – Eritrea: Ten years of Torture	66
J. Rule of Law - Political and Democratic Rights	67
Political party and Electoral law	67
K. Rule of Law - Social and Economic and Cultural Rights.....	69
Grassroots view (Catholic Bishops Pastoral Letter 2014)	69
Lack of reliable economic data	71
Government Control of the Economy	75
Government Control of the Economy – Killing the Private Construction Industry	79

Government Control of the Economy – Demolish their Houses	80
L. Extractive Industry	82
Government Mining Joint Ventures	82
Bisha Mining Corporation (ENAMCO and Nevsun Resources Ltd)	84
Bisha Share Mining Corporation and surrounding community	87
Mining in Eritrea – the money trail	91
Foreign Exchange – National Currency- Business Licences	92
PFDJ Control of Foreign Exchange	92
Freezing the National Currency	92
Disruption of Business Licence System	94
M. Woman Rights	95
Women and Forced Labour	95
Young Women Unable to Establish Families	96
Women and Prison Conditions	97
Women and Access to Livelihoods	99
Rape and Children who do not know their father	99
Women – Freedom of Religion - the Right to Worship	100
N. Child Right.....	100
O. Conclusion.....	103
P. Recommendations	112
To the Government of Eritrea: For the restoration of free speech	112
For the restoration of checks and balances as required by the rule of law	113
For the restoration of personal liberties and a just social order	113
To the African Commission for Human and Peoples Rights:	114
Schedule 1 – UNHRC of Inquiry Eritrea – List of places of detention identified by the Commission of Inquiry	116
Detention facilities in Eritrea documented by the Commission of Inquiry on human rights in Eritrea	116
No.....	116
Prison Name.....	116
No.....	116
Prison Name.....	116
1	116
35	116
Gelealo	116
2	116
36	116
Gegera.....	116
3	116
37	116
4	116
38	116
Additional detention facilities reported during the investigation by the Commission of Inquiry on the human rights.....	117
Schedule 2 - Extrajudicial Killing –Eritrean Liberation Front	117
Post Liberation War Veterans.....	117
Post Liberation Military protest 1993.....	117
Eritrea Ethiopia Border War 1998-2000	118
Schedule 2A - HRCE - Interview with Former Prison guard Mr. Eyob Bahta:	119

Eritrea Ten Years of Torture.....	119
Schedule 3 -Mineral Sector	134
Schedule 4 - Mining Joint Ventures (Eritrea Ministry of Energy and Mines, 2014).....	136
Zara Mining Share Company (ENAMCO and SFECO Group subsidiary of Shanghai Construction Group).....	136
Asmara Mining Share Company (ENAMCO and Sunridge Gold Corporation)	136
Coluli Mining Share Company (ENAMCO and South Bolder Mines) – potash	136
Kerkebit Mining Share Company (ENAMCO and Sinchuan Road & Bridge Mining Investment and Development Company (SRBM)	136
Schedule 5 - The Committee on the Rights of the Child Concluding observations on the fourth periodic report of Eritrea highlight the following issues/concerns:	145
References	147

Abbreviations

ACHPR	African Charter for Human and People's Rights
ACHR	African Commission for Human Rights
ACRWC	African Charter for the Rights and Welfare of Children
CCE	Constitutional Commission of Eritrea
CC-EPLF	Central Committee of the EPLF
CA	Constitutional Assembly
CCR	Convention Child Rights
BMSC	Bisha Mining Share Company
EDEA:	Eritrean Diaspora in East Africa
EDF	Eritrean Defence Force
ENAMCO	Eritrean National Mines Corporation
ERA	Eritrean Relief Association
ESCA	Eritrean Solidarity and Cooperation Association
EPLF	Eritrean People's Liberation Front
G15:	Dissenting Ministers and Senior Officers of the Government of Eritrea arrested and disappeared in September 2001, and some exiled: i. <u>Petros Solomon</u>; ii. <u>Mahmoud Ahmed Sherifo</u> (deceased); iii. <u>Haile Woldensae</u> (Duro – confirmed deceased March 2018); iv. <u>Mesfin Hagos</u> (exiled); v. Hamid Hmd vi. <u>Ogbe Abraha</u> (deceased); vii. <u>Estifanos Seyoum</u> (deceased); viii. <u>Berhane Ghebrezgabiher</u>(deceased); ix. <u>Astier Fesehazion</u>(deceased); x. <u>Saleh Idris Kekya</u> xi. <u>Germano Nati</u> (deceased); xii. <u>Beraki Gebreselassie</u> (deceased); xiii. <u>Adhanom Ghebremariam</u>; xiv. <u>Mahamoud Ahmed</u>; xv. Haile Menkerious (exiled)
GHI	Global Hunger Index

FEWSNET	Famine and Early Warning System Network
HDI	Human Development Index
HRCE	Human Rights Concern Eritrea
ICCPR:	International Convention of Civil and Political Rights
MDG	Millennium Development Goal
NASPP	National Agency for the Supervision and Privatisation of Public Enterprises
<i>JSC</i>	<i>Judicial Services Commission</i>
NA	National Assembly
NCEW	National Confederation of Eritrean Workers
NUEW	National Union of Eritrean Women
NUEYS	National Union of Eritrean Youth and Students
PGE	Provisional Government of Eritrea
RSTC	Red Sea Trading Corporation
Report	Eritrea: Initial National Report (1999-2016) ACHPR
PFDJ	People's Front for Democracy and Justice
SC -EPLF	State Council - EPLF
SDG	Sustainable Development Goal

Map of Eritrea



Glossary

Frozen:	A persons who is Frozen is usually a member PFDJ – who has displeased the party and is punished through a process of isolation from work and travel restrictions though the person may continue to receive a salary” which means that he cannot be employed and his movements within the country are monitored and he cannot travel out of the country.
Nay Hadera:	Detainees/prisoners entrusted to the Police by National Security/Military. These prisoners are not afforded any protection under the law – they are outside of the rule of law.

A. Introduction

1. Human Right Concern Eritrea (HRCE) is an Eritrean -led non-political human rights organisation. Presently, HRCE is unavoidably, located outside of Eritrea. Our focus is: research and documentation of human right issues affecting Eritreans both in Eritrea as well as in the diaspora. HRCE is also active in human right advocacy and as part of this effort has previously made submissions to: UN Human Right Council and other bodies that are following Eritrea.
2. We have worked and are working closely with African and International human rights organisations, to ensure that human right violations in Eritrea are reported and that Eritrean voices are heard in International Human Rights Fora. HRCE is a founding member of the East and Horn of Africa Human Rights Defender Network
3. HRCE, welcomes the submission by the Government of Eritrea of the report: “Eritrea: Initial National Report (1999- 2016)” (the Report). And, specifically we welcome the opportunity to engage with the report to truly improve the human right situation for Eritreans at home as well as in the Diaspora.
4. We would encourage the Eritrean Government, in the future to submit such report on as and when they are due. The current report covers a time span of seventeen years (17) this makes it very difficult to engage in a meaningful way.
5. We note that the structure of the Report is such as to indicate that “**Everything is fine and proceeding on track**” and that there is no reference as to which:
 - a. provisions and or directives of the ACHPR and other International Human Right Treaties Eritrea has complied; and
 - b. provisions and or directive of the ACHPR and other International Human Right Treaties Eritrea is yet to comply with.

We strongly urge the inclusion of such statements in future reports as this would enhance dialogue and exchange of ideas.

6. We note the explanation under the heading: “**National Report: Scope and Methodology**” as to the involvement in the preparation of the report of “**Relevant Ministries and National Civic Organisations**”. Though not specifically mentioned by name in the methodology section, it is clear from the context of the report that the relevant “**Civic Organisations**” are: National Union of Eritrean Women (NUEW); the National Union of Eritrean Youth and Students (NUEYS) and the National Confederation of Eritrean Workers (NCEW).
7. While their participation is necessary, these organisations are not independent Civil Society organisations. They are mass movement organisations linked to the ruling party that played key roles during the liberation period. They supported the Eritrean People’s Liberation Front (EPLF) now the People’s Front for Democracy and Justice (PFDJ) in the organisation and the execution of the “**Liberation Struggle**”. **And, since have continued to operate as extensions of the PFDJ.** An exception to the norm, for a brief period, was the NCEW which from 2000 to 2005 established an independent NGO called ESCA to address the post 2000 Eritrea Ethiopia conflict emergency. This experiment terminated in 2005.

8. We note the lack of any mention of consultation with Faith Based organisation. A matter of high relevance in a country where faith is of primary importance to the people as well as the Government's ongoing religious persecution of those faiths who insist in the right of conscientious objection to "**Military Service**" and who expressed differing opinions on matters of independence ¹
9. Particularly in regard to faith, we highlight the recent tensions with the Muslim Community², the closure of the Catholic Theological School, as well as of six (6) the Health Clinics operated by Catholic Mission; the insistence that seminary students must undertake "**National Service**"; the ongoing arrest of Abbuna Antonios (Eritrean Orthodox Church) and the two Pastoral Letters Written by the Catholic Bishop in response to social political crisis in the country in 2001 and 2014³
10. There is no indication, in the report, of any consultation or an open and frank engagement with the Eritrean Diaspora. This is an interesting omission given that Eritrean Diaspora features prominently in the "**Nation Building/Development**" section of the Report. The Diaspora is not merely an important source of: "**Remittances**" **and the taxation a resource to be exploited**. The Diaspora is increasingly made up of youth and unaccompanied minors fleeing the human right, economic and social conditions in the country and are seeking asylum and refugee status. This aspect of the Diaspora is hardly considered in the Report.
11. The Report affirms that Eritrea is doing well and is on track on issues of governance, civil and political rights as well as the economy. In this document HRCE will endeavour to demonstrate that this is not the case. We will demonstrate that Eritrea is not on track or doing well in the areas of rule of law, effective accountable institutions for all, independence of the Judiciary, human rights, as well as building economic foundation.
12. Presently the Fragile State Index places Eritrea within the category of countries designated as "**alert**" ⁴ And, the expectation, given the current trend, is that no significant progress will be made building state institutions until 2030⁵
13. Eritrea remains a one-party state, where only the People's Front for Democracy and Justice (PFDJ) is legal. The Constitution, which guaranteed a multi-party system, was ratified in 1997 but has not been implemented and the process for adopting a new Constitution is not transparent.
14. There is no independent media and there are no independent civil society organisations. Those organisations such as the National Union of Eritrean Women (NUEW); the National Union of Eritrean Youth and Students (NUEYS); and the National Confederation of Eritrean Workers

¹ Jehovah witnesses, Evangelicals.

² El Daa Muslim School, arrest of School Board Members and Haji Musa Mohamed Nur

³ 2001 – Catholic Bishop Pastoral Letter: "God Loves this Country"

2014 – Catholic Bishops Pastoral Letter: "Where is your Brother?"

⁴ (United Nation Security Council, 2011) – The Fragility State Index -98.1 out of 178 countries – status *alert*;

"... a number of other countries that have worsened significantly – such as Senegal, Eritrea, Mozambique, Central African Republic, and Guinea-Bissau – receive little attention in the world's media.

⁵ OECD – State Fragility Meeting post 2015 Ambitions

(NCEW) are mass movement organisations formed during the liberation struggle and who post-independence have remained strongly affiliated and connected to the PFDJ and the Government. Faith based organisations have been circumscribed and limited to pastoral activities and religious based and ethnic based persecution remains a feature of the country

B. Background

1. Eritrea is a Horn of Africa country bordered by Sudan in the West, Djibouti in the South East, Ethiopia in the South and the Red Sea in the East. The total surface area of the country is approximately 117,600 Km². Eritrea is a multi-ethnic country with nine recognised ethnic groups: Afar, Bilen, Hidareb, Kunama, Nara, Rashaida, Saho, Tigre, Tigrigna.
2. The main economic activity of the people of Eritrea is agriculture. Pastoralism and Agro-pastoralism are dominant economic activities in most lowlands, and sedentary farming is practiced as the main activity of the highlands
3. From 1889 to 1941 Eritrea was an Italian colony; from 1941 to 1952 the country was under British Administration; from 1952 to 1962 Eritrea was an autonomous region within Ethiopia (i.e. federated); 1962 Ethiopia annexes the autonomous region of Eritrea and the armed struggle for independence starts.
4. Eritrea became formally independent following an internationally supervised referendum in April 1993, two years after the Eritrean People's Liberation Front (EPLF) achieved a decisive military victory over Ethiopia in May 1991. From 1993 to 1998 Eritrea and Ethiopia maintained a warm political, security and economic relations and followed a robust joint regional agenda.
5. After thirty (30) year of liberation struggle the achievement of liberation in 1991 and independence in 1993 was supposed to be a time to attend to national healing and national integration. During the liberation struggle Eritrean society was comprised of: (a) Civilian communities in the liberated areas - exposed to the EPLF experience but not totally transformed; (b) Civilian communities which had lived under Ethiopian rule up to the end of the liberation war (i.e. Asmara); (c) Various diaspora communities and their respective experiences.
6. Upon liberation, there was an opportunity for the Eritrean People's Liberation Front (EPLF) to engage in a process of reconciliation amongst the Eritrean People and to recognise and embrace the role of other Eritrean Liberation Movements such as the Eritrean Liberation Front (ELF) in the struggle for independence. The EPLF rejected calls to form a Government of national unity based on a coalition between the two liberation fronts (EPLF and ELF). A winner takes it all approach.⁶
7. Instead the EPLF banned all other political parties from the country. An action that was to foretell their attitude to the formation of political parties and the democratisation process in Eritrea. Therefore, the process that was undertaken was not one of reconciliation or healing, rather it was a process of highlighting from the start that the EPLF experience would be the only relevant one for national integration. National integration is the extension of the EPLF project to all segments of Eritrean society.

⁶ (Yohannes, 2004, p 44) – Chapter 2

8. In 1998 there was a resumption of hostilities between Eritrea and Ethiopia. The border war inflicted great loss of human life, damage to infrastructure and resulted in the displacement of almost one third of the total Eritrean Population (at the time estimated to be just over 3 Million). Further, because of the war both countries engaged in the forced expulsion of people. Seventy-five thousand (75,000) civilians of Eritrean origin were deported from Ethiopia and from Eritrea seventy thousand (70,000) Ethiopian residents were expelled or were expelled or were voluntarily repatriated.
9. On 18 June 2000, the Government of Eritrea and Ethiopia signed the Cessation of Hostilities Agreement (CHA) and on 12 December 2000 the Algiers Peace Agreement was signed. And, by July 2000 the UN Security Council established the UN Peace Keeping Mission Eritrea Ethiopia (UNMEE) and by April 2011 the Temporary Security Zone (TSZ) as per the Algiers Agreement was established.
10. On 13 April 2002 - the Boundary Commission, established under the Algiers Peace Agreement delivered its decision delimiting the 1,000 Km border and placing the border town of Badme, the flashpoint of the border conflict, within Eritrea. Though initially both parties accepted the decision, Ethiopia eventually presented a detailed response that raised questions about the process.
11. Though the border has been delimited and demarcated and UNMEE has closed operations in the area, because of the continued Ethiopian presence in Badme, between Eritrea and Ethiopia there exists a “no war no peace” and as consequence within Eritrea, the Government has maintained a high level of militarisation and the democratisation process and the formation of political parties has been indefinitely suspended. Instead an authoritarian government has been imposed on the Eritrean People, as a result the Human Right situation in Eritrea is deteriorating and specifically the Civil and Political right of Eritreans of Eritrean are being denied to such a degree that in 2016 the UN Human Right Commission found that : ***“Crimes against humanity have been committed in a widespread and systematic manner in Eritrean detention facilities, military training camps and other locations across the country over the past 25 years”***⁷

C. Rule of Law - Legal and Institutional Drive for Development - Establishing Political base

Transition of Provisional Government of Eritrea (PGE)

1. In paragraph 12 to 21 the Report develops a narrative of legality and legitimacy. We will demonstrate that the narrative of legality and legitimacy like so many things in Eritrea is a smoke screen than hides reality. The fact remains that the present Government is an unelected Government who lacks the confidence of its people, who as they are unable to change the government through a ballot box are instead voting with their feet and leaving in the thousands. Thus, in their own way, exercising civil and political rights.

⁷Geneva, 08, June 2016; UN Inquiry Finds Crimes Against Humanity in Eritrea; <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=20067&LangID=E>

2. The Provisional Government of Eritrea was established through a series of Proclamations. The latest of which is Proclamation No 37/1993 – which unilaterally extended the period of the PGE by an additional four (4) years (i.e. 1993 to 1997). The Proclamation also prescribed the organisational structure of the PGE as consisting of: (i) the Legislative (i.e. the National Assembly); (ii) the Executive (i.e. the Cabinet); (iii) the Judiciary - and had the effect of making the then ‘undeclared **Presidential**’ system of government official - **Thus, pre-empting the Constitutional development process.**
3. The structure of the PGE, as described by Proclamation No37/1993, was fully formed and operational prior to the enactment of the said Proclamation and was never approved by the National Assembly. There was no election or other form of people’ consultation or participation in its formation.
4. ‘**National Assembly**’ was composed of: (i) the State members of the Central Council PFDJ – (75 representatives); (ii) three (3) representative members per province⁸ chosen by the PFDJ (i.e. Regional Assemblies); (iii) ten (10), women representatives nominated by the PFDJ; (iv) twenty(20) representatives of other nationalities.⁹ In this system the President as the Chair of the PFDJ presided over the **National Assembly, the PFDJ Central Council and the Cabinet of Ministers. This centralisation of power led to a failure to separate the Governance of the PFDJ as a party and the Governance of the State of Eritrea.**
5. The centre of power of the PGE – was and continues to be the Office of the President. The President, exercises his authority over the work of all the ministers, especially the sensitive Ministries such as: Defence, Foreign Affairs, and Justice as well as other government agencies. A practice that continues to date and is preventing the formation of stable and capable institutions.
6. Contrary to what is stated in the Report the National Assembly has never met on a regular basis since inception. Except for Cabinet Ministers confirmed in 1994, it has never been consulted about any of the ministerial and other executive changes that the President has made since. Nor has the National Assembly been presented with any national budget for review and approval; or with any regional or international treaties for its consideration and confirmation.
7. To date the appointment of Government Ministers and other Government executives, far from being an orderly and transparent process, it is a process that is determined by the President who recruits a narrow circle of advisor, mostly drawn from the EPLF/ Peoples Front Democracy and Justice (PFDJ) who rubber stamp the President’s decisions.
8. The same disregard that has been exhibited for the National Assembly is also displayed towards the role of the Cabinet. Instead of the monthly meetings it meets at the discretion of the President. It has not developed any system for receiving and reviewing the implementation of policies, decisions, laws and programmes of the Government and its agencies.

⁸ In 1992 in Eritrea there were ten (10) Provinces: (i) Asmara; (ii) Akele Guzai; (iii) Barka; (iv) Dankalia; (v) Gash Setit; (vi) Hamasien; (vii) Sahel; (viii) Semhar; (ix) Senhit;(x) Seraye

⁹ (United Nation Security Council, 2011) (Council, 2016)

9. The EPLF now the Peoples Front Democracy and Justice (PFDJ), availing themselves of the good will of the people of Eritrea; building on narrative as to their liberator status, thus deliberately downplaying the more complex realities of the liberation struggle which was also a period of civil war, have; established within the country an ‘**oligarchy formed by former fighters**’¹⁰ Thus, abusing the “**good faith and trust**” of the people of Eritrea.

EPLF/PFDJ 3rd Congress 1994; G15 Dissidents (2001)

10. Paragraph 13 of the Report refers to the EPLF 3rd Congress held in February 1994, where the National Charter, outlining the vision for “**Nation Building**” and “**the establishment of a constitutional democratic order**” was declared and the EPLF was transformed into the PFDJ. The Congress was a long overdue¹¹ and necessary step in the evolution of the Country, however it was not a democratic participatory process as the outcome of the Congress was already decided at a secret leadership meeting that preceded. The secret leadership meeting, endorsed the “**New National Charter**” as well as the “new leadership organs” of the EPLF/PFDJ that were to be presented to the Congress. In 1994 the EPLF admitted to the existence of this secret inner circle known as the Eritrean People’s Revolutionary Party(EPRP).
11. On the eve of the Congress, the General Secretary (i.e. the President of the State of Eritrea), unilaterally altered the finally agreed upon list of members for new leadership organs removing Romadan Mohamed Nur¹² from the list. By this action the President further weakened the inner leadership of the EPLF.
12. Clearly the EPLF had been operating a governance system based on smoke and mirrors rather than democratic participation since its inception when the EPRP was first formed to guide the EPLF. The weakening and the dissolution of the EPRP at the 3rd ELF congress did not bring openness or transparency in the leadership of the EPLF/PFDJ and by extension the Eritrean Government. Rather it has brought about the total control of the Eritrean Government by the President as now nobody knows who is “**in the ‘inner leadership’**” and “**who is not**” creating a situation of “**Divide et Imperia**”¹³
13. The 1994 National Charter, reaffirmed the validity of the ethos and experience of the EPLF (i.e. not the country or the people as a whole) and the leading role of the PFDJ (i.e. no other organisation) in the construction of the Eritrean state, society and economy as well as its commitment to build a constitutional political system based upon nationalism and democracy. The fact shows that in fact the constitutional political system has not been established as the 1997 Constitution remains inoperative and the necessary Political Party and Electoral laws for general elections have not been developed. Despite the seemingly positive and forward-looking language

¹⁰ Guided democracy – a Tutorial State

¹¹ According to EPLF Constitutions the Congress was to take place in 1990 - was postponed due to final offensive for liberation

¹² EPLF founder

¹³ Divide and Rule

of the National Charter – it has in fact become yet another instrument for imposing the PFDJ vision for the country without consultation or participation from the population.

14. At the Congress, it was decided that: (i) the Eritrean People’s Liberation Army (i.e. the armed section of the EPFL) was to become the Eritrean Defence Force (EDF); and the (ii) EPLF **Mass Movement Organisations** (NUEW, NUEYS, NCEW)¹⁴ were to become autonomous civil society organisation. These mass movement organisations were established to support the liberation struggle and to mobilise the population’s support. Irrespective of the decisions taken at the 3rd Congress, they remain extensions of the Government /PFDJ
15. There is a considerable overlap between the membership of the NUEW, NUEYS and NCEW and the PFDJ especially in the leadership structure. All four organisations continue to be led by a small group of EPLF/PFDJ activists. In addition, membership of these organisations is often not by choice especially in the case of Government Employees. As by definition National Service Personnel are a category of Government Employees the involuntary capture population for these organisation is large.
16. The mass movement organisations were never developed to defend the rights and interest of their members vis a vis the Government and, without further and specific input, could not be expected to transform themselves into organisations serving the interest of their members
17. According to the agreements of the 3rd EPLF/PFDJ Congress, the 4th Congress was due to take place at the beginning of 1996. To date there have been no other PFDJ Congresses. This was one of the specific request of the Dissident Minister (G15).¹⁵ These demands were also the focus of discussion in the nascent independent Eritrean media in 2000 /2001 and the Dissident Ministers who identified the situation as follows¹⁶:

“What is the Crisis?”

The problem is that the President is conducting himself in an illegal and unconstitutional manner, is refusing to consult, and the legislative and the executive bodies have not performed their oversight functions properly.....[People] want a transparent, accountable, institutionalised and legal administration. The people are asking for past experiences to be objectively assessed, corrective measures to be taken, and based on lessons learnt, illegal practices to be discarded and corrected..... [But] instead of acting to correct mistakes, the government has tried to cover them up and to silence criticism by threats creating an atmosphere of fear and intimidation...”

¹⁴ National Union of Eritrean Workers changed its name to NCEW

¹⁵ (Council, 2016) – “It was decided that the 4th congress of the PFDJ shall be held at the beginning of 1996, and if conditions did not permit, it would be postponed for a maximum of only six months. The fact that it has not been held up to now (2001) is inexcusable. Cognizant of this fact, the Central Council, in its 9th session, decided that the congress be held in March 2001, but none of the tasks (appraisals) that have to be done as preparation to the congress have been done, and the obstacles to its holding have become obvious”

¹⁶ *ibid*

18. The tone and manner of response, of the President, to the issues raised by the G15 is instructive as to his attitude to criticism and to a call to dialogue. The President of Eritrea replied as follows:

a. By letter dated 07 March 2001 – addressed to PFDJ

“Based on information provided by some members of the Central Council, a petition calling for a meeting of the Central Council is going around to collect signatures from members. Our transitional Constitution[EPLF/PFDJ] provides for an emergency meeting to be held where 2/3 of the members call for one. Even though this right exists, it has never been exercised in the past. Before such a step is taken, it is appropriate to ask the Chairman, directly or through the Central Office, to convene such a meeting. Prior to the distribution of the petition paper, an application for a meeting was not rejected. Even if there is no reason to collect signatures to call a meeting, it would have been proper for the members who have chosen to take this action to present it openly to all members of the Central Council. For this reason, the current circulation of a petition calling for a meeting is out of order”

b. The Dissident Ministers, some members of the PFDJ Central Council, replied to the above-mentioned letter contesting it, contesting the restriction imposed on the exercise of their rights under the EPLF/PFDJ constitution. President further reply (12 March 2001 addressed to Mohamud Sherifo) as follows:

“This morning you sent me a letter with signatures. If it is for my information, I have seen it. In general, I only want to say that you all are making a mistake.”

c. Again, on 13 March 2001 the President writes:

“Again, today you have sent me another letter. I have seen it. I repeat, you are making a mistake.”

d. What followed, on 20 March 2001, was yet another letter and attachments from the Dissident Minister restating their concerns and requesting a PFDJ Congress

e. The President responded on 29 March 2001 as follows:

I have, this morning, received and seen the letter you sent, dated 28/3/2001, in the name of those members of Central Council who had previously signed a request. - I do not want to go into its false and baseless content and say anything. - Because I have chosen to be tolerant, I will patiently avoid any invitation to an argument. - But if by continuous provocation, you want to escalate problems by exaggerating non-existent issues, it is your choice. - Again, I ask you to refrain from this mistaken path and come to your senses.”

19. In September 2001, the G15 members present in the country were arrested and disappeared. To date family and friends do not know their whereabouts. From time to time a death may be announced as was the case for Haile Woldentsae (AKA Duro) in March 2018. Also, in September 2001, the independent media, who was covering the political events at the time,

accused of being corrupt, was closed. Journalists and editors were imprisoned and remain imprisoned to date and like the case of the G15 have no access to family, or other support.

20. . In summary, the situation in Eritrea is that the PGE is operating outside of the rule of law and has no intention of implementing the 1997 Constitution or of transitioning to a pluralistic democratic system of governance. The Al Jazeera interview of President Isaias on 23 May 2008 (17 years of independence) is particularly telling¹⁷. Asked about Elections in Eritrea the President at first responded “***What Elections?***” he then made the following statement: “***We will see what the elections in the USA will bring about. We will wait three; four decades until we see genuine natural situation....***”. In summary, there is no plan for the development of: political parties, and, definitively no immediate plans for elections.

PGE, Constitution, National Assembly Elections

21. In this section of the reply we will focus on: (i) the establishment of the PGE; (ii) the transition from the EPLF to the PFDJ, (iii) the Constitutional Drafting process and the ratification of the Constitution in 1997 and subsequent elections; (iv) the establishment of an independent judiciary.
22. According to the Report, despite many difficulties: “...the Legislative, Judiciary and Executive branches of a new state progressively developed ascertaining the prevalence of rule of law in the country.” Meaning that Government is on track in the process of developing constitutional and democratic institutions (Government of Eritrea, 2017; page 4-6)
23. Respectfully, this is not the case. The PFDJ has transformed itself from PGE to the Government of Eritrea (GE) without holding general elections or any other reference to the will of the People of Eritrea in whom Sovereignty lies. The 1997 Constitution is not implemented and only referred to in such reports as this one. And, as the former Chief Justice of the Eritrean High Court explained in 2001 there is no respect for the rule of law and there is no independent Judiciary able to safeguard the rights of the Eritrean people.
24. The lack of an independent judiciary in Eritrea means that Human Right Cases such as the case of the G15 ministers and the journalist arrested in 2001 and any other person arrested by the National Security on the order of the President or any senior official of the PFDJ, cannot be heard in Eritrea. Therefore, such matters have been brought to the attention of both the UNHRC and the African Human Right Commission.
25. The following cases have been heard by the African Human Right Commission: (i) 25/02 Liesbeth -v- State of Eritrea (ii) 275/03 Article 19 -v-State of Eritrea; (iii) 428/12 Dawit Isaak -v- State of Eritrea. In each case the Commission has issued communications directing that the Journalist and the Dissident Ministers held prisoners should be released. In each case the State of Eritrea has yet to comply. In the meantime, the prisoners are dying

¹⁷ Al Jazeera; May23; 2003; President Isaias full interview; <https://www.youtube.com/watch?v=UAXKsZ8OsWo>

26. In section 14 of the Report, the Government of Eritrea makes the following statement as follows: “The Government of Eritrea was formed as per Article 4(6) (a) of Proclamation No37/1993. Subsequently, a Constitution Commission was also established by Proclamation No 55/1994 and the drafting process initiated in 1994. This process was proceeded by civic education and consultation and highly participatory by all segments and stakeholders inside the country and in the Diaspora. The Constitution was a home grown indigenous process that emanated from values enshrined in the National Charter. It also considered the rich written body of customary law, some dating back to the 15th century. The Constitution was adopted on May 23,1997 by an 862 Constituent Assembly established under proclamation No 92/1996 and constituted a milestone in the political process of nation building of independent Eritrea. *This led to legislative elections for the National Assembly at the end of 1997 after the adoption of the new Constitutions and the National Assembly was active until 2003*”
27. No general election for the National Assembly was held in 1997.

1997 Ratified Constitution

28. In December 1996, a 550-member Constitutional Assembly (CA) was established. The CA made up of members from:
- i. the National Assembly;
 - ii. the zonal assemblies ¹⁸;
 - iii. representatives from the diaspora.
29. The CA elections were carried out in January and February 1997. As neither a general election law nor a law on the formation of political parties existed these elections were conducted under special regulations. Theoretically anybody could be nominated, however the reality was that most of the members of the Constitutional Assembly were EPLF/PFDJ members. Many in the diaspora were not eligible to nominate or to vote because they had not paid the 2% tax. A request for dispensation for this important national occasion was denied.¹⁹
30. The National Assembly that received and reviewed, in closed chambers (Favali, L ; Pateman, 2003), the draft Constitution in 1996 was established by Proclamation No37/1993.
31. In July 1996, the draft Constitution was distributed for public scrutiny and debate. A revised Constitution was drafted, following the approval of the National Assembly, it was submitted to the Constitutional Assembly (CA) - (comprising of 550 members), who ratified it on 23 May

¹⁸ 1996; April Proclamation No86/1996 A Proclamation for the Establishment of Regional Administration (PERA) confirmed the Unitary state model and transformed the ten (10) Provinces into six (6) Zoba headed by Governors chosen by PFDJ/Government

¹⁹ Eritrea Diaspora in Australia - 1997 one location were people were denied the vote over the 2% tax payment. Even though the source of income for many Eritreans, at the time, was social security payments

1997 (1997 Constitutions). At the same time the CA, confirmed the existing National Assembly and extended the Government's transition period - this would be the third transition period.

32. The extension of this further: '*transition period*' was to be till such time as the appropriate electoral and political party laws were enacted. To date these laws are not in place. A date for the termination of the 3rd transition period and the first general election was not set as, at the time, there was an assumption that the general election would happen sometime in 1998 after the 4th PFDJ Congress. Neither took place as the Eritrea/Ethiopia border war intervened.

Plans for New Constitution

33. At the May 2014, at the Independence Day celebrations, the President of Eritrea announced that the Government would start the process of drafting a new Constitution ²⁰. According to the Report the process started in 2015. The proposed New Constitution will consider: "The development and experience of the last 20 years as well as the emerging situation and challenges of the country are of the country are taken into consideration." And, "This renewed effort is also initiated to strengthen the political course started earlier."
34. The development of the 1997 Constitution involved the participation of Eritrean communities both at home and in the diaspora and there was an effort to be transparent, inclusive and participatory. Despite this effort there were gaps as several communities are of the opinion that the consultation processes in the country did not allow for in depth participation of communities. In contrast, the process for the new Constitution does not require the minimum consultation and participation process of the 1997 Constitution nor is it taking into consideration lessons from the previous process to improve the level of inclusiveness and participation. To the contrary the process for this New Constitution is an opaque project of the President designed to consolidate his vision of Eritrea rather than the vision of the People, therefore it is a cynical exercise that lacks credibility.
35. In addition, we are of the opinion any rule of law and human rights-based Constitution cannot exist without an independent Judiciary, and independent Media and independent Civil Society. And, certainly such constitution cannot coexist with the Special Court which must cease to operate.

Transitional Codes /2015 Codes

36. Paragraph 25 of the Report refers to the process of development of National Legislation from the initial steps taken to adapt existing Ethiopian legislation to the development of the 2015 Civil Code, Civil Procedure Code; Criminal Code and Criminal Procedure Code. The paragraph states:

²⁰<http://www.shabait.com/news/local-news/18766-president-isaias-conducts-interview-with-national-media-outlets-focusing-on-domestic-affairs-in-connection-with-the-new-year->
<http://www.asmarino.com/eyewitness-account/2097-eritreas-new-constitution-has-no-needs-for-an-election-commission-ea-2014>
<http://www.sudantribune.com/spip.php?article51115>

“After 11 years of work and consultation, the new Civil, Civil Procedure, Penal and Criminal Procedure Codes were finally published in May 2015”.

37. The project for the development of National Legislation was a UNDP project, technically the Civil Code, Civil Procedure Code, Criminal Code and the Criminal Procedure Code were ready for enactment in 2005/2006 almost ten years prior to when they were gazetted.
38. The 2015 Codes, make no reference or linkage to the 1996 Special Court in fact the 2015 Criminal Code deals with offences that had been placed under the Special Court namely:
 - i. Chapter 1 Offences Endangering the Security of the State (Art 112 to 125);
 - ii. Chapter 3 Public Corruption and Bribery (Art 130 to 138);
 - iii. Chapter 4 Private Corruption and Bribery (Art 139 to 142);
 - iv. Chapter 5 Offences Violating Official Duties (Art 142 to 152).

In theory, the 2015 Codes should replace the Special Court and the provisions of the Special Court. In practice, this is not the case and the 2015 Codes, like the 1997 Constitution are undermined by the continued operation of the Special Court outside of the Judicial System.

39. As the National Assembly (the Legislative Body) has not functioned since 2003 (see paragraph 14) the result is confusion. In the case of Eritrea, the Executive (who is also dysfunctional) is enacting laws, often ignoring previous laws and failing to follow any coherent procedure for the enactment of laws. In this process laws may be suspended by directive of the Executive. Consequently, there is confusion, discontinuity, and conflicts of not only as to laws, but between laws, regulations and directives of the Government.

D. Rule of Law – Erosion

Judiciary /Special Court

40. Post-independence, the Structure of the Eritrean Legal System (Judiciary) was established by the following Proclamations:
 - a. Proclamation No1/1991 – The organisation of civil justice is articulated on three levels, which correspond to the three levels of local government: Province (Awraja); Sub- Province (Woreda) and National (High Court);
 - b. Proclamation No23/1992 established the first PGE as follows:
 - i. Executive;
 - ii. Legislature – The Central Committee of the EPLF was designated as the Legislative;

- iii. Judiciary – according to the proclamation the Judiciary was to be independent, but no system of check and balances was put in place;
- c. Proclamation No 26/1992 further elaborated Proclamation No23/1992. Established the Ministry of Local Government and established the Provincial Government made up as follow: Province; Sub- Province; District; Village. And, each stratum was composed as follows:²¹
 - i. (i) Executive;
 - ii. (ii) Legislature;
 - iii. Judiciary all the way to the Village Courts. Again, the organisation of civil justice was articulated on three level all the way to the village courts.

The Province Governors are appointed by the President; the Sub-Province Deputy Governor nominated by the Governor and approved by the central Government; at the District level the Administrator is nominated by the Governor and approved by the central Government; Village representation is by election through the village council (Baito). Irrespective of the provisions of the Proclamation No26/1992, by sheer weight or precedence and monopoly of state assets, by the EPLF, and with the justification of the limited capacity of the Provinces, the Central Government retained control of both staffing and finances of the Provinces. In a 1994 report Miller et al describes the situation as follows: *“The inter-governmental regulatory structure reinforces this centralization by giving central government departments the authority to “give services” locally and to provide technical directives to local departments.”* (Miller,J., Robbins, E,H,, &Sumka, 1994)

At the time, they were of the view that: “The balance is struck by assuring that the services are "under the control of the local governments" and that the directives have the "consent of the local governments."

They add: *“Two areas in which considerable control has been retained by the Government, either by intent or de facto, are staffing and finances”.*

Though Miller, in the 1994 report refers to the Government covering: “costs of certain local staff salaries: teachers for example paid by the Ministry of Education, and doctors and nurses by the Ministry of Health...”. The reality is that the Central Government has supplemented any gaps in human resources by appointing former fighters and deploying the youth undertaking their National Service. (Tessema & Soeters, 2006)

- d. Proclamation No37/1993 removes the Sub provinces and removes the provision requiring all three levels of government throughout the Local Government structure in this way removing the Legislature from the Sub Province, District and Village level. In this way, the deliberative

²¹ In 1992 there were ten (10) Provinces as follows: Asmara, Akele Guzai; Barka; Dankalia; Gash Setit; Hamasien; Sahel; Semhar; Senhit; Seraye

and decision-making powers are limited to the Province level which is highly controlled by the central Government. In this way village level decision making was in fact reduced;

- e. Proclamation No85/1996 – A Proclamation to Establish the Special Court
- f. Proclamation No 86/1996 – A Proclamation for the Establishment of Regional Administration(PERA)- restructured the 10 Provinces into 6 Zoba removed the Legislative level from the Sub-zoba and Village level. Maintained the Judiciary structure to the Village level;
- g. Proclamation No 132/2003 - Village Courts became Community Courts

37. As previously mentioned; Proclamation No23/1992 established the first PGE of Eritrea follows:

- i. the Executive;
- ii. the Legislature;
- iii. the Judiciary.

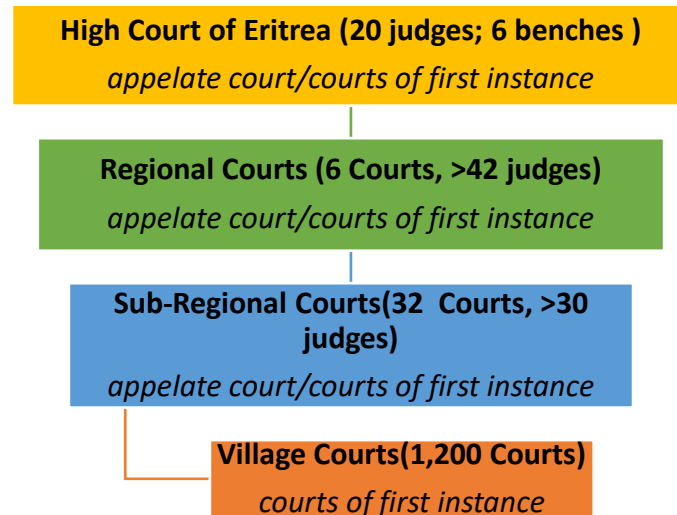
At the time, the Central Committee of the EPLF was designated as the supreme legislative body (i.e. the National Council) and the EPLF State Council chaired by the Secretary General of the EPLF, was the executive body. In this arrangement, the EPLF State Council was accountable to the EPLF Central Committee (i.e. National Council). Thus, from the start there is a significant overlap not only between the legislative and the executive arm of government, but also between the PFDJ as a party and the PFDJ as the PGE

38. According to Proclamation No23/1992, the Judiciary was to function independently from the legislature or the executive. However, nothing in the legislation or subsequent legislation dealing with the Judiciary, ensured either this independence or the ability of the Judiciary to act as a “*check*” on the other two branches. A matter that was addressed in the 1997 Constitution as it provided for the Judiciary Commission and for the Supreme Court of Eritrea to be the Constitutional Court of the country (Beyene, 2001).

39. Chief Justice Teame Beyene ²², in 2001, described the Judicial system in Eritrea as being comprised of:

- i. Village Courts;
- ii. Sub-Regional Courts;
- iii. Regional Courts; and
- iv. (iv) the High Court.

Box 1 2001 Eritrea Court System as per Chief Justice Teame Beyene



In 2001, the courts were to exercise their jurisdiction in accordance with the Transitional Civil, Criminal Procedural code. A specially constituted panel of High Court judges. In the absence of a specifically established Supreme Court a panel of High Court judges sitting as the Supreme Court of the country, can hear appeal from the High Court.

40. According to Chief Justice Teame: ***“The present Eritrean laws unequivocally stipulates that the courts are independent. Art 4 of the Civil Procedure Code ²³ states: - “Judges are free from any pressure and they work according to the law” (see Proc3.of 1991)”. Similarly, Art 4(3) of the Criminal Procedure Codes²⁴ provides: - “Judges exercise their function with full independence and they are not subject to any direction or instruction of any power other than the law.” In addition, Art 48 of the 1997 Eritrean Constitution provides that: “...In exercising their judicial power courts, shall be free from direction, control and supervision of any person or authority.”*** The Chief Justice explains that the challenge to the independence of the Judiciary is: “...real life” and specifically the ***negative role of the Special Court and of Government media campaigns against the Judiciary***” ²⁵
41. Paragraph 17 of the Report refers to the setting up of – the ***“Special Court”*** in April 6, 1996 by Proclamation No85/1996 with a specific mandate to: ***“investigate corruption practices, abuse of power and misuse of public resources.”*** Though the Special Court impacts on all Eritrean citizens and residents the focus of the Court are offences allegedly committed by members and former members of the EPLF/PFDJ. Senior former fighters and members of the PFDJ are held to a stringent, internal code of conduct, inherited from the pre-liberation EPLF and violations

²² (Council, 2016) President of the High Court of Eritrea at the time the Highest Court in the country

²³ The Transitional Civil Procedure Code

²⁴ The Transitional Criminal Procedure Code

²⁵ (A/HRC/29/CRP.1, 2015) - highlights the following issue that affect the performance and the independence of the Eritrean Judiciary:(i) Lack of human and material resources; (ii) pressure from the people; (iii) the pressure from the Government

of this code are handled by the Special Court and outside of the *“Normal Judicial Process”*. Those accused of violation of this code (i.e. G15, the Journalists etc..) have been arrested and held without formal charge or are tried by the Special Court

42. The Report fails to mention, that in a direct attack on the integrity and the independence of the Eritrean Judiciary, the Preamble of Proclamation No85/1996 states that one of the reasons for setting up the Special Court was that: *“...the Eritrean Courts were influenced by tainted thinking”*.
43. The Report also fails to mention that the provisions of that establish the Special Court violate long established legal principles and norms. Thus, the existence of the Special Court is an attack on the independence of the Eritrean Judiciary.
44. Proclamation No85/1996 violates four (4) fundamental and internationally accepted legal principles:
 - i. The **First Principle** is the principle of *“res judicata”* or the principle of *“double jeopardy”* in criminal matters Art4(2) of the Special Court Proclamation provides that: *“...the Special Court can review and see again previously decided cases”*.²⁶ The Special Court has the power to see and reverse any decisions given by the Eritrean Courts. Again, a blatant interference with the independence of the Judiciary. The principle of protection against *“double jeopardy”* is enshrined in Art17(8) of the 1997 Constitution which provides: *“No person shall be liable to be tried again for any criminal offence on which judgment has been rendered.”*
 - ii. The **Second Principle** is the principle that *“judges and courts are bound by the law”* – that is that judges are going to give their decision according to the law. Art 3 and 6 of the Special Court Proclamation provide that the *“the Special Court may disregard the provisions of the Penal Code and the Criminal Procedure Code of Eritrea.”*²⁷. There is no limit to the punishment that Special Court judges can give.²⁸ The legislation is encouraging Judges to act on whim a matter that is further compounded by the fact that the Special Court judges are not trained in law.
 - iii. The **Third Principle** is the right of appeal. Art 5(1) expressly denies the right of appeal from a Special Court decision. This is in direct contravention to the Criminal Procedure Code as well as Art 17(8) of the 1997 Constitution which provides: *“Where the accused is convicted, he shall have the right to appeal.”*

²⁶ (A/HRC/29/CRP.1, 2015) - This provision is in direct contradiction to Art2 (3) of the Transitional Penal Code which says *“No person shall be punished twice for the same act”* - It also contravenes Art 5 of the Transitional Civil Procedure Code which provides that: *“No Court can see again matters which have been heard and finally decided by another court,”*

²⁷ Ibid - Art 6 – expressly provides that the Special Court may disregard the provisions of the Penal Code and the Criminal Procedure Code of Eritrea. Art 3(4) provides that the judges may give whatever punishment they see fit

²⁸ Ibid – In the Penal Code the lower and upper limits of punishment that a judge can give is clearly specified. Judges give punishment in accordance with the law not according to their whims

iv. The **Fourth Principle** is the right of representation. Defendants before the Special Court have no right to legal representation.

45. The decision to establish the Special Court is an indication of the failure of the Government of Eritrea to understand the important role that an independent judiciary has in a democratic system of governance and specifically the governance envisioned by the 1997 Constitution that guaranteed the very rights that the Special Court ignores.
46. The creation and the continued operation, of the Special Court is a clear indication of the Eritrean Governments contempt for the rule of law. A contempt openly expressed by the Head of the State on several occasions and specifically stated during an interview with a local (Hedri) when the Head of State expressed the opinion that Judiciary were affected by *“Tainted thinking”* and that in his opinion: *“We can’t say we have courts, their disservice is greater than their service”*
47. In summary, contrary to the statements made in the Report, in Eritrea there is no independent Judiciary. And, creation of the Special Court is not a cause of celebration rather, in combination with the failure to implement the 1997 Constitution, it is a clear example of the of the contempt that the Government has for the rule of law as well as human right and that the Judiciary in Eritrea is not able to practice independently. A fact that is further highlighted by the dismissal of Chief Justice Teame Beyene and his status of being **“Frozen.** *Failure to implement the 1997 Constitution means that there is no: (i) Supreme Court (i.e. Constitutional Court - final Court of Appeal); (ii) Judicial Services Commission(JSC)*
48. The creation of and the continuing operation of the Special Court contrary to the provisions of the ACHPR namely Art1,2, 3, 4, 5,6, 7²⁹. In addition, the failure to establish the Judicial

²⁹ ACHPR:

- Art1: The member states of the Organisation of African Unity parties to this present Charter shall recognise the rights, duties and freedoms enshrined in the Charter and shall undertake to adopt legislative or other measures to give effect to them.
- Art2: Every individual shall be entitled to the enjoyment of the rights and freedoms recognised and guaranteed in the present Charter without distinction of any kind such as race, ethnic group, colour, sex, language, religion, political or any other opinion, national and social origin, fortune, birth or other station
- Art3(1): Every Individual shall be equal before the law;
- Art3(2): Every Individual shall be entitled to equal protection before the law
- Art4: Human beings are inviolable. Every human being shall be entitled to respect for their life and the integrity of their person. No one may be arbitrarily deprived of this right.
- Art5: Every individual shall have the right to the respect of the dignity inherent in a human being and to the recognition of his legal status. All forms of exploitation and degradation of human beings particularly slavery, slave trade, torture, cruel, inhuman or degrading punishment and treatment shall be prohibited
- Art6: Every individual shall have the right to liberty and the security of his person. No one may be deprived of his freedom except for reasons and conditions previously laid down by law. In particular no one may be arbitrarily arrested or detained
- Art7 (1): Every individual shall have the right to have his case heard. This comprises:
- a) The right to an appeal to competent national organs against acts violating his fundamental rights as recognised and guaranteed by convention, laws, regulation and custom in force;
 - b) The right to be presumed innocent until proven guilty by a competent court or tribunal
 - c) The right to defence, including the right to be defended by a counsel of his choice;
 - d) The right to be tried within a reasonable time by an impartial court or tribunal

Services Commission means that irrespective of the provision of Proclamation 37/1993 or the provisions of the 1997 Constitution requiring independence of the three (3) arms of the Government (Executive, Legislative, Judiciary) the reality, in Eritrea, is that this is not so. And, in the case of the Judiciary such an arrangement means that it is operating under the umbrella of the Executive as represented by the Ministry of Justice.

49. The Ministry of Justice is involved in the recruitment and firing of Judges and controls the budget of the Judiciary. There is no tenure for judges, who are rotated from the bench to the Prosecution Office. And, most of the young judges, are working under the terms of the National Service consequently they may be moved, at any time, to other Line Ministries or PFDJ/ Government business entities at any time.
50. In most cases Presidents and Coordinators of Regional Courts are former fighters or PFDJ supporters. Increasingly, especially since 2001, junior members of the bench are experiencing the interference of these senior members of the bench on how they are carrying out their duties. The interference ranges from: checking court files without the knowledge of the case Judge; making request for changes of venues, removing documents from court files and specifically judgments/orders; requesting favours. Intimidation is also affected by the Minister of Justice³⁰ and the military.³¹
51. Chief Justice Teame Beyene was dismissed, by the Ministry of Justice, from his post in 2001 because of his public complaint, during the Eritrean Studies Conference in 2001, as to the interference in judicial matters by the Government as well as the granting of a Habeas Corpus writ in the case of Semere Kesete a University of Asmara student leader arrested in 2001 for protesting the Government policies regarding youth. Though judge Teame has not been arrested or disappeared, as a member of the PFDJ he is suffering the condition of being “*Frozen*” *which means that he cannot be employed and his movements within the country are monitored and he cannot travel out of the country.*
52. For there to be a truly independent Judiciary in Eritrea, the Special Court must be abolished, the Supreme Court and the Judicial Services Commission must be established, all prisoners must be accorded full rights under the law.

Judiciary /Village/Community Courts

53. Paragraphs 41;44, and 45 of the Report refer to the establishment of the Community Courts. Specifically:
 - i. **Paragraph 41** provides: “The institutional and organizational basis of the judiciary has been strengthened in line to Proclamation 1/1991 that deals on the administration of

Art 7(2): No one may have condemned for an act or omission which did not constitute a legally punishable offence at the time it was committed. No penalty may be inflicted for an offence for which nor provision was made at the time it was committed. Punishment is personal and can be imposed only on the offender

³⁰ Fawzia Hashim

³¹ 2005 -Unionisation Case:
2005 -Disposal of Land

justice. Accordingly, the court system is also expanded and strengthened at the local levels. The community courts (so far 430 in number) operate with jurisdiction at a village or locality level. They form the most reliable, accessible and practical part of the system. Regional Courts are present in all six administrative regions and establish judicial justice and function as the second tier of the judicial hierarchy....”;

- ii. **Paragraph 44** dealing with Equitable Access and Coverage: “.....However, the dearth of judges who can sit throughout the country has made it difficult for people to litigate such cases in their vicinities. Given the gravity of the problems, it became reasonable for the Government to alleviate the unnecessary waste of time, energy, and expenses to go to the nearest court which could be hours and in some cases days away. To that end community courts are established since 2003 under the provision of Proclamation No 132/2003. The members are elected by the community and by law one of the three judges is a female. To strengthen the judicial justice capabilities at local level community court judges are given basic legal training, basic literacy programme and file keeping and management at a centre established by the Ministry of Justice in a village called Meqarka”;

- iii. **Paragraph 45:** “The cases that have been assigned to community courts are those which have social character and that can best be solved at the community level. The judges in these courts are exhorted to solve the disputes through conciliation in accordance with local custom before they adjudicate based on the national law”.

- 55. As already mentioned: Proclamation No23/1992; No26/1992; No 37/1993; No86/1996 established the Governance structure and the structure of the Judiciary all the way to the Village Court. According to the legislative framework the Judiciary is supposed to be independent. However, as already mentioned, nothing in the legislation ensured either the independence of the Judiciary or their ability to act as a check on the other two branches of Government. A matter that was addressed in the 1997 Constitution provided for the creation of the Judiciary Commission and the Supreme Court of Eritrea as the Constitutional Court of the Country.
- 56. Expert witnesses describe the transformation of the Village Courts into Communal Courts as yet another example of the Government weakening the independence of the Judiciary. According to the said witnesses, the Community Courts as presently constructed, were an idea of the President. The idea was developed independently of any consultation with the Ministry of Justice who, at the time was of the view that there was no need to maintain traditional village courts and therefore that they should be abolished.
- 57. Proclamation NO 132/2003 established the Communal Courts. The aim of the Communal Courts is to facilitate village level arbitration and conciliation. The Proclamation did not limit the jurisdiction of the Communal Courts to the type of jurisdiction that Village Elder would have had in terms of resolving local disputes. The Proclamation assigned to the Community Courts some of the jurisdiction of the Regional Court thus creating confusion. And in matters such as divorce, custody of children, succession and guardianship – expert deem that the Communal Courts are: *“.... the greatest disaster in the legal and judicial history of the country.”*

58. Community Courts have not resolved the community issue as to: *access; equity; timely resolution of matters*. According to expert opinion, the reverse has happened: “... *today the most abuse, corruption, delay of justice, number of appeals and number of complaints come from the Communal Courts*” **this is because:** “... *almost 95% of communal court judges are illiterate as to the law and as to the judicial system.*”.
59. Though, as the Report states training is provided, former trainers explain that: “...*almost all trainees had no legal background and many of them also have no academic background higher than primary school.*” The Proclamation further undermines the professionalism of the legal system by providing that: “.... Out of 3 judges of the Communal Court, it is enough if one of them can read and write”. Expert witnesses explain that as presently structured, the Communal Courts: “.... Only to weaken the judiciary and worsen the suffering of the Eritrean people as all the judgments given in the Communal Court are appealed to the Zoba Courts.

Judiciary /Military Courts ³²

60. Paragraph 17 of the Report refers to the creation, in accordance with Proclamation No1/1991, of the military courts and that the Final Court of Appeal from the military courts is the Highest Court in Eritrea. At present, there in Eritrea there is no “*Military Law*” *being that body of law/ rules and procedures governing member of the - “Armed Forces” and in the case of Eritrea members of the “National Service.”*. Therefore, there is no military jurisdiction and there are no properly constituted *Military Courts. If a military matter is to be brought to court it would have been dealt with by the Transitional Criminal Code and the Criminal Procedure Code* (now the Penal Code of the State of Eritrea 2015 and the Criminal Procedure Code 2015.).
61. According to this system cases were to be referred to a court, that for the case constitutes itself as a military court, by the Eritrean Public Prosecution Office. This procedure is not followed, and there is no data available for scrutiny to determine which, if any cases are being heard by the courts sitting as military courts. According to witnesses the experience of Armed Services and National Service personnel is that justice, such as it is, is administered by their “*commanders*”, *who* fulfil the roles of “*accuser*” and “*judge*” and determine the type and extent of punishment.
62. In the absence of the Supreme Court, the Highest Court in Eritrea is the High Court and as far as we are aware since 1991 the High Court has not heard any appeals from the military courts. In addition, in both the case of the military courts and the civilian courts and their appellate structure there is the intervention of the Special Court and the abrogation of the rule of law that its very existence represents.
63. According to a testimony gathered by HRCE though prior to 1998 there was at least a pretence to apply the rule of law to military judicial matters, , after 1998 (i.e. following the Eritrea Ethiopia border war), the military dropped all pretence as to legal process: “ *When they were*

³² 2018 -Based on interviews with former Judges

struck by so many problems, they decided to ignore the military court and stop from sending military criminal cases to the police.”.

64. Also, in 1998, the Eritrean military command: *“...was divided into four highest command divisions called Korr1 to Korr4 commands and established military punishment hierarchies to determine punishment ranging from short prison sentences to long years of imprisonment or execution for serious crimes.” And, “According to this practice there were many Eritreans killed even without sufficient evidence and procedure.”*
65. By 1999, the power to decide the life or death of the members of the Military Services (including the National Service) was brought down to the level of the Brigade Commander and the Battalion Commander – none of them with any legal preparation. As a result, during the period 1999-2000 many young Eritreans were executed. *“When the power to kill or not is lowered to the level of battalion leader, imagine how many people could be killed abruptly.”.* This is in contravention of the ACHPR provision as to the Right **to Life**
66. Immediately after the cessation of hostilities in June 2000 (i.e. the border war Eritrea/Ethiopia) further abuses and injustices were perpetrated and many more young Eritreans were executed under various pretexts, at the whim of their commanders, without due process. In all such cases families were told that their loved ones died in battle. Witnesses report that the number of such killings were so high that it about a situation of feud among commanders blaming each other for the killing of relatives.
67. One witness reported that in 2000, as Eritrean troops retreated from many locations many Eritrean prisoners held in various detention centres including underground facilities, were often abandoned. Such was the case of 500 young Eritreans held in a location South of Asmara near the border with Ethiopia, these young men, were held in an underground prison. In the haste of retreat, they were left in the dungeons only to be found a week later once the Eritrean troops regained control of the area.
68. The case of the 500 caused much tension. Therefore, their case was transferred to the court in Asmara (sitting as a military court). At the hearing, it was found that all the 500 young men had been imprisoned in harsh underground detention centres, for petty offences.
69. According to expert opinion: - *“...if a case is to reach a formal military court, it must be a lucky case which does not interfere with life and continuity of Isaias and PFDJ. Otherwise you will not have the chance to be brought to the formal military court...[all] other military cases. Crimes (i.e. delayed return to the post or refusal to come back to your post and so on ...) you are punished in your military base by your near commander. ...From prison to different kind of tie with rope, hang in tree, cast on the ground after they tie your legs and hands and they throw water over you (this I have seen myself in military training camp)”.*

Military Justice and 2013 mutiny

70. On 21 January 2013, approximately 100 mutineers took control of the Eritrean Ministry of Information located at Forte Baldissera, an Italian Fortress in Asmara known as Forto. Government owned Eritrean Television (EriTv) broadcast from the Forto. The mutineers forced the Head of EriTv Mr Asmelash Abraha to read a communique “on air”.

The communique called for:

- a. The implementation of the 1997 Constitution;
 - b. The release of political prisoners;
 - c. The release of Eritreans arrested trying to flee the country.
71. The mutineers were arrested. The Government established a Disciplinary Committee headed by General Teklai Kifle (Manjus) and Brigadier General Eyob Fessahay (Halibay) as the officers in charge directly reporting to the Office of the President. General Teklai Kifle (Manjus) has been identified by the UN Somalia Eritrea Monitoring Group (S/2011/433 and S/2012/545) as the key person responsible for Eritrea’s weapons and human smuggling operations.
72. The Disciplinary Committee, initiated a “Red Terror” style purge campaign that resulted in the arrest and disappearance of at least 800 people³³. Their whereabouts or condition is not known. Among the arrested are:
- a) Col Osman Saleh: Leader of the Mutineers; Former liberation fighter, known for the defence of Assab during the Eritrea Ethiopia Border war. Reported to have committed suicide in detention;
 - b) Col Abraham (Gelawa);
 - c) Col Alem (gizwa);
 - d) Ahmed Haj Ali: Minister of Mines and Energy – a role now fulfilled by former Minister of Defence Sebat Ephrem;
 - e) Mr Mustapha Nurhussein: Governor of Zoba Debub (Southern Region) – deceased. There are rumours that he is deceased

³³ Saba Makeda; 04 October 2013; Dossier Eritrea1 – The Forto Incident and the Repression of the Regime;

<https://www.africa-express.info/2014/11/04/dossier-eritrea-1-forto-incident-repression-regime/>

Sheila B. Keetharuth, Third Committee, 32nd meeting - 69th General Assembly; <http://webtv.un.org/search/sheila-b.-keetharuth-third-committee-32nd-meeting-69th-general-assembly/3864949861001?term=eritrea>

- f) Mr Abdalla Jabar: Director of Organisational Affairs PFDJ – the ruling party (the only political party in the country);
- g) Mr Suleiman Haj: Mayor of Mendefera city (Zoba Debub- Southern Region)

E. Arbitrary Detention- Extrajudicial Killing – Torture

Rights of persons in Detention

73. Once people are arrested, Article 10 of the ICCPR, requires that all persons deprived of their liberty are to be treated with humanity and with respect for their inherent dignity. Therefore, persons should be detained in safe and humane conditions. This is not the case in Eritrea where prisoners are held underground cells as well as in containers. In the 2015 UN Human Right Commission Report it was found that: “... the conditions of all detention centres in Eritrea can only be defined as extremely harsh.” In subsequent reports (2016,2017) the Commission noted that there has been no change in the situation of Eritrean detention centres. (A/HRC/29/CRP.1, 2015).³⁴
74. In Eritrea, the detention centres described in Paragraph 77 to 78 of the Report as well as the makeshift arrangements ranging from police stations lock up, warehouses; underground holes; shipping containers are not in compliance with the requirement of providing prisoners safe and humane conditions.
75. Paragraph 77 to 78 of the Report deal with the rights of persons in detention and refers to 11 detention centres. In Eritrea, there are many prisons and detention centres that are completely outside of the governance of the Eritrean Correctional Rehabilitation Services (ECRS). Such facilities do not apply the same standards of the ECRS. In this case like the case of the Judiciary – the failure to apply the rule of law and specifically the ***principle that the law is applied equally to all*** means that any effort that the ECRS makes is completely undermined as most Eritreans experience the alternate prison system.
76. In addition to the 11 prisons mentioned in the Report, Amnesty International has compiled the following list of detention centres³⁵:

Table of Prisons in Eritrea		
	Name	Location
1.	Aderser (Adderser)	25 Km from Sawa
2.	Haddish Ma'asker (New Camp)	25 Km from Sawa

³⁴ Sactism - photographs- video Adi Abieto prions outside of Asmara - https://www.youtube.com/watch?v=8Jc_4qTMfIE&feature=push-u&attr_tag=R4IHnwiizOFN6VvE-6

³⁵ Amnesty International; 05/08/2013; Map of Secret Prison Network in Eritrea Pinpoints infrastructure of Repression; <https://www.amnestyusa.org/press-releases/map-of-secret-prison-network-in-eritrea-pinpoints-infrastructure-of-repression/>

3.	Adi Abeto	10-15km NE of Asmara (Keren Rd)
4.	Adi Nefas	Assab
5.	Adi Qala (Adi Quala or Adi Kwala	40Km N of Ethiopian border (main Rd Asmara/Mendefera)
6.	Agip	Asmara
7.	Alla (Ala)	40Km from Asmara along the road that connects Adi Nefas (Asmara/Massawa Rd) and Dekhamere
8.	Assab Front prison (Gimbar)	Assab
9.	Baharia Naval Base	Massawa
10.	Barentu	Barentu Town

Table of Prisons in Eritrea

Name		Location
11.	Dahlack Kebir	Dahlack Archipelago (Red Sea)
12.	Dbarwa	S of Asmara on the Rd to Adi Quala before Adi Ugri (Mendefera)
13.	Era Eiro (Eirario)	Filfil/Selomuna area N of Asmara along the Filfil Rd. to Massawa (closer to Massawa)
14.	Gedem	40Km S of Massawa
15.	Ghatelay (Ghatielay)	40/45km NW of Asmara (Asmara/ Massawa Rd)
16.	Halhalas	45 Km from Asmara (possibly part of Ala)
17.	Kambo Ndfurstale	Senafe town
18.	Klima	Assab
19.	Mai Daga	45Km S of Asmara (Decamhare)
20.	Mai Duma/Dima/ Dyma	South of Asmara – Mendefera/Barentu RD; 10 Km W of Areza
21.	Mai Sirwa	Outside of Asmara – in between Toker Dam and Belesa Dam
22.	Mai Temenai	Asmara
23.	Metkelabet	Between Asmara and Massawa
24.	Me'eter	Between Nackfa and the coast
25.	Prima1+2	
26.	Camp Sawa	Along Sawa river near border with Sudan
27.	6 th camp or Enda	Between Sebderat and Hawashayt
28.	Shadushay	

29.	Abi Masker	
30.	Sembel	Asmara Sembel
31.	Tchadasso	
32.	Tessenei	
33.	Tract B	Asmara
34.	Tsererat	Asmara
35.	Wi'ya/Wi'a/Wieh	40 Km S of Massawa

77. The above list of Detention Centres is not exhaustive as new ones are continuously being created and discovered. **See Schedule 1** for the list compiled, in 2015, by the UNHRC on Eritrea.

Detention – Nay Hadera Prisoners ³⁶

78. Both the Transitional Criminal Procedure Code as well as the 2015 Criminal Procedure Code provide that judges and prosecutors may visit police stations to ensure that police stations comply with the law on detention of persons. However, frequently judges and prosecutors are prevented from inspecting detention areas holding prisoners that have been designated “Nay Hadera” -that is National Security /Military prisoners. Detainees in these cells are under the mercy of their arresting officer and his orders. The 18 Journalists arrested in Asmara and held at Police Station no 2 (in front of Salam Hotel – Former British Embassy) were such prisoners.

79. Despite the complaints of judges, and prosecutors the “Nay Hadera” prisoners system continues and, in some locations has proliferated. Noticing such proliferation young Judges and Prosecutors challenged the situation with the result that they were prevented from visiting the relevant police stations.

80. It is also the case, that Eritrean prisoners do experience duress/ and or torture as means to obtain confessions and that this is especially so in the case of the “Nay Hadera” prisoners, and that the Judges and Prosecutors who complained about the “Nay Hadera” prisoner system saw the results of such Torture.

Detention – Arbitrary Arrests

81. International Human Right law provides for the right to liberty and security of (Article 9 of the ICCPR and Article 6 of the ACHPR). This right is not absolute, but where people are arrested the requirement is that such arrest cannot be arbitrary; that is the deprivation of liberty cannot be inappropriate, unjust, unreasonable, unnecessary or lack predictability or due process. Arrest conducted as a form of punishment or threat, as is the case in Eritrea are arbitrary. Arrest are also arbitrary if they are implemented a punishment for the legitimate and peaceful exercise of

³⁶ Interviews with former judges -2018

fundamental human rights such as: freedom of opinion and expression, freedom of assembly; freedom of association; freedom of religion and the right to privacy.

82. International law also requires that any arrests must be in accordance with the rule of law and specifically with procedures established by law. And, that such laws must be clear to counter any broad or arbitrary interpretation. The practice of arbitrary **arrests; --- (Nay Hadera); and extrajudicial killings are** directly linked to the failure to apply the rule of law and the failure to protect the rights of detainees; as well as the proliferation of unofficial Detention Centres.
83. Arbitrary arrests, disappearance, and extrajudicial killing is the hallmark of the current Eritrean regime and are continuing. The 2001 arrests being of the dissenting ministers (G15) and the journalists are the most famous. However, there are many more and as particular circumstances become known, the list is growing. Other cases include:
- a. **Businessman Mohammed Saleh Mohammed Hagos** ³⁷ the owner of the Omo factory. Executive member of the Eritrean Employers Federation - Mohamed Hagos was tortured and beaten to death - July 2008;
 - b. **Taha Mohammed Nur** – one of the founders of the Eritrean Liberation Front (ELF) a member of the Constitutional Commission, younger brother of Haji Musa Mohammed Nur. Taha was detained in 2005 reported dead in 2008.³⁸;
 - c. **Haji Musa Mohammed Nur** (late 80's)- Elder, Board President of the Al Diaa Muslim School in Asmara. Musa and together with his brother Taha is one of the earliest activists for Eritrean liberation. He was arrested on October 27, 2017 – shortly after a video of him chairing a meeting of parents and students where he expressed his view that ***the school should not be surrendered to the Government and that if the Government intended to go ahead with the confiscation it should be over his dead body.*** His arrest resulted in demonstrations in Asmara and further arrest of an unknown number of people. Haji Musa, was elderly and in failing health. However, when in December 2017, the Government offered to release him, he refused to leave the prison alone. He insisted that those who had been arrested with him and who were being held without due process should also be released. Haji Musa died on 3 March 2018. Additional people are known to have been arrested at his funeral³⁹;
 - d. **Abdu Ahmed Yonus** (recently deceased). He was the father of Ali Abdu the Minister of Information that defected in 2012. Abdu Ahmed Yonus was 87 at the time of his arrest in December 2012 as retaliation for the defection of his son. This was the second time that

³⁷ In Memory of My Beloved Brother Mohammed Saleh Mohammed Hagos; 2008, July; <http://awate.com/in-memory-of-my-beloved-brother-mohammed-saleh-mohammed-hagos/>

³⁸ Eritrean Opposition Party Founder Dies in Prison – Sudan Tribune; 2008 February 23 <http://www.sudantribune.com/spip.php?article26098>

³⁹ Eritrea Digest; The Dignified Life & Death of Musa Mohammed Nur Posted on [March 5, 2018](http://www.eritreadigest.com/the-dignified-life-death-of-musa-mohammed-nur/); by [ED](#); <http://www.eritreadigest.com/the-dignified-life-death-of-musa-mohammed-nur/>

Haji Musa Mohammed Nur speech - re Al Diaa Muslim School; Published 1 November 2017; <https://www.youtube.com/watch?v=ThKjua9SNhY>

Abdu was arrested – He was one of the Elders arrested in 2001. At that time perceiving that the country was at a critical juncture a group Elders sought to mediate between the G15 and the President. They were arrested for their troubles.⁴⁰;

- e. **Hassan Abdu** – son of Abdu Ahmed Yonus and brother of Ali Abdu. A member of the National Service more than ten year was also arrested in December 2012’
- f. **Ciham Ali Abdu** – (15 years old) daughter of Ali Abdu (defecting Minister of Information); grand-daughter of Abdu Ahmed Yonus, niece of Hassan Abdu; American Citizen, was also arrested in December 2012 as were her cousins. It is to be noted that at the time of her arrest Ciham Ali Abdu was a minor and that as such should have been afforded full protection under the law.⁴¹’
- g. **Idris Abara** – disabled veteran - former Director General of the Ministry of Labour – arrested during the first week of October 2001 – He had openly criticised the Government’s mother tongue policy for primary schools. He argued that such policy would further marginalise minority groups.

Detention and Torture

84. In 2002, Eritrea acceded to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT). **Article 1** of the Convention Against Torture (CAT) **defines Torture as : any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity.**
85. Hence. torture is not just an action, it is a legal qualification of a treatment inflicted on a person that causes physical or mental pain or suffering that reaches a certain level of severity and that is inflicted intentionally for a specific purpose by a public official either directly or indirectly.
86. The right not be subjected to torture is absolute and no exception or derogation is allowed under international human rights law, even during states of emergency threatening the life of the country, [as provided among others by article 7 of the International Convention Civil and Political Rights and article 5 of the African Charter on Human and Peoples’ Rights.].
87. Both the Convention Against Torture (CAT) and the International Covenant on Civil and Political Rights (ICPPR) require that perpetrators of torture, or other cruel, inhuman or degrading treatment

⁴⁰ The Immediate Family of Ali Abdu, Eritrea’s Mol, have been Arrested; *Gedab News* December 27, 2012; <http://awate.com/the-immediate-family-of-ali-abdu-eritreas-moi-have-been-arrested/>

⁴¹ Fate of American Citizen Unknown After Four Years in Eritrean Prison; Voice of America; September 18, 2016 2:47 PM; Salem Solomon; <https://www.voanews.com/a/fate-of-american-citizen-unknown-after-four-years-in-eritrean-prison/3514383.html>

or punishment, whether by encouraging, ordering, tolerating or perpetrating prohibited acts, must be held responsible.

88. Though the Transitional Code of Eritrea provides that “any public servant who treats persons in an improper or brutal manner or in a manner incompatible with human dignity, especially using blows, cruelty or physical or mental torture to obtain a statement or a confession, or to any other similar end, is punishable with a fine or simple imprisonment.” This definition is not in line with the definition of torture under international human rights law as it does not include, among other things; torture inflicted at the instigation of or with the consent or acquiescence of a public official or any person acting in an official capacity; torture inflicted on a third party; and torture as a form of punishment.
89. The 2015 Penal Code of Eritrea does not define “*Torture*”. The Penal Code refers to “*Exposure and Endangerment of a Person to Death; Exposure and Endangerment of a Person to Serious Bodily Injury*”.⁴²
90. In Eritrea where, the Military and the Civil Judicial System and are severely hampered; where judges and prosecutors are prevented from seeing certain prisoners; where certain prisoners have no right to representation or appeal; where the rule of law does not apply, despite the presence of legislation (albeit limited) means that nobody is held accountable for Torture.
91. In the 2015 Report on the State of Human Rights in Eritrea, the Commission found that: “.... the recurrence and prevalence of certain torture methods constitute strong indications that torture is systemic and inflicted in a routine manner”. In that report, the Commission formed the view that: “Torture is widespread throughout Eritrea. It is inflicted on detainees – in police stations, civil and military prisons, and in secret and unofficial detention facilities – but also on National Service conscripts during their military training and throughout their life in the army”.
92. The evidence is that, in Eritrea, torture: “.... has been employed during the past twenty years and that the objectives, means and methods of torture employed throughout the country have not changed much during that period. Information also points to the fact that the same torture and punishment methods are applied in military training camps and in detention facilities.”
93. In the 2015 report the UNHRC describes in detail the following forms of torture:

⁴² 2015 Penal Code of the State of Eritrea:

Art 291: Exposure and Endangerment of a Person to Death

A person who intentionally puts another person in imminent danger of death is guilty of exposure and endangerment of a person to death, a Class 9 serious offence, punishable with a definite term of imprisonment of not less than 1 year and not more than 3 years

Art 292: Exposure and Endangerment of a Person to Serious Bodily Injury

A person who has the custody or charge of a person who is incapable of protecting himself, whether on account of health, age, situation or any other circumstances and intentionally exposes or abandons such person, thereby putting such person in imminent danger of serious bodily injury, is guilty of exposure and endangerment of a person to serious bodily injury, a Class 2 petty offence, punishable with a definite term of not less than 1 month and not more than 6 months, or a fine of 5,000 -20,000 Nakfa, to be set in intervals of 1,000 Nakfas.

The court may in addition deprive the offender of his family or custodial rights for a period of not less than one and not more than 10 years, upon a determination that the nature and circumstances of the offence justify deprivation

- a. Beatings;
- b. Helicopter;
- c. Otto;
- d. Jesus Christ/ Crucifixion;
- e. Almaz/ Diamond;
- f. Torch;
- g. Ferro (Irons);
- h. Electric Shock;
- i. Gomma;
- j. Mock Drowning;
- k. Buried alive/ mock execution/threat;
- l. Staring at the sun/exposure to scorching sun;
- m. Cold water;
- n. Human waste;
- o. Sexual torture

94. All prisons and detention centres practice torture as a means of obtaining evidence, of obtaining self-incriminating evidence and admissions of guilt and generally as a means of intimidation. Detention centres most commonly associated with torture are:

- a. Aderser;
- b. Barentu;
- c. Sawa;
- d. Adi Bieto;
- e. Tessenei;
- f. Assab;
- g. Wi'a
- h. 2nd police station/karsheli;
- i. Me'eter;
- j. Ala

95. In summary to date, the Eritrean Government has taken no action to prevent torture and to identify and prosecute those who practice it.

Extrajudicial killing

96. In Eritrea, enforced disappearances (see section on Detention above) and *Extrajudicial Killing* are consequences of: *the failure of the rule of law, the never ending National Service, the lack of freedom of speech and association as well as the non-functioning of both the civil and military courts.*
97. Extrajudicial killings are a deliberate use of lethal force against a person carried out by, or at the behest of, or with the acquiescence of public officials; outside of any judicial process and usually as an alternative measure to the judicial process.
98. States have an obligation to prevent arbitrary killings by any public official and they should prescribe by law the exceptional circumstances in which a person may be deprived of their life by such authorities. There is no such prevention in Eritrea in fact the absence of the rule of law and a functioning independent judicial system is such that such killings are never questioned.
99. The very nature of extrajudicial killings is impunity. The killings are never independently investigated, perpetrators are not subjected to disciplinary procedure, the rule of law is not applied, and families are left bereft in their pain and worse may not even know that their loved ones are dead for years.
100. Extrajudicial killing events have been documented, by various source, in the following categories (**See Schedule 2**):
- i. **National security killings:** Execution of enemies, collaborators of the enemy, traitors and deserters(“Open Letter to all P,” n.d.):
 - a.Collaborators of the enemy: the extrajudicial executions of Eritreans and Ethiopians between 1991- 1993 (Adi Quala prison);
 - b.Cowardice in the context of the war with Ethiopia;
- These killing are not limited to deserters, they extend to already conscripted officers for negligible offences or petty issues that may arise with senior officer. These killing also happened during conduct of military round ups (giffa) as well as during the service.
- ii. **Politically-motivated killings: arbitrary killings of war veterans with disabilities, Muslims and political dissidents:**
 - a) Extrajudicial killings of war veterans with disabilities in 1994 - In July 1994, the Government committed extrajudicial killings when war veterans with disabilities resulting from war injuries took to the streets and demonstrated against their conditions of living in the camps;
 - b) Summary executions of Muslims in 1997 -In June 1997, about 150 civilian Eritreans from Keren, Senafe and Agordat were rounded up and shot for allegedly being

collaborators of the Eritrean Islamic Jihad also known as the Eritrean Islamic Salvation Movement or the Eritrean Islamic Jihad Movement. This may be happening again. Since the Muslim community of Asmara has refused to comply with the Government Order to hand over Al Diaa School, as mentioned earlier in this paper several Muslim leaders have been arrested and their Elder Haji Musa Mohamed Nur, arrested in October 2017, died in prison on 03 March 2018.

- iii. **Border killings to prevent escape from the country (“shoot-to-kill policy”)** – the number of people killed is difficult to know – however there are documented cases of such events both on land and in the sea.
- iv. **The extrajudicial killing of ethnic minority groups: the case of the Kunama and the Afar.** According to the UN Human Right Commission: “While individual victims of human rights violations belong to all ethnic groups in Eritrea, information obtained by the Commission indicates that the Kunama and Afar ethnic groups have been specifically targeted by the Government by being subjected to enforced disappearances and extrajudicial killings”⁴³ The Commission makes the following examples:
 - a) The poisoning of Kunama in 2007 - 28 members of the Kunama ethnic group were killed in Mai Duma prison and buried in a mass grave. Twenty- six people were poisoned and two died during interrogation after being subjected to torture and other punishments;
 - b) The killing of members of the Afar ethnic group and reports of the existence of mass-graves
- v. **Other extrajudicial killings** - of prominent business men (Saleh Mohamed Hagos), University lecturers and other prominent people

101. There are several recent well publicised and documented cases of shootings of National Service Conscript as well as children:

- a. On December 22, 2014 reports of the killing of 13 children as they were trying to cross the border to Sudan surfaced. The horrific event came to light because the father of 3 young girls aged 13,16,18 Mr Tesfahanes Hagos desperate for news of his daughters kept making inquiries visiting detentions centres, as well as National Security Offices. Finally, the authorities admitted to the killing of the children.⁴⁴ - The UN Human Right Commission on the status of Human Rights in Eritrea also documented the incident.(A/HRC/29/CRP.1, 2015)⁴⁵;

⁴³ (A/HRC/29/CRP.1, 2015) ; paragraph 118-1124.

⁴⁴ Makeda Saba; 23 December 2104; Thirteen Children Gunned Down Escaping From Eritrea: the Corps Thrown Away; <http://www.africa-express.info/2014/12/26/thirteen-children-gunned-escaping-eritrea-corps-thrown-away/>

⁴⁵ (A/HRC/29/CRP.1, 2015) ; Paragraph 1115. The number of shootings and killings that have occurred near Eritrean borders since the establishment of the shoot to kill policy remains unknown. However, the Commission estimates that the number is quite high when one considers the number of cases documented by the

- b. On 03 April 2016 in Asmara, conscripts who jumped from vehicles were shot in front of many witnesses. This action also resulted in the death of bystander. According to information received 29 conscripts were killed or injured

Box 2: Freedom of Speech International Obligations

UDHR Article 19

Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

ICCPR Article 19

1. Everyone shall have the right to hold opinions without interference.
2. Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.
3. The exercise of the rights provided for in paragraph 2 of this article carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:
 - a. For respect of the rights or reputations of others;
 - b. For the protection of national security or of public order (order public), health or morals

ACHPR Article 9

1. Every individual shall have the right to receive information.
2. Every individual shall have the right to express and disseminate his opinions within the law.

1997 Constitution

1. Every person shall have the right to freedom of thought, conscience and belief.
2. Every person shall have the freedom of speech and expression, including freedom of the press and other media.
3. Every citizen shall have the right of access to information. 4. Every person shall have the freedom to practice any religion and to manifest such practice.
4. All persons shall have the right to assemble and to demonstrate peaceably together with others.
5. Every citizen shall have the right to form organisations for political, social, economic and cultural ends.
6. Every citizen shall have the right to practice any lawful profession or engage in any occupation or trade.
7. Every citizen shall have the right to move freely throughout Eritrea or reside and settle in any part thereof.
8. Every citizen shall have the right to leave and return to Eritrea and to be provided with passport or any other travel document

REPRODUCED FROM: THE EROSION OF THE RULE OF LAW IN ERITREA: SILENCING FREEDOM OF EXPRESSION; 2015; CENTRE FOR HUMAN RIGHTS, UNIVERSITY OF DORTMUND

Commission involving specific incidents. In order to highlight the magnitude of the problem, the Commission obtained information on certain specific incidents.

“Shootings in Karora in September 2014: The Commission collected information indicating that sometime in September 2014 about 16 children attempting to leave Eritrea through the Ginda port on the border with the Sudan were shot at by military personnel at the border area of Karora. The Commission was told that 13 children, seven male and six females, are believed to have been killed in the incident. The children are believed to have been between 13 and 18 years of age, and to be predominantly from the 27th round of national service. Most are believed to be children of soldiers and military officers. The children are believed to have been from the Qachew. Three girls were reportedly shot and killed.

The killing of 40 at the border in 2014: The Commission also heard that a group of 46 people tried to flee to the Sudan in late 2014. Out of this number 40 were shot, six managed to escape.

Killings at sea in 2013: In 2013, about 20 people, who were mainly from the Afar ethnic group, are reported to have been killed when they attempted to flee to Yemen.

F. Freedom of Expression- Freedom of Association and Assembly – Freedom of Religion

Erosion of Rule Freedom of expression media⁴⁶

102. Prior to 1996 and the enactment of the Press Proclamation, freedom of speech was protected by Article 14 of the Eritrean Transitional Code. However, the freedom of speech was not respected as is evidenced by trend of journalist arrest, the fact that the former fighters complaining of their unremunerated service being extended for 2years without consultation; and the disabled veterans complaining of their situation, after promises of dialogue, were all arrested.
103. Proclamation No 90/1996 established the legal framework media activities in the country. The Proclamation banned foreign ownership of print media and reserved ownership and control of radio and television to the Government.
104. The objective of the Press Proclamation⁴⁷ are that the Press should:
- a. serve society by disseminating political, social, economic and other knowledge;
 - b. provide news, information and entertainment to citizens;
 - c. respect basic human rights and liberties and defend them;
 - d. enrich and deepen national tradition and works for national unity, peace, stability and the development practice and culture;
 - e. provide a forum for diversity of opinion such as to engage the community and to ensure the accountability of Government.
105. The Press Proclamation provides that: Journalists have the right to: confidentiality of their sources; protection and security; the formation of a journalist association; obtain and disseminate news and information from any source subject to verification as to the veracity of the information.⁴⁸ And, Article 4, of the Press Proclamation, guarantees that there will be no censorship, suspension of banning of newspapers and other press products “except under the provision of this proclamation or with the approval of a competent court”. The key provision that would enable the Government to apply the censorship provisions is a threat to the country (i.e. National Security). Such action requires a specific Proclamation.⁴⁹ However, these

⁴⁶ **wey gud! What is Free Press?** <https://www.youtube.com/watch?v=JofEtZ3o2JE>

⁴⁷ Proclamation No 90/1996: Art 4 Objectives (2)

⁴⁸ Proclamation No 90/1996: Art5 Rights and duties of Journalists (1)

⁴⁹ Proclamation No 90/1996 Press Proclamation

Art4 – 1) Freedom of Press

- a) Freedom of press is guaranteed pursuant to this Proclamation.
- b) The censorship, suspension or banning of newspapers and other press products administratively, except under the provisions of this proclamation or with the approval of the competent court, shall be prohibited.

provisions were tempered by the fact that the law of defamation under the Transitional Code of Eritrea criminalised defamation. A provision that has been maintained in the 2015 Criminal Code.⁵⁰

106. Soon after the gazetting of the Press law, despite the ongoing issues with freedom of speech, Setit and other independent papers emerged. Despite the assurances of the law, the press continued to face challenges of: censorship; harassment, intimidation and denial of access to information key among them denial of information from Government. 1997-2001 a short history of Eritrea's post-independence free press.
107. Despite the provisions of the Press Law, in October 2000 seven (7) journalists employed with the private press were arrested in the wake of the Berlin Manifesto discussions⁵¹. The Journalists who were arrested were:
 - a) Milkias Mehretab;
 - b) Yousef Mohamed Ali;
 - c) Dawit Habtemichael;
 - d) Yebio Gebremedhin;
 - e) Selam Menghis;
 - f) Mathews and Semret Asmelash
 - g) Ghebrehiwet Keleta, a news writer for Tsigenay;
108. Despite the Governments general antagonism and hard-line towards the media, it was not averse to use it for its own interests. This was the case in January 2001 when it leaked to discussion paper: "Woyane's Third Offensive and the Political Campaign that Followed it.". The purpose of the paper was to: "assess the political climate that followed the third offensive and to expose the campaign of confusion and to challenge the building of negative comments". The paper builds the case that: "... the problem is not the President exercises too much control of the

c) The Government may, under special circumstances, where the country, or part of it, is faced with a danger threatening public order, security and general peace caused by war, armed rebellion or public disorder or where a natural disaster ensues, by proclamation, undertake measures to censor all publications and mass media. The Government shall rescind the proclamation by another one upon the termination of the conditions warranting it.

d) Except for radio and television, the ownership of which is reserved for the Government, private ownership of press and all equipment of expression shall be permitted to Eritreans only.

⁵⁰ 2015 Penal Code of the State of Eritrea; Art 154 Defamation of Government Institutions: A person who publicly asserts or disseminates false facts, knowing them to be such, in order to cast disparagement upon legislative, executive or judicial institutions is guilty of defamation of government institutions, a Class 9 serious offence, punishable with a definite term of imprisonment of not less than 1 year and no more than 3 years.

⁵¹ (Tronvoll.K; Mekonnen,D; 2015) Berlin Manifesto – October 2000; "In October 2000, a group of thirteen prominent Eritrean Intellectuals (later called G-13) wrote a confidential letter to President Isaias Afewerki, questioning the outbreak of war and raising a wide range of critical issues on the EPLF's dominant role in the country's politics and economy and on the other matter of the unimplemented Constitution....."

ministers, but that there was insufficient control”. In this was the Government was setting the foundation of the accusation of Treason.

109. On 18 September 2001, the Government closed all the independent media and arrested the journalist and editors associated with it. The action did not comply with the provisions of the Press Proclamation because there was no:

- a. Court order; or
- b. Declared State of Emergency;
- c. Nor was it an action taken under the jurisdiction of any of the existing laws limiting freedom of speech.

It was an action taken outside of the judicial system, hence outside of the rule of law. What it has achieved is the silencing of freedom of speech and the removal of an interlocutor. To date there is no independent “***National Media***”

110. On 23 September 2001, the following journalists were arrested:

- a) Yosef Mohamed Ali, Chief Editor of Tsigenay;
- b) Seyoum Tsehay, Freelance Editor and photographer and former Director of Eritrean State Television (ETV);
- c) Temesgen Gebreyesus, Reporter for Keste Debena;
- d) Mattewos Habteab, Editor of Meqaleh;
- e) Dawit Habtemicheal, Assistant Chief Editor, Meqaleh;
- f) Medhanie Haile, Assistant Chief Editor, Keste Debena;
- g) Fessahye Yohannes (or Joshua), a reporter and co-owner of Setit;
- h) Said Abdulkadir, Chief Editor of Admas;
- i) Amanuel Asrat, Chief Editor of Zemen;
- j) Dawit Isaac, a reporter and co-owner of Setit
- k) Hamid Mohammed Said, ETV;
- l) Saleh Aljezeeri, Eritrean State Radio;

111. On September 18, 2001, the following independent newspapers were closed:

Paper	Date	What they Published	
Megaleh;	June 10,2001	Major General Berhane Gebrezgheir Open Letter	General explains that his complaint is not about his demotion or the refusal of the President to receive his letters – but wants clarification that the measures taken against him were as direct result of his speaking up at the session of the [ELF] Central Committee and the NA meetings of August/ September. “The Eritrean People have capacity to know the truth and to propose solutions.”
Setit			
Tsigenay	2001	Petros Solomon Interview	“The mandate of the Special Court has lapsed, and it should cease because at this time it is incomplete with the letter and the spirit of the Constitution (i.e. 1997 Constitution)
Zemen			
Wintana			
Admas;			
Keste Devena	2001	General Uqbe Abraha	Letter written in response to Hadas Eritrea (Gov paper) reporting on the Special Court findings in the case of Tekeste Testatsion (Papaya) Red Sea Trading Corporation (09). The General request to rebut the article in Hadas Eritrea was denied. According to the Hadas Eritrea article the Special Court claimed that General Uqbe Abraha had provided Tekeste (Papaya) with illegal access to trade. In his open letter the General claims that he has a right to defend himself in an independent court. In addition, he expressed the opinion that the actions taken by the Special Court were undermining an ongoing investment
Mana			

112. To date, the only Media outlet operating in the country (print, television, radio) is the Government Media under the umbrella of the Ministry of Information presently presided over by Yemane Gebremeskel (AKA Charlie) former Director of the Office of the President. Yemane Gebremeskel took over the administration the Ministry of Information in 2015 two years after the defection of the former Minister of Information (Ali Abdu) ⁵².

⁵² (Salayonis; March 16,2015) - **Congratulations Mr. Yemane Gebremeskel, Incoming Mol** - Points out that in fact this shift for Charlie is a demotion. Charlie held the position of Director of the President's Office since independence. He is the Government Spin Master; <http://awate.com/congratulations-mr-yemane-gebremeskel-incoming-moi/>

113. Mr Yemane Gebremeskel is a key Spin Doctor for the Government of Eritrea and the fact that his appointment as Minister of Information cannot, in any way be regarded, as a promotion is negative for Eritrean journalism and freedom of speech. In his October 2001 BBC⁵³ interview, he confirmed Government's hard-line attitude and was not able to explain exactly what the G15 and the Journalist had done wrong to merit imprisonment. He only managed a vague comment that they were involved with groups planning "*regime change*"⁵⁴. During that interview, there was no mention of civil and political rights, no defence of free speech
114. To date, the Government continued to hamper freedom of speech and opinion by threatening, harassing, arresting and generally regularly purging media professionals working for the Ministry of Information. In February 2009 Radio Bana was closed.
115. Though, from time to time journalist may be released as was the case of:
- i. March 2013 six (6) journalists:
 - a. Mohammed Said Mohammed;
 - b. Biniam Ghirmay;
 - c. Esmail Abd-el-Kader;
 - d. Araya Deboch;
 - e. Mohammed Dafla;
 - f. Simon Elia;
 - g. Yemane Hagos
 - ii. January 2015 six (6) journalists:
 - a. Bereket Misghina;
 - b. Yirgalem Fisseaha Mebrahtu;
 - c. Basilios Zemo (Radio Bana);
 - d. (iv) Meles Negusse Kiflu (Radio Bana and Radio Zara);
 - e. (v) Gimay Abraham (Radio Dimtsi Hafash); (vi) Petros Teferi

⁵³Yemane Gebremeskel -BBC Interview October 2001; <https://www.youtube.com/watch?v=I8MPP7ha6j4>

⁵⁴ (Awate Team; March11,2015) - Congratulating "Stuttering Yemane Gebremeskel" - <http://awate.com/congratulating-stuttering-yemane-gebremeskel/>

116. **The reality that more than seventy journalists are arrested/ disappeared,** and that the Government continues to arrest journalist.

The effect of the crackdown on the media is to silence Eritreans. A situation that is contrary to the provision of: (i) Article 19 of the UHDR; (ii) Article 19 of the ICCPR; (iii) Article 9 of the ACHPR; and (iv) Article 19 of the 1997 Constitution.

117. It is disturbing to note that – not satisfied with the closure of all independent media outlets, arresting independent journalist, harassing and regularly arresting its own Ministry of Information journalists, the Government of Eritrea has gone to extent of ensuring that the archived collections of the independent papers are no longer easily available for scrutiny⁵⁵.
118. Though Eritreans both in country and in the diaspora use social media, within the country they are faced with a number of restrictions: (i) access to mobile phone is highly controlled and is not allowed to members of the National Service; (ii) internet is only available through the Government – even private internet providers ultimately rely on the Government; (iii) internet is slow and is slowed further by electricity shortage; (iv) it is estimated that only 0.9% of the population have access to internet.
119. A review of the Report reveals that there are at least 30 references to **“media”** but **there are no references to “Freedom of Speech” or “Independent Media”**. **The references to media are** about how the Government is using the media to communicate messages to the population. It is the Government using the media just like a **“Propaganda Office”** or just another **“mass movement organisation”**. It is not about **Dialogue or Expression of Opinion or about Holding the Government Accountable**. This is so to such an extent that the Government media never covered the Eritrea/Djibouti border war. The consequence of this approach is that for national news, the population relies on “03” a rumour system.
120. The combination of the Arbitrary Arrests, Extrajudicial Killing, the closure of the independent media, the undermining of the Judiciary means that Eritreans are have no freedom of speech of opinion.

121. In summary:

- a. Eritrea is a one-party state, has a single TV station, one government owned newspaper and one Radio station that excessively exaggerate the little changes made in the country. Because of the arrests and the repression, no Eritrean can own any form of media outlet and freedom of speech, freedom of association, freedom of movement and freedom of any form of democratic liberties are totally forbidden in the country.
- b. Foreign journalists are banned from entry into Eritrea to report the massive denials, deprivations, tortures and torments endured by the Eritrean population. Eritrea is a tightly closed nation much the same as North Korea and is appropriately dubbed as the North Korea of Africa. Just like North Korea, Eritreans are indoctrinated, intimidated, coerced, and threatened with all sorts of

⁵⁵ Underground Blogger 2017- Asmara

penalties and punishment and up to death sentence if they did not express their unflinching loyalty to the ruling party, and many have permanently disappeared to extinction for mere portraying minor dissent or for even suspecting them of being anti-government and for merely expressing their candid opinions that criticize the leaders in Eritrea.

- c. The few select foreign journalists, considered favourable to the Government in Eritrea, that have been permitted to enter the country - are highly monitored and only allowed to see places and speak to individuals acceptable to the Government and its security. As a result, many naive foreign visitors are deceived into believing Eritrea to be a perfectly administered nation and leave the country with erroneous perception. What they don't see is the what happens numerous detention centres (ie over 350) some underground, where many Eritreans are kept in total darkness for years and in the process, lose their eyesight. The Eritrean leaders have built more prisons than schools since the independence of Eritrea and numerous innocent Eritreans decay for years in such prison in appalling and inhuman conditions for crimes that were never charged and without knowing the reasons for their incarcerations.

Freedom of Movement

- 122. All National Service personnel is required to have “*Menqesaqesi Wereket*” which must be shown on demand and at all check points. From 2001 to 2010 check points on all major routes in the country proliferated ostensibly to control smuggling and the avoidance of National Service. By 2010 most check points were removed. However, Eritreans Nationals remain subject to random ID checks and National Security routinely carries out checks of Hotels and Guest Houses.
- 125. Eritreans wishing to travel outside of the country need a support letter from their Local Administration (i.e. M'mhadar/ Kebele) to apply for both a passport and an Exit visa from the Ministry of Immigration. This process is for all Eritrean citizens irrespective of age or of whether they have been demobilised or completed National Service requirements.
- 126. National Service conscripts are not entitled to either document until the complete their service. A catch 22 situation given that it is presently a never ending National Service. Often, even when people have complied with the National Service requirements, either the Passport or the Exit visa or both are denied. The consequence of this it that Eritreans and especially the youth take high risks to pursue their aims and move out of the country. The irony of the situation is that the same Government that refused to provide a letter of Support to obtain a Passport or and Exit visa, or who irrespective of the letter of support refused to issue either or both travel document, once the Eritrean citizen is outside of the country will provide a Passport in exchange for USD.
- 127. The situation is just as dramatic for children as there is a general practice not to allow children five (5) years old and above to leave the country. This means that family travel and reunification processes are interfered with and that families are constantly faced with the harrowing decision as to which of their children they will travel with; reunite with and which they will be separated from. Inevitably families are forced to take the risk and seek the services of smugglers to move their children.

128. In addition to the Exit Visa – Eritreans travelling out of the country for medical reasons required the clearance of a Medical Board, irrespective of whether they are civilians, who will determine if, in their opinion the person concerned can be treated in Eritrea. The wishes of the patient or their family is not relevant.

Freedom of Assembly / Association

129. Eritrea is a signatory to both the ICCPR and the ACHPR. Both require member states to respect the right to freedom of association, In the case of Eritrea the right to freedom of association and assembly is not respected. The UN Human Right Commission finding on: “... the exercise of the right to freedom of assembly and association point to a lack of mechanisms for channelling grievances, the absence of representation of interest groups in the administration of the country, lack of consultation on decisions affecting the population, absence of opportunities for open and genuine dialogue, and the punishment of peaceful assembly and expression of demands” (A/HRC/29/CRP.1, 2015; paragraph 614). Follow up reports (2016;2017) note that there is no change.
130. Freedom of Association and Assembly are discussed in paragraph 69 to 71 of the Report. Paragraph 69 states that: “Freedom of association and assembly is also respected by law. The legal Notice No 5 of 1992, on “Registration of non-government national organisations and associations” also set the right condition for their establishment and operation. During the reporting period more than 33 national organisations are operational. Eritrea’s’ Labour Proclamation also upholds workers’ rights and there are about 190 trade unions functioning at present”
131. The Report, fails to mention Proclamation 60 and 61 of 1994 dealing with Administration of Non-Government Organisations Followed by Proclamation No 145/2005 - A Proclamation to determine the Administration of Non- Government Organisation (NGO). The 2005 Proclamation replaces all previous legislation governing the Administration of Non-Government Organisations and limits their activities to emergency/humanitarian interventions
132. In addition to the reporting requirements, the Proclamation No145/ 2005 imposes several crippling financial restrictions such as requiring that National NGO hold up to USD1 million capital funds (for International NGO’s it is USD 2 million) and that no more than 10% of their budget can be spent on overheads and restricts local NGO’s from accessing any UN funds earmarked for Eritrea. The Government considers such funds the prerogative of the State.
133. Freedom of assembly and association in Eritrea is attacked on several levels:
- a. Eritrea is a single party state. Freedom of association includes the right to form and join political parties;

- b. The peaceful demonstration in 1993 and 1994 of the soldiers and the disabled veterans were crushed, the G15 and people associated with them were arbitrarily arrested this is also the case of numerous journalists;
 - c. In October 2017, Eritreans, peacefully demonstrating the arrest of Haj Musa Mohamed Nur were shot at with live bullets and many were arrested including children. In March 2018, the funeral of Haj Musa was disrupted by security forces resulting in the arrest of people attending the funeral, including children
 - d. There are no independent Civil Society Organisation(CSO) or National Non- Government Organisations;
 - e. The Regional Centre for Human Rights and Development was ordered closed in 1993. The founder of the Centre Mr Paulos Tesfageorgis was also the co-founder and head of the Eritrean Relief Association (ERA) was briefly arrested and has since left the country;
 - f. The Eritrea Women's War Veteran Association BANA formed in 1994, has been closed – assets transferred to the NUEW;
134. Following the end of the Eritrea /Ethiopia border war, to assist with the response to the emergency National NGO's were established and International NGO's were able to return. Accordingly, the following national organisation were active: Eritrean Development Foundation (EDF); Haben; Hanesian Eritrean Welfare, Red Cross Eritrea; Vision Eritrea. Immediately following the enactment of Proclamation No 145/2005, except for the Red Cross, National NGO's were able to re-register. Though organisations such as Haben appealed the decisions they never received a reply. In the case of International NGO's, during the period 2005 to 2011, International NGO's were also pushed out. Oxfam GB, NCA, LWF closed their operations in 2011. In the case of Oxfam GB this was the second time they were closing their operation in Eritrea – the first time was in 1997, when they left in response to the restrictive environment.
135. There are also no independent workers associations (i.e. trade unions); professional association or cultural/ sporting associations. There are the mass movement organisations and such organisations as the PFDFJ organises. During the liberation struggle the EPLF established the mass movement organisations to mobilise h different sectors of the community to achieve the goal of liberation. These organisations are the National Union of Eritrean Women (NUEW); the National Union of Eritrean Youth and Students (NUEYS); the National Confederation of Eritrean Workers (NCEW). Post-independence these organisations have remained intimately connected to the EPLF/PFDJ and therefore to the Government and have not evolved to represent the issues of their constituencies.
136. The association model that the Government is implementing in the country is the same that they followed during the liberation war – that is a mass movement model, where it is the Government that organises the associational life of Eritrean people. Thus, organisations as the University of Asmara Teachers Union; and Asmara University Student Union have been closed.

137. In the case of the Asmara University Student Union there were attempts to subsume it within the structures of the National Union of Eritrean Youth and Students and to replace its leadership. Unlike the NUEYS, the Asmara University Student Union was engaged in the representation of the interest of their constituency. Therefore, the Union was: “.... instrumental in voicing the students’ objection to the Government’s plan announced in 2000 for a one-year unremunerated service by university students, the introduction of a 150,000 Nakfa bond for students wishing to study abroad, and the summer work programme in 2001.”
138. Restrictions of the freedom of assembly apply both in the country as well as in the Diaspora. UN Human Right Commission found that Eritreans in the diaspora, organising meetings in support of the G15 were harassed and threatened.
139. A case in point is the reaction of the Eritrean Embassy in Nairobi when a group of Eritrean established EDEA (Eritrean Diaspora in East Africa) in Kenya – within the provision and requirement of Kenya law. The response of the Eritrean Embassy in Nairobi was to write (19 February,2015) to the Kenyan Ministry of Foreign Affairs.
140. In the letter, the Eritrean Embassy refers to the Eritreans establishing EDA as: “a group of subversive Eritreans national in Nairobi” and to the inaugural EDA meeting as: “..... illegal political gathering or meeting under the name of “Eritrean Diaspora in East Africa” on Friday 20th February 2015 with a main aim of inciting national against the Government of the State of Eritrea”
141. In fact, as EDEAs is legally registered in Kenya, the inaugural meeting was not illegal. The reference as to illegality is linked to the Eritrean Government’s attitude to creation, by Eritreans, of an association either in Eritrea or in the diaspora independently from the Government.
142. The position of the Eritrean Government, as expressed in the Embassy’s letter, it that the only entity allowed to organise Eritreans anywhere is the Eritrean Government : “ The Embassy further would also like to bring to the attention of the esteemed Diplomatic Missions that the office of the Embassy of the State of Eritrea in Nairobi and the Association of Eritrean Community in Nairobi are the only appointed and legal representatives of the Government of the State of Eritrea and the Eritrean Community in the Republic of Kenya respectively and hence kindly request the Government of Kenya to stop the illegal activities of these subversive elements”. No freedom of Assembly or Association unless it is organised through the PFDJ⁵⁶
143. Based on the view that the Eritrean Government is the only entity that can organise and mobilise Eritreans anywhere in 2002 the Eritrean Government established the Commission for Diaspora Affairs was established – at the time headed by Tekeste Tesfamariam (later Eritrean Ambassador to Israel). Officially the purpose of the commission was to engage the Eritrean Diaspora in much the same way as the Eritrean Relief Association (ERA) had during the liberation movement. Increasingly it is playing a role to prevent and counter the Diaspora rights of freedom of Association and Speech

⁵⁶ Saba Makeda, March 09, 2015; The Ridiculous and Silly Reaction of the Eritrean Embassy in Nairobi on the Diaspora meeting; <https://www.africa-express.info/2015/03/09/ridiculous-silly-reaction-eritrean-embassy-nairobi-announcement-meeting-diaspora/>

Freedom of Religion

144. Article 19(1) of the 1997 Constitution provides for the right to freedom of belief and to practice any religion and to manifest such practice (Article 19(4)). Religion is an important aspect of the social and cultural life of Eritreans. Though there is no precise data, it is generally assumed that: Orthodox Christians are the majority, followed by Muslims; Roman Catholics; Other Christians, and others.
145. Generally, the Muslim populations are predominant in the Eastern and Western lowlands, whereas the Orthodox Christians dominate in the Central and Southern highlands. Accordingly, the Tigrinya are predominantly Christian, while the Tigre, Afar, Saho, Rashaida, Hedareb and Nara are predominantly Muslim. The Bilen are half Christian and half Muslim and among the Kunama some are Catholic, and some tend to adhere to traditional belief systems.
146. In 1992 the Provisional Government of Eritrea (PGE) established within the Secretariat of Interior a Department for Religious Affairs with the mandate of supervising the religious communities; to regulate their relationship with the new State and to ensure that these communities were in line with the ruling party. Accordingly, PFDJ prohibited any form of religious instruction in schools. At the time the exceptions were the Muslim, the Orthodox, Roman Catholics and Lutherans.
147. As the Report States the relationship between the Government and the Religious bodies in the country is governed by Proclamation No 73 of 1995. The Proclamation requires religious groups to register with the Government. It is not possible to establish a Church in Eritrea without registration. To register, the following information must be provided: a description of the religious group history; an explanation of the group's uniqueness or benefit as compared to other religious groups, names and personal information of the leaders, detailed information as to assets; description of the group's conformity with local culture, and declaration of all foreign sources of funding. The Proclamation prohibits foreign funding of religious groups.
148. Registration is renewed yearly. In 2002 the Minister of Information issued a decree requiring all religious groups except the Eritrean Orthodox, the Muslims, and the Roman Catholics and the LWF, to cease all religious activities pending approval/ registration. At the time, several Evangelical Churches were de-registered. Some of the Churches closed because of this procedure were old established Churches such as; the Adventists; Baptist Kale Heywet; the Mennonite Meserete Krestos and the Evangelical Faith Mission Church.
149. Since 2002, the banned Churches are ruthlessly persecuted both among the military as well as among civilians. The persecution extends to private homes as the National Security is actively trying to prevent the members of banned churches from holding religious activities within their private homes and have invoked a regulation that goes back to a state of emergency declared in Eritrea in 1970. The regulation requires any private meeting of more than 5 people must have an official permit.

150. Members of religious groups that have been de-registered or that have not been able to register, would have come under the jurisdiction of the Transitional Penal Code, replaced by the 2015 Penal Code where religious bodies are not specifically mentioned. As there is a lack of application of the rule of law the reality is that members of unregistered religious groups are in fact dealt with by the National Security apparatus therefore are Arbitrarily Arrested, Detained, become subject to Torture and Extrajudicial Killings.
151. Though the Religious Proclamation does not specifically deal with religious education in public schools such activity is banned from public schools. Technically Religious Education is allowed in private schools though the recent Al Diaa Muslim school exchange makes this doubtful. Al Diaa is not the only private/ religious school to come under pressure. From mid-2017 to March 2018, the Catholics School Medhanie Alem (a minor theology school) has also been closed as well as 6 Catholic Church supported Primary Health Care Facilities have been closed this year (2018) alone.
152. Both in the case of the Muslim school and the Catholic School there have been arrests. In the case of Al Diaa, the arrest of Haji Musa Nur and some of the School Board Members and students. Despite the difficulties faced the school seems to be operational. In the case of the Medhanie Alem Catholic School a nun responsible for the administration of the school and a priest were arrested. Though they were released a short time later, the school is closed, and students have been transferred to public schools
153. For the Muslim community and Eritrean Orthodox Church, it is the Government that appoints both the head of the Sunni Muslim as well as the Eritrean Orthodox Church. In the case of the Eritrean Orthodox Church, the Patriarch Antonios, appointed according to the rules and procedure of the Church, has been replaced and placed under house arrest since 2005.
154. Patriarch Antonios, became the head of the Eritrean Orthodox Church, following the death in 2003 of Abbuna Yacob, then the second Patriarch of the Eritrean Orthodox Church. Patriarch Antonios, was elected through popular election that was then unanimously endorsed by the Holy Synod. Therefore, on 23 April 2003, he was confirmed as Patriarch of Eritrea by Pope Shenouda III with the assistance of the Eritrean and Coptic Orthodox Metropolis Bishop. According to the rules.
155. Over time tension between the Eritrean Orthodox Church and the Government built up so much that in 2005 the Patriarchs annual Nativity message was not broadcast by any of the Eritrean media. Another example of the suppression of Freedom of Speech. By the end of 2005, the Patriarch was placed under house arrest. He was accused of failure to excommunicate 3,000 members of the Methane Alem as requested by the Government and for his demands that the Government should release imprisoned Christians accused of treason. January 2018 marks the 12th year of the Patriarchs arrest
156. By May 2007, in violation of the Church's Constitution (continuing the trend to ignore the rule of law), Bishop Dioscoros (Dioskoros) was installed, by the Government, as the Patriarch of the Eritrean Orthodox Church. At the same time Abbuna Antonios was forcibly removed from

his home and transported to an undisclosed location.⁵⁷ . Patriarch Dioscoros (Dioskoros) died on 21 December 2015 and according to reports in early 2016 more than 10 Orthodox priests were arrested for protesting the continued detention of Abbuna Antonios and Government's plans to appoint a new Patriarch.

157. The interference with the Eritrean Orthodox Church Extend to the Diaspora. Specifically, we note the case of the ousting of Fr Hadgu W Haiman, and later of Berhane Haileab, from Kidane Mehret church in Nairobi. Both Fathers are reported to have taken stands against the Government's unwarranted interference in church matters.⁵⁸
158. The situation of Jehovah's Witnesses is that they are non-citizens. The Report paragraph 68:" Moreover, the Jehovah's Witnesses had long forfeited their legal status when they refused to recognise the "temporal government" after referendum and opposed the referendum process in April 1993 to determine the independent status of the nation after 30 year of national liberation struggle. The group failed to comply with the rules and further continued to sow discord among different denomination." The Jehovah Witness offence, for which they are denied citizenship and existence, is that they exercised their cultural and political rights including the right of Conscientious Objection to National Service.
159. The Eritrean Defence Forces, is the only Military Organisation in the world that does not have some form of Religious services or support for its members. In the SAWA Military training centre it is forbidden to any religion in the camp and those caught in such practices are punished.

G. National Service

National Service and Warsai Yikaalo Development Campaign

160. The Legal Framework for National Service is based on the following Proclamations:
 - a. Proclamation No11/1991
 - b. Proclamation No82/1995
161. Proclamation No 11/1991 required all citizens between the ages of 18 to 45 years to serve for a period of 18 months (6 months military training; 12 months service in development and or other military roles). This proclamation provided for several exemptions such; self-employed persons; married women or single mothers; people with family responsibilities (i.e. sole carers/ breadwinners)⁵⁹.

⁵⁷ Abune Antonios; 15 September, 2008; Letter from HH Antonios, Patriarch of the Eritrean Orthodox Church; http://tewahdo.org/index.php?option=com_content&view=article&id=110:letter-from-hh-antonios-patriarch-of-the-eritrean-orthodox-church-&Itemid

⁵⁸ Another Eritrean Priest Forced Into Hiding; ICF; 13 January,2010; <http://asmarino.com/news/500-another-eritrean-priest-forced-into-hiding>

⁵⁹ Proclamation No11/91; Art 5,7,8

162. The key objective of Proclamation No11/1991 was to bring people from all over the country together so that through the sharing of common experiences national unity would be strengthened. This is in accordance to EPLF/PFDJ view that, without carefully crafted system of social engineering and without the enforcement of social discipline there is a danger that ethnolinguistic rivalries would arise causing fragmentation in the country. In this matter, as well in the matter of freedom of association and freedom of religion, the tendency is to control and manage.⁶⁰ The National Service rounds started in 1994
163. Proclamation No 82/1995 – National Service increased the National Service age from 45 to 50. Therefore, all citizens between the ages of 18 to 50 years are required to undertake National Service for a period of 18 months (6 months military training and 12 months service in development and or other military roles). In addition to the social objective of Proclamation 11/1991 there is the objective of establishing a strong defence force.⁶¹
164. Unlike the 1991 National Service Proclamation, the 1995 Proclamation limits exemptions. Exemptions from active National Service are granted only for those who have already participated in the National Service or; to those who participated in the liberation struggle⁶². In such cases the exemption is only applicable to the 6 months military service. Therefore, such individuals are required to provide 18 months of Service. There is provision for what are termed temporary exemption in the following categories: medical; Students - middle and secondary school, professional school students; University students.⁶³ Eritrea does not recognise the right of **Consciences Objection to Military Service or National Service**. Prominent conscientious objectors on religious grounds are the Jehovah Witnesses.
165. In line with the objective of establishing a strong military force, those who have completed their active National Service, including the former fighters; are required to continue to provide reserve military service and respond to calls for periodic military training and enhance the Regular Army as needed to defend the country.
166. To fulfil the economic development objective of the national service, conscripts are assigned to work in non- military activities, such as agricultural work, construction of roads, houses,

⁶⁰ (Plaut, 2016) – “The president seems to believe that, without carefully crafted system of social engineering and rigorous and vigilant political control, the ‘nine language groups and the two religions’ may be unable to live in harmony”

⁶¹ Proclamation No 82/1995 – Art Objective of the National Services

The objectives of the national service shall comprise of the following:

- ✓ To establish a defence force which has popular support, and which can safeguard the independence and sovereignty of Eritrea;
- ✓ To safeguard and preserve the culture and stubbornness and patriotism shown by our people during the 30-year struggle for the future generation
- ✓ To create a new generation which cherishes work and discipline and is enthusiastically willing to participate in the reconstruction of the country
- ✓ To enhance and enforce the country’s economy by engaging the people, who are repository of the wealth of the country, in progressive projects and in an organised manner
- ✓ To give the participants regular military training as well as continuing practice, so that they can achieve enduring professional competence and physical fitness
- ✓ To try to obtain the unity of our people through the creation of the uniform sense of nationalism and by combating non-nationalistic tendencies (feelings)

⁶² Proclamation No 82/1995 – Art 12 Nationals Who May be Exempted from Active National Services

⁶³ Proclamation No 82/1995 Art 13, 14,15

buildings and mine infrastructure, which is in contravention of International Law on Forced Labour.

167. One of the requirements of the Algiers Peace Agreement (12.12.2000) was that both Eritrea and Ethiopia were required to demobilise. In the case of Eritrea, except for a pilot project that demobilised approximately 5,000 soldiers mostly women and disabled personnel; no demobilisation was carried out. Instead, pointing out that Ethiopia is continuing to occupy Eritrean territory (i.e. the Badme), the Eritrean government has maintained a high level of militarisation and has launched the Warsai Yikaalo Development Campaign (Kibreab, 2014)
168. The Warsai – Yikaalo Development Campaign was launched on 7 and 8 May 2002. The aim of the Warsai Yikaalo programme was and continues to be to; secure economic rehabilitation and bring about radical changes in all development sectors of the country. The Programme relies on the deployment of National Service (Warsai) and the Defence Force personnel in the military service; the civil service (including ministries and local administration), and in companies owned by the Government (including PFDJ companies) - (Yikaalo). All the activities carried by Warsai Yikaalo Development programmes are carried out under umbrella of the Ministry of Defence. The launching of the Warsai Yikaalo Development Campaign coincided with one of the most aggressive and concerted drives for National Service (i.e. *giffa*) *that resulted in 6 deaths in Adi Keyh*.
169. Unlike the National Service Proclamation, in the case of the Warsai – Yekaalo Development Programme there has never been any copy of Government documentation on the Programme available for public distribution.
170. In summary as part of the Warsai Yikaalo programme, National Service conscripts are assigned to fulfil a broad set of tasks working in development, construction and maintenance of infrastructure as well as in the agricultural sector and the fledgling industrial and mining sector; going far beyond the core military function
171. With the introduction of the Warsai Yikaalo Development Campaign, the Government effectively extended the National Service period from 18 months to an undetermined period. This event coincides with the first UNHCR reports of increased number of Eritrean youth arriving in Sudan and Ethiopia.

Militarisation of Education

172. According to a survey carried out, by Professor Gaim Kibreab, a Research professor and Course Director of the MSc Refugee Studies at London South Bank University, in 2012 ,among Eritrean Refugees and asylum seeker in the UK, Switzerland, Sweden, Norway, South Africa and Sudan, **before the National Service morphed into the Warsai Yikaalo** Development plan an indefinite service and force labour there were 4 methods of conscription:(Kibreab, 2014)
 - a. Voluntary reporting 23%
 - b. Through the Warsai School at Sawa at end of Grade 11 20%
 - c. Reported after receiving call up 38%
 - d. Round ups (giffa) 16%

However, - *“Currently, the main mechanism of conscription is through the Warsai School at Sawa in which all secondary school students at the end of 11th grade are automatically transferred to Sawa to complete 12th grade under military discipline in combination with military training.”*:(Kibreab, 2014)

173. In September 2003, the Ministry of Education announced the comprehensive restructure of the National Education system. Of relevance to this section is that the restructure has resulted in the extension of high school by one year (i.e. to Grade 12); to be undertaken at the SAWA (the National Military Training Centre). The net effect of this restructure is to:
 - a. remove students from the community into the National Service Programme earlier;
 - b. extend the period of National Service to capture high school student and therefore persons who are likely to be underage (i.e. children) contrary to international law
174. Since the reform, the experience of teachers is that often students who have deferred a year for legitimate reasons or who should repeat a year for academic reason are not able to be readmitted to school a situation that is an infringement of the Children’s right to Education. In such a cases teacher are pressured not to readmit. One teacher provided the following testimony to the UN Human Right Commission (2015): *“In Eritrea if a high school student quits one academic year, the next academic year he/she is not allowed to be back to school and instead he/she is forced to go for military training. As a high school principal, I did not accept that policy because my students had acceptable reasons to drop their studies and that is why I readmitted them to pursue their studies.”* The witness was imprisoned for a year and half without any trial, during which period he was subjected to ill-treatment and detained in solitary confinement. And he told to plead guilty to working against the government’s policy.”
175. On the issue of readmission to school a frustrated parent reported to HRCE that in 2004 re-admission to school of a minor who could not join the school at the start of the school year, was refused because “he was approaching the age of 18 years and therefore when he would be required to report for National Service and therefore it was not possible for the school to enrol him”
176. All Subsequent education either at the Colleges (7) or Vocational Training centres is closely linked to the Ministry of Defence. Students attending either the Colleges or the Vocational Training centres, generally have no choice as to the area of study (getting their choice is a matter of luck). Again, Gaim explains: *“The post-secondary school colleges are also fully militarised. Those who are transferred to the colleges after completing 12th grade at Sawa are regimented in military units, companies, platoons, battalions and divisions and are headed by military commanders, as was the case in Sawa, as well as the Eritrean military. This indicated the extent to which education is militarised in the country.”*(Kibreab, 2014)
177. Students who do not report for Grade 12 at the Sawa Military camp and are caught, are sent directly to Military training and forfeit any further access to education.

Hizbawi Serawit – National Defence Units

178. During the period 2010/2012 the Eritrean Government introduced the Hizbawi Serawit (Peoples Militia) as an additional service requirement for people between the ages of 50 to 80 years. Therefore, extending National Service obligation to 80 years of age. Like the Warsai Yikaalo Development Programme – there is no Proclamation or other documentation for the setting up of the Hizbawi Serawit. The creation of this militia has been a source of tension between the Defence Forces and the Government as the Hizbawi Serawit has been set up outside of the Defence Force Command Structure.
179. The Hizbawi Serawit requires citizens, who have been released from the National Service, to complete weapons training, must accept weapons and uniforms. And, to carry out compulsory duties such as guarding public spaces and Government property, patrols; working on national development projects. These compulsory duties in some cases, have resulted in people having to discontinue their paid employment. In addition attendance to Hizbawi Serawit duties has also disrupted both the provision of Government Services and private business because employees are absent from their work place.(Amnesty International, 2015)
180. For the people of Eritrea, the Hizbawi Serawit is further confirmation of a ***Never-Ending Service*** and therefore their inability to determine their life's priorities and fulfil their aspirations

Forced Labour

181. Eritrea is a signatory to the ILO Convention against Forced Labour (1930), and therefore has a duty to prevent a situation of forced labour from arising and to prosecute perpetrators.
182. The ILO Convention Against Forced Labour defines Forced Labour or Compulsory Labour as ***“any work or service which is exacted from a person under the menace of any penalty and for which said person has not offered himself voluntarily”*** - Under International law all persons have the right to be free from forced labour. According to the 1930 ILO Convention against Forced Labour, there are situation where a State may exact services from individuals that do not amount forced labour. National service is such an exemption. However, under this exemption the State may only exact from conscripts work that is “purely military in nature”.
183. The combination of National Service, the Warsay Yikaalo Development Programme has had the effect of nationalising Human Resources and it means that the work that is demanded from the conscripts is well beyond the scope of the exemption provided for by the ILO Convention on Forced Labour, by the Government's own admission the work is for the reconstruction and development of the nation, therefore the work that the conscripts are undertaking must be considered to be **Forced Labour and in contravention of the ILO Convention Against Forced Labour.**

184. The situation of the youth in Eritrea is further complicated by the fact that the economic sphere is totally dominated by the Government and PFDJ entities, and the fact that their right and freedom to work in a profession and for organisation of one's choice is curtailed because as member of the National Service they rarely choose the area of further study or training and definitively do not choose their postings.
185. National Service and the Warsai Yikaalo Development programme, have deprived the independent private sector (from the family farm to the small industrial enterprises) of human resources. Because of the heavy presence of the PFDJ and affiliated organisations as well as other Government entities, in economic sector (i.e. business); the private sector in Eritrea has shrunk. The shrinkage of the private sector is due to several factors – key among them is the fact that PFDJ and other Government owned businesses do not comply with labour, environment, and taxation laws. And, they definitively do not have a shortage of human resources. This contraction of the private sector has implications for jobs and especially so following any future demobilisation. A weak private sector means high unemployment.
186. Gaim describes the situation perfectly: “Present day Eritrea is among the most militarised countries in the world. Even the educational system is militarised. After the ENS [Eritrean National Service] became open ended and consequently militarisation affected all aspects of life in the country, the unpopularity of the ENS among citizens within and/or approaching the age of conscription increased dramatically. This was [is] reflected by the large number of people fleeing the country, and on the other hand, the large number of people hiding within the country to avoid conscription.” (Kibreab, 2014)
187. Contrary to the assertions of the Government, the People of Eritrea are not the beneficiaries of the National Service and the Warsai Yekaalo Development programme rather it is the ruling party in all its aspects: PFDJ, EDF, and Business Entities; mass movement organisations. Witnesses explain: (Kibreab, 2009)

“During fieldwork, I visited different construction sites where the large majority of the workers in the PFDJ construction firms were agelglot. For example, in 1997-8, Segen the construction company, built fifty-eight [58] villas behind the Cagnew [Denden Camp] Station in Asmara. The villas were subsequently allocated to generals, high ranking security and party officials, and selected ambassadors.”

“Soon afterwards, about fifty [50] additional houses were built by the same firm [Segen] in the same area using conscripts' unpaid labour and given to high ranking members of the armed forces.”

“When the asphalt road between Agordat and Tessenei was built, I was undertaking field work in the area and most of the workers were conscripts.”

“The party's firms, such as Segen, Bidho and Horn Construction are the main property developers throughout the county, and the large majority of the manual workers, engineers, consultants, guards, cleaners etc... are agelglot.”

Experience of a former conscript (Kibreab, 2009)

“.... he and 700 others were taken to Senafe to take part in horticultural development in the Barka Valley..... the land had been allocated by the government to private investor. The landowner could ... not develop it because it was covered with trees which were at the time protected by the Ministry of Agriculture.”

“Because the Ministry of Defence was the only government body authorised to cut down trees, the private developer leased the underdeveloped land to the army commander in order to evade the law on environmental protection.... cut the cost of clearing the land.”

“[the army commander] agreed to clear the land using conscript labour in return for 3 seasons of harvest”

Underage Recruitment

188. Art 38 of the Convention on the Rights of the Child; Art 24(1) of the International Covenant on Economic, Social and Cultural Rights require States to refrain from conscription of children below the age of 15 years. Any such recruitment must be voluntary and is subject to the informed consent of the children and their parents/guardians. The African Charter on the Welfare and the Rights of the Child (ACWRC) provides that States must ensure that no child should take a direct part in hostilities and must refrain from recruiting children (Art Xii (2).
189. Eritrea Acceded to the Optional Protocol to the Convention of the Rights of the Child on the involvement of Children in armed conflict on 16 Feb 2005, however to date has not yet submitted its initial report (Initial report was due in 2007). Nor has it taken steps to ensure that children are not conscripted.
190. Though the 1995 National Service legislation sets the age limit for National Service conscription to 18 years of age; the manner of implementation is such that minor, including children below the age of 15 are in fact recruited. The recruitment of these children is in contravention of: The Convention of the Right of the Child and its e Optional Protocol on the involvement of Children in Armed Conflict; the International Covenant on Economic and Social Rights; the African Charter on Human and People’s Rights as well as Proclamation No 85/1995
191. Testimony collected by HRCE confirms that children have been and are recruited into the National Service⁶⁴: These testimonies provide clear details of the infringement of the rights of the children concerned (Please note that Identifying details and names have been changed to safeguard the children and families involved):

⁶⁴ Report on Child Rights Violations in Eritrea (HRCE Report 1/2013, 19 November 2013); <http://hrc-eritrea.org/report-on-child-rights-violations-in-eritrea/>

(i) Hiwot (female)

In 2011, I was 17 years old, and I quarrelled with my family who live in Senafe and went to Asmara. As soon as I got off the bus in Asmara, I was caught by security people and taken to Wia military training camp. I told them that I was only 17, but they did not care.

There, I did military training. ***In one battalion, there were 29 other children with me.*** I did not have any change of clothes. I was starving. They gave us one small piece of bread each and a cup of tea for breakfast and inadequate food for lunch and dinner. If we arrived late for meals, there was nothing.

The officer in charge raped me twice. He told me no one should know about it. He said if I told people, he would punish me severely. The guards beat us without any reason. I missed my family a lot. I was terrified, depressed and desperate.

Six months later, in 2012, my parents came looking for me and they came with some documentation to show them that I was still a minor. At that time, my health was seriously deteriorating, so I was allowed to go home with my parents.

(ii) Dawit (male)

I was 15 years old when I was rounded up from the street in Asmara to do the military service. I was a 6th grade student.

I did six months' military training at Sawa military training camp. After I finished the training, I managed to escape and went to my family home.

I lived in hiding until 2010, and then I tried to flee the country. I was caught and sentenced to two years imprisonment but served 1 year and 7 months and was released in January 2013.

Then in February, I tried to flee for the second time. This time I successfully crossed the border.

With me in the military camp ***there were three other under-age children.*** When I escaped they were still in Sawa.

(iii) Kidane (male)

I was 16 years old when I was rounded up in March 2008 in May Dema in Zoba Debub region.

I was sent for military training in Sawa, and when I finished I was assigned to Military Unit 33.

I was forced to work in government farms, in construction and digging trenches.

There were 27 other under-age children who were trained with me.
In November 2012, I fled the country.

(iv) Habtu (male)

I was rounded up from the street in March 2010 in Enda Gerges near to Adi Quala and sent for military training. I was an 8th grade student.

I completed military training and was held there for three and a half years.

With me there were 20 other minors at Sawa training camp.

I remember a 14-year-old student who was also rounded up from near to Enda Gerges and was at the same camp. Both of us were assigned to a place called Adi Mero to dig trenches.

He was instructed to cook for 20 people and was a full time cook and did all the household work, baking bread, fetching water, etc.

The 20 minors who were at the same camp were under 16.

The military training was very tough and brutal. The trainers beat us, stamped on our heads with their shoes, and we were subjected to all sorts of punishments. We were half-starved most of the time.

We told them our wishes were to study but they did not listen.

Once in 2010, a minor like us tried to escape, and they shot him. We didn't know whether he died.

(v) Heyab (female)

I was born in Segeneyti in 1995.

When I was a 10th grade student, I was caught trying to flee the country in 2009, when I was 16. I was sentenced to 8 months' imprisonment and was jailed in Tserona prison.

After release, I was taken to May Sewra camp for military training. I completed this training in February 2011 and was assigned to the military unit in Egri Mekel.

The prison in Tserona was harsh. The prison authority asked me to pay 5,000 Nakfa (USD equivalent \$250).

Those who paid were released, but as my parents did not have money to pay, I served the 8 months' sentence.

There were other four girls in the same prison, aged 16-17. Like me, they did not have money to pay the fine, so they served their sentences.

In prison, if you went to urinate without permission, they punished you. They told us to lie on the ground and crawl on our bellies while they beat us with sticks.

When I was caught, for three days they poured buckets of water on me and beat me with a stick.

I told them that my father died fighting in the border war with Ethiopia, and I had 4 young siblings and my mother had no one else to support her, but they did not care at all.

(vi) Haile (male)

In 2008, I was taken to Sawa for military training when I was 17.

I stayed there until September 2009. I passed my exam and was sent to Mai Nefihi College.

I studied until 2011. I fled Eritrea in July 2013.

There was another minor with me, he was 16 years old. He had a kidney problem but did not get medical treatment. He died in August 2009.

There were 17 other minors in the training camp with me, among the 160 people in my unit.

Life was very harsh, not enough food, harsh punishments, all sorts of abuses. Those who tried to escape were dealt with brutally.

(vii) Segen (female)

I was 14 when I tried to flee the country.

I was arrested and imprisoned in Number 13 Security Prison for 20 months and only released, because I was very ill, after paying 5000 Nakfa.

When I was first caught, they gave me a very bad beating. The prison conditions were so bad.

You had to relieve yourself and empty your bowels in a bucket left in the cell, which was shared with others. The bucket might not be removed for a very long time.

There were four other minors, but I was the youngest.

If I had not become very ill, they would have sent me to do military training.

On one occasion, the officer in charge of the prison Threw me on the ground and trampled on me.

(viii) Suliman (male)

When I was 15, I tried to flee the country towards the Sudanese border.

I was caught and put in Prison 35 in Tessenei for 2 years.

I was interrogated and tortured until my right leg was broken.

It was an underground prison. I was released from prison in January 2013.

I went into hiding fearing that they would put me back in prison.

In May 2013, I managed to cross the border and leave Eritrea.

There were 3 other minors in the prison with me during my stay.

My mother had passed away when I was younger.

Three of my brothers were doing indefinite national service.

I had nobody to support me.

(ix) Binyam (male)

I was 17 when I was imprisoned for 20 months until February 2013.

I was accused of planning to flee the country.

After my release, I was refused access to education.

There were two 17-year-old girls in prison with me.

They were imprisoned for four months and then sent to a military training camp called Miter.

I had no news of them by the time I managed to escape Eritrea.

(x) Elias (male)

In 2009, when I was 15, I tried to flee the country.

I was caught and put in Adi Abeto prison for 10 months.

When I was 16 they took me to Wia Military Training Camp where I had 5 months' military training. I was then assigned to a military unit. After one month, I deserted. After a year of living in hiding I fled the country.

During military training, there were 370 children also being trained.

Many died of starvation and thirst when they tried to escape through bushland from this brutal military training. Some were shot as they tried to run away.

Beatings and torture of those caught were habitual.

I am now in a refugee camp and have been told by someone who lives in my old village that my mother, who had brought me up single-handed, had been forced to pay a standard 50,000 Nakfa (equivalent to USD\$2,500) in case I did not return.

192. The requirement that Grade 12 be completed at the Sawa Military Training Camp contributes to the number of children between the age of 15 and 18 that are conscripted and that become associated with the military. The UN Human Right Commission reports, refer to testimonies about minors who had finished Grade 11 early and were conscripted before their 18th birthday. The Testimonies to the UN Human Right Commission report as follows:

“A witness, who participated in military training in Sawa, said that during the 17th or 18th rounds of national service about 70 persons were below the age of 18.

One witness explained that he finished school in June 2001, when the final year of high school was still 11th grade. In July 2001, at the age of 17, he had to go to military training in Sawa.

A witness, who finished school at the age of 17, received the call letter and decided to leave the country.

A witness told the Commission: “I was called by the administration. I was at school at that time, in eighth grade. It was in October 1997. They knew I was 16 but they wrote down my age as 18 so that they could take me to the military service.”

A witness who was rounded up in 2005 and sent for military training in Sawa at the age of 15 said: “They knew some of us were under age because we were separated from the others.””

193. Due to the indefinite National Service, egregious human rights situation inside their countries, Eritrean youths have fled in droves and have become victims of human traffickers and endure untimely death in the Sahara Desert and drown on the Mediterranean Sea in large numbers.

H. International and Regional Instruments

Eritrea is as State Party to the following International Instruments

Convention		Ratified
CAT	Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment	25.09.2014
CBD	Convention Biological Diversity	10.03.2005
ICCPR	International Covenant on Civil and Political Rights	22.01.2002
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women	05.09.1995
ICERD	International Convention on the Elimination of all forms of Discrimination	31.07.2001

ICESCR	International Covenant on Economic, Social and Cultural Rights	17.04.2001
CRC	Convention for the Right of the Child	Signed 20.12.1993; Effective 03.08.1994
CRC	Optional Protocol- Children in Armed Conflict	16.02.2005
CRC	Optional Protocol – On the sale of children Child prostitution	16.02.2005
ACHPR:	African Charter on Human and Peoples’ Rights	1999
ACRWC	African Charter on the Rights and Welfare of the Child	Ratified 22.02.199; Deposited 25.01.2000
ILO	CO29 Forced Labour Convention, 1930 (No. 29)	22.02.2000
	CO87 Freedom of Association and the Right to Organise Convention 1948 (No87)	22.02.2000
	CO98 Right to Organise and Collective Bargaining Convention 1949 (No89)	22.02.2000
	C100 Equal Remuneration Convention, 1951 (No100)	22.02.2000
	CO105 Abolition of Forced Labour Convention, 1957 (No.1050)	22.02.20000
	C111 Discrimination (Employment and Occupation) Convention 1958 (No111)	22.02.2000
	C137 Minimum Age Convention 1973 (No 138)	22.02.2000
Palermo Protocols	Protocol to Prevent, Supress and Punish Trafficking in Persons Especially Women and Children	Signed 25.09.2014; Effective 25.10.2014

196. Paragraph 20 of the Report, states that among other international treaties and conventions, the State of Eritrea is committed to: (a) the goals and principles of the African Charter on Human and People’s Rights (ACHPR) - acceded to on January 14,1999; (b) African Charter on the rights of the Child – acceded on 22 December 1999. – “This again affirms the Government’s commitment and effort to regional engagement and cooperation and human rights.”.
197. We welcome the statement and the fact that Government of Eritrea has acceded to several very important human right conventions. However, it is not enough to sign conventions and produce reports; while at the same time denying that there are serious human right issues in Eritrea that need to be recognised and addressed. To date Eritrea denies the findings, of the UN Human Right Commission, complaining that the findings are biased because based on information provided by Eritrean diaspora. And, at the same time, despite many request, denying the Special Rapporteur access to the country.

198. The State of Eritrea continues:

- a. To be in breach of Articles 1, 2, 3, 4, 5, 6, 7(1), 9 and 18 of the ACHPR⁶⁵;
- b. Ignore African Commission for Human and People's Rights communications and decisions.
- c. Fail to implement the African Commission for Human and Peoples' Rights Communication that require the State:
 - i. Release or bring to speedy trial the 18 journalists (including Mr Dawit Isaak) detained since September 2001, and to lift the ban on the press;
 - ii. Grant detainees immediate access to their families and legal representatives; and
 - iii. Take appropriate measures to ensure payment of compensation to the detainees

- ⁶⁵ ACHPR- Art 1 to

- Art1: The member state of the Organization of African Unity parties to the present Charter shall recognise the rights, duties and freedoms enshrined in this Charter and shall undertake to adopt legislative or other measures to give effect to them;
- Art2: Every individual shall be entitled to the enjoyment of the rights and freedoms recognised and guaranteed in the present Charter without distinction of any kind such as race, ethnic group, colour, sex, language, religion, political or any other opinion, national and social origin, fortune, birth or other status
- Art3(1): Every individual shall be equal before the law
- Art 3(2): Every individual shall be entitled to equal protection of the law
- Art4: Human being are inviolable; every human being shall be entitled to respect for his life and the integrity of his person. No one may be arbitrarily deprived of this right
- Art 5 Every individual shall have the right to the respect of the dignity inherent in a human being and to the recognition of his legal status. All forms of exploitation and degradation of man particularly slavery, slave trade, torture, cruel, inhuman or degrading punishment and treatment shall be prohibited.
- Art9(1): Every individual shall have the right to receive information
- Art6: Every individual shall have the right to liberty and to the security of his person. No one may be deprived of freedom except for reasons and conditions previously laid down by law. In particular, no one may be arbitrarily arrested or detained.
- Art7(1): Every individual shall have the right to have his cause heard. This comprises:
- (a) The right to an appeal to competent national organs against acts violating his fundamental rights as recognised and guaranteed by conventions, laws, regulation and customs in force;
 - (b) the right to be presumed innocent until proved guilty by a competent court or tribunal;
 - (c) The right to defence, including the right to be defended by counsel of his choice;
 - (d) the right to be tried within a reasonable time and by an impartial court or tribunal
- Art7(2): No one may be condemned for an act or omission which did not constitute a legally punishable offence at the time it was committed. No penalty may be inflicted for any offence for which no provision was made the time it was committed. Punishment is personal and can be imposed only on the offender
- Art9(2) Every individual shall have the right to express and disseminate his opinions within the law
- Art18(1): The Family shall be the natural unit and basis of society, it shall be protected by the state which shall take care of its physical and moral health
- Art18(2): The state shall have the duty to assist the family which is the custodian of morals and traditional values recognised by the community
- Art18(3): The state shall ensure the elimination of every discrimination against women and also ensure the protection of the rights of the woman and the child as stipulated in international declarations and conventions.
- Art18(4): The aged and the disabled shall also have the right to special measure of protection in keeping with their physical or moral needs.

199. During the review of the case of Dawit Isaak -v the Republic of Eritrea ⁶⁶ the Commission confirms:
- a. that Mr Dawit Isaak was one of the parties in the previous case Article 19 -v- Eritrea;
 - b. that the relief sought in both cases is the same;
 - c. that the rights and obligations were duly determined in the case of Article 19-v- Eritrea;
- The Commission also points out that the further Communication is: *“...consequent to the Respondent State’s failure to implement its decision, which has led to the Complainant⁶⁷ being held incommunicado for about 13 years now. The Commission regrets this state of affairs, and would like to draw the Respondent State’s attention to its obligations to give effect to the rights and freedoms enshrined in the Charter which it voluntarily undertook to adhere to.”*
200. The conclusion of the UN Human Right Commission is that the Eritrean National Service programmes constitutes a crime against humanity of: Enslavement and violates: (A/HRC/29/CRP.1, 2015)
- a. Article 8,9,10,12,17; 22 of the ICCPR;
 - b. Article 5,8,12,15;18 of the ACPHR;
 - c. The Anti-Slavery Convention of 1926;
 - d. The 1930 and 1957 Conventions Against forced labour.
201. The conclusion reached by UN Human Right Commission (2012 to 2017) Special Rapporteur for Eritrea is that the following human right violations are systematic: arbitrary arrests; enforced disappearances and incommunicado detention; inhuman prison conditions; widespread torture; compulsory national service for an extended and unspecified period of time; extrajudicial killing; shoot to kill policy against persons trying to cross the borders; lack of respect for civil liberties – including freedom of expression and opinion and assembly, association, religious belief and movement; discrimination against women, and sexual and gender based violence; violation of child rights, including conscription, which has a profound impact on education; and precarious living conditions. Such action, may in fact constitute a Crime against Humanity and are reasons why the for young people to leave the country.

I. Testimony – Eritrea: Ten years of Torture

202. On 04 January 2011, HRCE interviewed Mr Eyob Bahta, who was a prison guard from September 2001 until his escape from Eritrea in 2010. Eyob was born in 1975, was a member of the EPLF from 1990 to 1993. He was recalled to the army in 1998 because of the Eritrea Ethiopia border conflict. On 17 September 2001, he was assigned to work as a member of the prison security personnel in Embatkala. On 5 June 2003, he was transferred to ‘Ella ‘Ero’ prison until 2010.

⁶⁶ ACHPR: Communication 428/12

⁶⁷ As well as the complainants of the Article 19 v Eritrea

203. During the interview Eyob confirmed that:

- a. the dissenting Ministers-G15 (General Okbe Abraha; Ahmed Sheriffo; Brigadier General Estifanos; Major General Berhane Ghebrezgabiher; Humed Hamed; Haile Woldentensae; Beraki; Saleh Kekya; Aster Fesehazion ...);
- b. The journalists: Fessahaye (Joshua); Mattewos; Temesgen; Ahmed Sayed; Dawit; Seyoum Tsehay; Ammanuel; Medhanie; Dawit;
- c. Other Government Officials: Feron Woldu; Kiflom; Ali; Al'azar; Mehari Yacob; Kidane; Miriam; Idris Aba Arre; Dr Siraj etc.....
- d. were initially held at Embatkala at a training school.⁶⁸ and that they were all transferred to Ella 'Ero' prison;

204. Eyob explained that the people being detained were: *“.... normal people who are guilty of being journalists, doctors, ministers, generals, heroes of the revolution and people who advocated for reform and the implementation of the ratified constitution of Eritrea. Since there is no independent judicial system in Eritrea, no charge was brought against them and they have not been on trial yet”*

He goes on: *“At first, the prisoners were kept in a former training centre in Embatkala – a small town along the road to Massawa. Eventually however, all prisoners ended up in the purpose-built Ella ‘Ero’ prison. The 35 prisoners were initially guarded by 150 prison guards to discourage a rescue attempt that never transpired. Over the years, the guards were reduced to 80 because of transfers and escapes”*

205. He confirms that prisoners were not informed as to why they were detained, were not charged, did not receive proper medical support, were not fed adequately, were not able to receive family visits, were not able to talk to each other and were never addressed by their name. All these actions are contrary to the International Human Right law - the ACHPR

(See Schedule 2 B for the Full transcript)

J. Rule of Law - Political and Democratic Rights

Political party and Electoral law

1. Eritrea is a single party state. Presently there is Political Party legislation and all other political parties are banned. Even though there have been two major liberation movements: the Eritrean Liberation Front (ELF) and the Eritrea People's Liberation Front (EPLF) Eritrea is a one-party

⁶⁸ The location in Embatkala was the Eritrean Institute of Management Training Centre – a facility built with UNDP Governance funds as part of the Governance programme

state. This due to the deliberate decision of the EPFL now the People's Front for Democracy and Justice (PFDJ) to exclude the ELF and require all ELF members to abandon their membership before repatriating. An action that is antagonistic to the exercise of the freedom of association. President Isaias explained the restrictions by asserting that Eritrea would not become a: "playground for political organisations" (Plaut, 2016)

2. Notwithstanding this less than ideal start, there was a nationwide desire for peace and a lot of good will. We all hoped that with the drafting and ratification of the Constitution, dialogue and the eventual development of Party and Electoral laws many issue could be overcome. The Constitution was drafted and ratified by the Constitutional Assembly in 1997. The expectation was that once the Constitution was ratified Party and Electoral legislation would be drafted and thereafter there would be a General Election. However, this did not happen. Though a draft electoral laws was submitted to the National Assembly the start of the Eritrea Ethiopia border war meant that all such processes were postponed. (Messner et al., 2017)
3. . In September 2000, after the Eritrea Ethiopia border war, the National Assembly passed a resolution calling for general elections to be held before the end of 2001. Mohammed Sherifo (Vice President and Minister of Local Government) was assigned the task of preparing Electoral and Political Party. He completed a draft law on Political Parties and was started a process of public consultation that the President stopped. Sherifo argued the public consultation was necessary and that as his mandated to prepare for election was issued by the National Assembly, he had the right and the power to initiate the public consultation process. Soon after, Sherifo was dismissed and later he was arrested.
4. In 2002 the Draft Electoral law was amended and ratified in preparation for the Regional Elections. The amended Electoral law allows members of the Eritrean Defence Force (EDF) and Civil Service to be candidates in elections without stepping down from their positions. An arrangement that totally ignore possible conflict of interest of such arrangement; as well as the principles of separation of power.
5. The amended Electoral law also requires that all candidates must have fulfilled their National Service obligations, difficult in a situation of an indefinite obligation. Finally, all candidates are also required to demonstrate their respect for national unity, the sovereignty of the country and that they will place the interests of the nation and the people above all else. This means that the Government/ PFDJ involvement in the vetting and selection process of candidates will continue thus limiting the Civil and Political Right of the people.

K. Rule of Law - Social and Economic and Cultural Rights

Grassroots view (Catholic Bishops Pastoral Letter 2014)

1. In this Report the Government of Eritrea refutes all the claims of human civil and political rights abuses; by asserting the good economic performance of the country and specifically the good performance of Eritrea in achieving their Millennium Development Goals (MDG)⁶⁹ A position that in our view does not correspond to the reality on the ground.
2. Immediately after achieving liberation and independence, the economy of the country grew. This was achieved, through a combination of good rains, good harvests, the repatriation of so many Eritreans with their capital, as well as the social and political capital that was then enjoyed by the EPLF. The death and destruction of the Eritrea Ethiopia Border war together with the, during the war, funds that were to be allocated to development project; for infrastructure and basic social services were spent on war materials⁷⁰; has impacted negatively on the economic performance of the country.
3. The political ramifications of the Border war such as the continued occupation, by Ethiopia, of Badme has resulted in mass militarisation of the country and the implementation of the Warsai Yikaalo Development programme decidedly converting an 18 months National Service to one with an indefinite period with associated social, and economic consequences for the country; including the mass exodus of young Eritreans
4. In 2013, after the drowning, of over 300 young Eritreans, in the Mediterranean Sea near Lampedusa the Eritrean Government, despite the evidence to the contrary, denied that they were Eritreans. While Eritrean Communities all over the world held services in memory of the deceased and in support of their families; in Eritrea families were not allowed to hold services. They were denied even this small consolation. And, the issue of the return of the bodies to Eritrea became yet another opportunity for the Government to target and punish families. The response in support of the youth and their families at such time did not come from Government but from faith-based organisation each in their own way supporting the grief-stricken families. The Catholic Bishops issued a Pastoral Letter (2014) - asking: "Where is your Brother?"
5. "Where is your Brother?" – is an in-country view that tells us that socially and economically the country is not doing well. In the Letter, the Bishops recognised the depth and social richness of the Eritrean people as they reflect: "*The question "Where is your brother?", which today weighs on all our consciences, falls on ground that has always cultivated the values of solidarity and sharing among individuals, families and groups in all moments of life both happy and sad.*" They go on and speak of wounds that need to be tended and healed and they categorise them as personal and psychological as well as social and public ones.

⁶⁹ Now Sustainable Development Goals (SDG)

⁷⁰(NRC, 2005); (IDMC, 2009) - Immediately after the war close to 1 million people displaced out of a population of just over 3 million

6. Referring to the Lampedusa tragedy, a tragic event that has repeated itself numerous times since, the Bishops ask: *“Where is your brother? ...How is he living? Who is addressing the very sad state of affairs?”* - Who indeed -not the Eritrean Government that denies anything is wrong in the country and is happy to negate the Rule of Law only enforces the duties of the citizens while negating their rights.
7. On the issue of “Neither Peace nor War” and the ongoing occupation by Ethiopia of Badme, and the associated failure of the International Community to ensure enforce the border decision, the Bishops point the responsibility in the matter of the Government of Eritrea : *“This does not take away from the fact that whoever holds the role of responsibility - rather than condemn them (i.e. the youth) to exploiters and human traffickers- is it not better to identify ways and strategies for getting out of this absurd situation of “neither peace nor war?”*. The Bishops are advocating for an alternative to the militarisation of the country and the never Ending National Service.
8. Discussing the quality of life in the country, the Bishops point out that: *“... There is no point in just asking the question, “Why are youth choosing to go abroad?” – for no-one leaves a country of milk and honey to seek another country offering the same opportunities. If one’s homeland is a place of peace, jobs and freedom of expression there is no reason to leave it to suffer hardship, loneliness and exile to look for opportunity elsewhere.”* In the assessment of the Bishops youth are leaving the country because in fact Eritrea is not the land of milk and honey it is not a country where the economy is working for the people or where people are able to exercise their social, economic and political rights.
9. According to the Bishops, in Eritrea there is a:”. Growing disdain for the value of human life ...” and the situation of youth is that they: - “... find themselves looking at horizons that grows always darker and heavier. The Pastoral letter clearly points to the Never Ending and poorly paid National Service, the arbitrary arrest; the extrajudicial killing; the torture of so young people as a direct cause of the misery of: *“.... not only elderly parents with no visible means of support, but also entire families.”* They add that: *“it is having serious consequences at the economic level as well as at the psychological and mental levels.”* This is the view from the Grassroots that is directly in contradiction to the rosy picture that the Government would like to paint on issues of social services and the economy.
10. Through National Service and the Warsai Yikaalo Development Programme, the Government has nationalised Human Resources. The large pool of labour that they have available is deployed for commercial agriculture projects, building dams and roads. Many of the roads carry little commercial traffic. Effectively transferring human resource away from the private commercial sector into PFDJ and Government owned enterprises and, in this way, crippling the rural sector that is still labour intensive and generally crippling the private sector.
11. The government, clearly takes prides in drive to construct dams, and the setting up of micro irrigation-based agriculture, how much better would the economy of the country have been if such construction were to be carried out by the private sector employing young people now toiling a forced labour with little or no pay to support their families. The reality is that rain

fed/subsistence agriculture remains the predominant activity and the agricultural sector. It employs approximately two third of the population (A labour base that is now impacted by the indefinite National Service.) and contribution to GDP is only 11%. A situation that highlights the challenges for agriculture not only from the recurring droughts, but also loss of human labour to the National Service/Warsay programmes.

Lack of reliable economic data

12. A key feature of the Eritrean economy is the lack of important data such as: population census; publication of the budget; income and wealth distribution; end of period poverty data. No State budget has ever been published and there has never been any public dialogue as to the national budget allocation. The belief is that the bulk of the State budget is spent on the Military. However, the fact that our Defence Forces ran out bullets during battle in 2000, the poor field conditions (i.e. nutrition, health etc...) and the poor support provided to the Defence Forces in general and the National Service raised questions about the military spending. y.
13. There has been no census in the Country. UNFPA had worked with the Government to carry out a census, however it was postponed due to the Eritrea / Ethiopia Border War and has not yet been carried out. In 1995 and 2002 the Ministry of Health carried out Demographic Health Surveys. In each case the focus of the survey was to: "... collect and analyse data on the fertility, mortality, family planning and health" – These are specific medical surveys, they are not a. The data collected is to assist to augment government health planning. (Office/Eritrea, Macro, & National Statistic and Evaluation Office, 2003).
14. During the 2000 to 2005 the UN and the Humanitarian sector, for the purposes of their planning worked based on an estimated population of 3 million. Recently the based on reproductive data, the population has been estimated (by Government, World Bank) to be approximately 5 million. This estimation does not necessarily consider the thousands of reproductive age Eritreans leaving the country since 2002
15. In Paragraph 89 of the Report the Government, refers to the World Bank estimate of 5.1 and without any evidence (i.e. such as a population census) the Government asserts that the current population is 3.65 million and concludes that the per capita income for Eritreans is better than the World Bank estimate (based on a population of 5 million). This is a sweeping and self-serving approach that does not deal with the people's negative experience as to the state of the economy
16. The Report in a statement meant to be self-congratulatory admits that key economic data is not available in Eritrea: "..... the Bank builds a favourable scenario in the mid-term mainly driven by mining activities. **Therefore, even though income and wealth distribution data are not** readily available, the Bank's overview of the Eritrean economy suggests a significant macroeconomic improvement". Thus, misrepresenting the World Bank Assessment.⁷¹

⁷¹ World Bank – Eritrea Country overview - <http://www.worldbank.org/en/country/eritrea/overview>; accessed 04.04.2018

17. The World Bank economic review of Eritrea actually makes the following assessment:
⁷²“*Eritrea’s gross domestic product growth (GDP) was estimated at around 9% in the 2011-2012 period, up from an estimated 2.2% in 2010. The growth was mainly stimulated by the mining sector(gold), the coming on stream of the Bisha mine in 2011 and the historically high gold price prevailing at that time were key drivers, Growth prospects are potentially favourable in the medium term, reflecting the potential of additional mineral resources..... [Despite] recent growth, Eritrea remains one of the least develop countries in the world. Anecdotal evidences indicate that poverty is still widespread in the country where 65% of the population lives in rural areas and 80% depend on subsistence agriculture for their livelihood, impacting negatively on human development statistics. In 2012, Eritrea’s Human Development Index at 0.351, was below the average of 0.446 for countries in the Loa Human Development group and below the 0.475 average for countries in Sub Saharan Africa region.*”
18. According to the African Development Bank during the period 2016 to 2017, the Eritrean Economy slowed more sharply than expected due to dwindling economic activity and poor weather. During this period GDP declined from 3.8% in 2016 to 3.4% in 2017 and is projected to remain between 3.7% to 3.8%. During this period, the African Development Bank attributes growth to the Bisha mine. This period coincides with the implementation of the Currency exchange (i.e. old Nakfa for new Nakfa) and the introduction of restrictions of the amount of Nakfa that can be withdrawn from the bank at any one time. This was an initiative ostensibly to combat the parallel market as well as smuggling activities including human smuggling and trafficking. It is an initiative that has frozen all economic activity in the country as there are insufficient Nakfa circulating.⁷³
19. The 2014-2018 African Development Bank Eritrea Interim Country Strategy described the Eritrean Economic Context as follows: “*Prospects. Eritrea’s economy has continued to perform below potential due to various challenges including the implementation of the macro policy in a constrained environment, and deficiencies in energy and infrastructure particularly in roads.*” (African Development Bank, 2016)–Highlighting the fact that the infrastructure build by the Warsay Yikaalo Development programme are not serving the economic needs of the country. Not the rosy picture of the Report
20. The 2015 Human Development Index (HDI) for Eritrea is 0.420. This means that the country is ranked 179 out of 188 countries – placing the country in the low Human Development Category along with Sierra Leone. Eritrea’s HDI (0.420) is below the average of 0,497 for countries in the low Human Development Group and below the average of 0.523 for countries in Sub-Sahara Africa. Therefore, the performance of Eritrea is on a par with Central African Republic. There is no Inequality adjusted Index or a Gender Index for Eritrea because of lack of data.(United Nations Committee for Development Policy, 2016).

⁷² Ibid

⁷³ Gedab News; December 29, 2017; The Eritrean Government Admits its Blanking Blunder; <http://awate.com/the-eritrean-government-admits-its-banking-blunder/>

21. For two consecutive years in 2012 and 2013, the Global Hunger Index ranked Eritrea as second last in the countries assessed by the report. In 2017 the Global Hunger Index was unable to collect sufficient data to calculate the Hunger index for Eritrea as well as Burundi, Comoros and the Democratic Republic of Congo- hence treated these countries separately. Despite the lack of data, Eritrea remains a country of significant interest / concern based on the following data:

Existing GHI Values – Global Hunger Index (GHI) report 2017			
Country	Stunting children under five 2012-2016 %	Wasting children under five 2012-2016 (%)	Mortality children under-five 2015 -2016 (%)
Eritrea	53.3	14.7	4.7

22. The GHI report is concerned about the child stunting rate estimated at 53.3 percent and child wasting at 14.7 percent. And re-iterates that in 2014: “the last year for which a GHI score could be calculated for Eritrea, the country had the second highest score. All of this means that Eritrean children are Undernourished and therefore at risk. Undernutrition in Eritrea is a result of a complex interaction between food production, available resources to produce food (including human resources), water shortage, the reduced opportunities for alternative livelihood to generate income for the purchase of food and other goods. A factor in the reduced opportunities for alternative livelihood is the capture of productive age human resources by the National Service/ Warsay Yikaalo Development campaign and its negative impact on the family and the economic sector.
23. Eritrea is drought prone country that has been experiencing varying degrees of drought since 2002. During the period 2002 to 2005 a Drought Emergency was declared accordingly there was a humanitarian response. The response was made by Government, UN, as well as National and International NGO’s. During the 2011 Horn of Africa Drought as well as the recent 2015-2018 drought the Famine Early Warning System Network (FEWSNET) has no data on Eritrea, and the Eritrean Government maintains a stance that “Everything is under control and people are coping”- This is not possible given that the surrounding countries with similar climatic, social and agricultural and pastoralist activities are experiencing drought conditions and associated losses. Because of the lack of data from Eritrea and the Government’s stance there has been no drought specific response for Eritrea since 2002.
24. Irrespective of the Government’s denial of the impact of recurring drought on Eritrea people, and especially children, are affected (refer to the GHI above) and do require assistance. Hence in 2017 UNICEF provided support (through the Government) for 364,616 children aged 6 to 59 months with Vitamin A supplementation, while 41,701 children with moderate Acute Malnutrition(MAM) and 15,981 children with Severe Acute Malnutrition(SAM) were treated. In addition 48,470 persons, including 3,908 pregnant women and 3,139 lactating mothers have been supported with supplementary food. (UNICEF Eritrea, 2017)

ROME, 3 October 2002 -- A prolonged drought has seriously affected agricultural and livestock production in Eritrea this year - threatening the lives of more than a million people, the UN Food and Agriculture Organization (FAO) and the World Food Programme (WFP) said in a joint report issued this week.¹

The cereal harvest - forecast at 74 000 tonnes - is expected to be 60 percent below the average of the last ten years. It will cover only about 15 percent of Eritrea's food requirement instead of the average 40-50 percent. The agencies warned that international assistance will be needed to cover a shortfall of 283 000 tonnes, after taking into account anticipated foreign aid and commercial imports. .¹

06.December 2004 – Welcoming the arrival of 42,500 tons of wheat for 600,000 Eritreans hit by drought and a further 300,000 suffering from the effects of war, the UN relief agency (WFP) noted that a recent government survey found that in some regions ***the acute malnutrition rate was as high as 19 per cent on a scale in which 15 per cent is seen as an emergency situation.***

"Eritrea has been ravaged by four consecutive years of drought and currently faces nearly complete crop failure in many areas of what should be the country's grain belt," WFP Country Director Jean-Pierre Cebron said at a ceremony at the Red Sea port of Massawa.

25. As articulated by Amartya Sen (1999) much celebrated 'development as freedom' argument. Development in its broader sense is hardly achievable in an environment which is inherently antithetical to human - freedom in the broader sense of the term. In the case of Eritrea, we are of the view that without respect of Human Rights there cannot be any development or economic growth.

26. There is no mention in the Report as to the underutilisation of the Port of Massawa and Assab. At present level of infrastructure, the Port of Massawa is lucky if it receives 11 commercial cargo ships⁷⁴ a year and

the Port of Assab has no commercial activity as Assab and surrounding areas have been assigned as military facilities to the Saudi alliance fighting the war in Yemen. The arrangement is not transparent and there is no way of knowing the USD received by the Government.

27. The allocation of Assab and the surrounding area for military purposes to the Saudi's and their allies means that the Afar populations in the area are denied access to their land as well as the sea and are therefore restricted from carrying out their livelihood activities. In fact, afar fishing boats have been bombed by the Saudi and allied military planes without any protest or other expression of concern from the Eritrean Government. The situation is pushing the Eritrean Afar population out and presently there are Eritrean Afar refugees in Ethiopia, Djibouti as well as Yemen. The refugee in Yemen are facing very difficult circumstances
28. The lack of commercial activity at the Ports of Massawa and Assab, along one of the busiest sea routes, is an indication of Eritrea's own very low level of economic activity and isolation—not much going out and not much coming in.
29. Presently the border with Djibouti is closed – because of a border conflict. The Ethiopia border may be accessible for limited exchange among villager along the border but for wider trade and commerce it is closed. In January 2018 Sudan closed the Kassala border. All this means that there is no free exchange of goods and services between Eritrea and its immediate neighbours further impacting on economic activities.

⁷⁴ Conversation with port workers

Government Control of the Economy

30. The PFDJ control of the economic space, like the control of Civil Society spaces is a legacy of the liberation period and involves a much higher proportion of hard currency transactions, then the formal sectors. The hard currency transactions are almost all entirely managed off shore through PFDJ's network of companies, individuals and bank accounts. In many cases the affiliation to PFDJ or Eritrea is not made known. The impact of this is to render, both the Ministry of Finance and the Central Bank of Eritrea (i.e. the Treasury), two essential State institutions, irrelevant to the economy of the country ⁷⁵.
31. The financial arrangements of the Eritrean Government are notorious for their lack of transparency; accordingly, the management of the economy is an. as an exercise in smoke **and mirror**. "The Eritrean economy is not what it seems. Eritrea appears to be a poor, developing country, with most of its citizens working in peasant agriculture while the state relies for its hard currency on a small but growing mining sector and remittance income from the diaspora. In part this is accurate, [There is however another dominant reality. Eritrea's economy, like its politics has been captured by a narrow elite. Alongside the open, observable economy there is another, much more significant, hidden economy. This is entirely controlled by the party and ultimately by President Isaias himself" (Plaut, 2016).
32. An economy of **smoke and mirrors dominated by the PFDJ**, is an economy where there is no clear separation between the economic activities of the State, the Defence Force (EDF); and PFDJ. It is an economy where, directly or indirectly, separately or jointly, the Government of Eritrea, EDF and PFDJ control all the major sectors of the Eritrean economy. ⁷⁶
33. Therefore, the economic/ financial sector in Eritrea like the Justice System (i.e. Judiciary, Prisons) is operating a parallel system consisting of a weak formal economy; and an economy controlled by key members of the PFDJ and largely based offshore transactions. In the formal economy transactions are exclusively in Nakfa and is characterised by chronic hard currency shortage.(Messner et al., 2017).
34. Because there is no freedom of information and no transparency it is difficult to establish a definite list of PFDJ companies. The list of PFDJ business below is therefore tentative and only by way of example:

⁷⁵ ibid paragraph 38: - In September 2010, the Manager of the Commercial Bank of Eritrea, Yemane Tesfay, told the Monitoring Group that Eritrea held no foreign currency reserves to speak of, that 95 per cent of deposits with the Bank were held in Nakfa, and that "the Bank of Eritrea would manage hard currency reserves if Eritrea had any, but it doesn't".

⁷⁶ At liberation, the EPLF as the Provisional Government of Eritrea (PGE); in addition to assets that were already under their control, inherited all the assets that were under the administration and control of the Ethiopian state and Ethiopian mass organisations- including all public economic enterprises

Sector	Company	Comments
Agriculture	Agro Beverage Industries Enterprises	PFDJ and RSTC
	HIDCO	RSTC +Saudi Arabia Returnee - bankrupt
	Sawa Agro Industry	Originally private – taken over by PFDJ -Uses Conscript Labour
	Sawa Af Himbol Agro Industry	Originally private – Now PFDJ- possibly front person - Uses Conscript Labour
Construction	Arag Metal & Woodwork Shop PLC	PFDG
	Asmara PLC	Originally Hidden – PFDJ
	Asphalt & Beton Share Company (ASBECO)	Originally Hidden - PFDJ
	Gedem Construction Company	PFDJ
	General Engineering Development & Construction Company PLC (GEDECC)	Originally Hidden - PFDJ
	Hangar Construction Company	PFDJ
	Horn Construction	Joint venture with Chinese capital
	National Resources Consulting Engineers Inc (NRCE)	Originally hidden – PFDJ
	Segen Construction Company	PFDJ
Finance	Housing and Commerce Bank of Eritrea	EPLF and 5 shareholders all EPLF – financing housing projects etc ...
	Himbol Financial Services	
Garage and Transport	Amberber SC (ASCO) Asmara	Originally 5 shareholders now RSTC and RSTC Transit Services
	Asmara Garage	PFDJ
	Fenkel Garage (Massawa)	PFDJ
	Royal Garage (Asmara)	PFDJ
	Transhorn Transport	Former Transport Department ELF, post 1991 Transport Commission EDF, 1994 share company
Hotel and Tourism	Hotel Intercontinental (Asmara Palace)	1995 40% PFDJ; 40% Red Sea Cooperative Hotels; and originally 20% foreign investor
	Red Sea Cooperative Hotels PLC	1996 originally 3 shareholders -acting for RSTC
	Eritrea Tour Services PLC (ETS)	RSTC

Media Publication Printing IT	Aughet Marketing & Distribution	Sale of locally printed materials
	Ewan Technology Solutions Inc	Internet provider IT; training - Joint venture – hidden partnership
	Sabur Printing Services	Published Hedri Magazine – PFDJ
Trade	Read Sea Trading Corporation (RSTC)	Import/Export all sectors
	Red Sea Transport PLC	RSTC
	RSTC Transit Service	RSTC
	RSTC Import Export	
	Vanguard General Business & Trading	Under Sawa Agro Industry

35. The PFDJ companies are as source of revenue for the party. However, this comes at a cost as the companies do not need to comply Labour, Environmental and other regulatory requirements that the private sector must comply with. They also do not have Human Resource restrictions as they have access to the low-cost labour of the National Service personnel. As early as 1992 /1993 the PFDJ's restructured "**Section 09 of the former Department of Economics**" into the **Red Sea Trading Corporation (RSTC)** and in this way started the process of converting its economic activities into business activities. The RSTC is the major importer and exporter of Eritrea.
- | RSTC Board 1992: | |
|---------------------------------|------------------|
| General Director
RSTC | All PFDJ Members |
| Ministry of Finance | |
| Ministry of Trade and Industry' | |
| Ministry of Agriculture | |
36. During, the 3rd EPLF/PFDJ Congress in 1994, the EPLF members to properly separate the assets of the Front and the assets of the State. Accordingly, in 1995 the PFDG /PGE established the "**National Agency for the Supervision and Privatisation of Public Enterprises (NASPPE)**" to administer such public enterprises in preparation for privatisation.
37. The plan was that for each company the shares would be as follows: (i) One third (1/3) private investors; (ii) one third (1/3) PGE ;(iii) one third (1/3) PFDJ to be administered in support of the Martyrs Fund. Essentially corporations would remain under the strong control of the PFDJ/PGE.
38. By 1997, thirty-nine public enterprises (39) were selected for privatisation and were privatised. However as most potential investors were unwilling to pay price that NASPPE requested for what were still assets in need of a large investment to make them viable or were not willing to become PGE/PFDJ partners. The scheme was not fully implemented, by end of 2001 thirty (30) of the thirty-nine (39) public enterprises were privatised. NAPSE was dissolved and the administration of those public enterprises that were not privatised was returned to the line Ministries, the PFDJ and the associated mass movement organisations.

39. In 2001, the business activities of the PGE and the PDFJ were raised by the dissident Ministers (i.e. G15) during the 2000/2001 political crisis. According to the dissident Ministers: ***“The establishment of PFDJ business entities had an honourable purpose. However:***
- a. They lack transparency and accountability;
 - b. They do not follow legal procedure (rule of law);
 - c. They are neither guided by a clear policy nor have professional administration;
 - d. They mix EPLF/PFDJ and Government business;
 - e. They have become vengeful enemies and negative examples for private industries;
 - f. They are not run by a trust as decided by the Central Council (EPLF/PFDJ), and they have never presented reports or their account to the Central Council as they should;
 - g. They have never been audited, and thus have never paid taxes to the Government based on audited statements;
 - h. They have lost goodwill and credibility among the people and the Front (EPLF).
40. The failure of PFDJ to pay taxes became a hot issue in 2000/2001. One that the independent media then available featured. Accordingly, the Head of Inland Revenue Department requested that PFDJ controlled companies pay taxes based on audit statements. Soon after he was replaced by Brigadier General Estifanos Seyoum. Brigadier General Estifanos Seyoum was⁷⁷ also dismissed from his post when he threatened to take the PFDJ companies to court for failure to pay taxes. At the same time Petros Solomon⁷⁸ objected to the failure of NUEYS to pay taxes on the turnover and profits of their commercial activities and their failure to pay port fees for their cargo ship.
41. The issue of the non-payment of tax by the PFDJ and the associated mass movement organisation businesses was also taken up by the student leadership of Asmara University - who accused NUEYS of engaging in commercial activities at the expense of youth and student interests. In 2001 much of the student leadership was arrested for this and other opinions on the issue of National Service.
42. The response of the PFDJ to the debacle was to defend its commercial activities as well as the commercial activities of the mass movement organisations such as the NUEYS. PFDJ contended that: ***“...parties must be allowed to have businesses”*** *The PFDJ contended that: “...since it is difficult to establish definitive rules that described what may be considered legal and illegal business income for political parties, they should be allowed to run businesses without restriction.”* In addition, PFDJ pointed out that: ***“... those who fear the financial***

⁷⁷ G15 dissident

⁷⁸ G15 dissident

might of the PFDJ should realise that it is currently futile to compete with the PFDJ in Eritrean Politics, since the people trust and support it anyway."⁷⁹.

43. The contention is that the domination of the economic and financial sector by the Government, PFDJ and its affiliates, in combination with the nationalisation of human resources through the National Service and the Warsai Yekalo development programme is such that it has been and is detrimental to the development of the economy in general and specifically of the private sector.
44. Post 2001 (i.e. post the Eritrea Ethiopia border war), the PFDJ continued its involvement in the economic sector participating in several large commercial joint ventures by pushing out both national and international partners. It is at this time that the tactic of pressuring genuine business to accept the partnership of the State or PFDJ starts to be implemented. Resulting in the removal or total marginalisation of the original owners for examples:
 - a. the pushing out of Jordanian business in paint production, solar water heater, and metal work – they had their business confiscated and were required to pay backdated taxes that had not previously been assessed;
 - b. the case of Eritrean businessman Mohammed Saleh Mohammed Hagos, the owner of the Omo factory, such push resulted in his death.⁸⁰
45. An important joint venture entered into at this time was the joint venture between the Government (55%) and the Coca Cola Red Sea Holding Ltd (45%) with share capital of USD 17 million.

Government Control of the Economy – Killing the Private Construction Industry

46. During the period 2006 to 2008 private construction sector was targeted with the arrest of Engineers, Surveyors and Architects. At the time people in Asmara thought that this was a follow up to the political purge that the government carried out in 2001 with the arrest of the G15, the closure of the private newspapers and the arrest of the Journalist.
47. Gaim summarised the situation: "Since April 2006, only PFDJ firms are allowed to engage in construction activities after private firms and individual entrepreneurs were banned from construction industry as part of the government's **crackdown** on the private sector." (Kibreab, 2014).

⁷⁹ 2001 – PFDJ Manual for Cadre

A touch of arrogance that is very indicative of the PFDJ attitude to the people of Eritrea and their sense of entitlement to Govern

⁸⁰ Seidi Mohammed Hagos July 25, 2008; In memory of my beloved brother Mohammed Saleh Mohammed Hagos; <http://awate.com/in-memory-of-my-beloved-brother-mohammed-saleh-mohammed-hagos/>

48. Officially the Government stated that the arrest was due to corruption and impropriety in the construction industry. There is no way to know. The persons arrested were detained in various detentions centres. Some were held in shipping containers. Many were released – some after paying a fine – those released had no idea why they had been arrested. The result of the operation was the shutdown of the private construction industry. Again Gaim summarises the process : “On 3 April 2006, the government issued a directive ordering all ‘contractors, consultants, practicing professionals and studio operators’ to submit to the Technical Office of Central Regions their original licences, detailed accounts, addresses, types and size of their projects, owner’s names, estimated total cost on the day after the directive was issued.” (Kibreab, 2014) And, “On 7 April 2006, the government ordered all of them [contractors, consultants, practicing professionals and studio operators] to cease their activities within ten [10] days. *The prohibition is still in force.*” (Kibreab, 2014)
49. Those Engineer, Surveyor and Architect that could do so have left the country and are now working in such places as Kenya, Uganda, South Sudan. Those who remain in the country face a difficult economic environment, they are unable to renew their building/construction license; hence they are either working for the PFDJ /Government monopoly at much lower salaries; or they are working in a black market. If they are working in the black market or other such arrangement their situation is precarious, and they are constantly facing shortage of material supplies, shortages of human resources; unfair competition from PFDJ and Government Construction Companies; as well as monetary restriction both foreign currency and since 2015 of the Nakfa, the threat of backdated tax assessments and of arbitrary.
50. We note that prior to the cancellation of all the construction/building licences in 2006, the local construction industry was affected by a shortage of labour linked to the National Service to deal with this, there was an arrangement in place such that the private sector could access human resources for their projects from the National Service paying an agreed amount to the Ministry of Defence. (Kibreab, 2014) Gaim: “– “Conscript were not allowed to receive payment from such employee except for pocket money equivalent to that paid by the Ministry of Defence”.

Government Control of the Economy – Demolish their Houses⁸¹

51. On several occasions, the Eritrean Government has engaged in the practice of demolishing people’s houses in early 2015 this exercise was particularly extensive and resulted in protest in Adi Keyh where shots were fired, and people were killed. At least 2 dead and 13 injured were reported.
52. These number are in no way a real indication as to the number of victims. The experience is that, many people faced with such destruction and contempt loose hope, loose their resilience succumb to depression and many commit suicides. Within a very religious and conservative

⁸¹ Makeda Saba; March 15, 2015; Eritrea, the Dictator Against the People: “Demolish their Houses”; <https://www.africa-express.info/2015/03/17/dictator-people-demolish-houses/>

society the act of committing suicide is devastating because families and friends are never able to share the pain as it is a taboo subject.

53. The official reasons for the demolition of the house are:
- i. Houses have been built illegally;
 - ii. Building permits have been obtained illegally;
 - iii. The land is not for residential purpose- therefore building a house is illegal;
 - iv. The land has been re-assigned – therefore the current use is illegal
54. While superficially this seems a straight forward problem– **there is a law, the law was not followed**, and therefore there are consequences. But this is an Eritrean problem and it is not straight forward. Though there is a law, it is also the case that the Government actions have been such that citizens have been placed in an impossible situation of neither being able to access the law to protect their right nor to comply with it. And, then without –any regard as to the role and responsibility of the Government in creating the chaos, such as the many exceptions to the legal process and generally the misery of the citizens; the Government punishes citizens and if the citizen dares to complain will make them disappear (i.e. arbitrary arrest, extra judicial killings etc...) .It has been done so many times.
55. **According to** Land Proclamation No58/1994 all vacant land in Eritrea belongs to the Government Article 3 – State ownership of land. Article 4 states that Eritreans have the right to use the land for specified purposes (Article 4 Usufruct Right), such as: recognised:
- a) Farming
 - b) Housing
 - c) Tiesa - land for housing in own rural village
- In each case** when land is allocated, the user has a specific period to use the land for the purpose for which it was given. In the case of land allocated for Housing the Proclamation states that a dwelling must be built within 3 years. If no house is built within the period, then the land must be surrendered to the Government. Vacant Land anywhere in the country belongs to the Government.
56. The problem is that the demolition of houses, allegedly abusively built, is happening against a background where since 2006/2008 the Government has closed the private construction firms arrested engineers, surveyors, architects. In this way taking over the construction industry; while at the same time building permits for private construction work have been frozen and are only intermittently granted. Thus, placing citizens in an impossible situation.

57. The result is lack of rule of law as people are placed in difficult dilemma and desperate not to lose their land build their house because failure to build means that they lose their land, so they find workarounds and build at huge costs as the bulk of the construction material is imported and is very expensive.
58. The import export sector is dominated and controlled by the Government/PFDJ and prioritises Government project and as there is a lack of hard currency there is also a constraint as to the material imported. In a further effort to control the sector there are also internal restraints on the internal movement of such material as sand and gravel and the workforce is tied up with the National Service and the Warsai Yikaalo Development Programme.
59. In summary, the **people** whose houses were and are demolished do not only lose their shelter and are damaged financially. They lose their land which is a psychological damage as land represent hope, family, unity, purpose a future.

L. Extractive Industry

Government Mining Joint Ventures

60. By law all mineral resources in Eritrea are the property of the State and mining operator are required to apply for licences for prospecting as well as for the exploitation of the resources. The legal framework for mining operations in the country consists of the following legislation: (i) Mineral Proclamation No 68/1995; (ii) Mining Income Tax Proclamation No 69/1995; (iii) Regulations on Mining Operations Legal Notice No 19/1995; Amendment Proclamation No 165/2011.
61. Though there have been mining operations in the country in the past (Gold, Copper, Silver, salt production and quarrying) much of the country's mineral resources were unexplored. Mineral exploration started in 1996. Sixteen companies from Australia, Bermuda, Canada, China, Libya, the United Arab Emirates and the UK operating 34 projects were involved in the exploration phase – covering an area of 14,000km² and identified mineral resources containing 3Moz gold; 41Moz silver; 1,600Mlb copper and 4,200Mlb zinc. Significant deposits of gold, copper, zinc etc were identified in Bisha, Bisha North West, Harena, Hambok; Koken as well as Emba Derho, Adi Nefas and Debarwa, Seroa, and Harab. (“Eritrea,” 2010).
62. The African Development Bank Interim Strategy (2014-2018), identifies the successful exploitation of Eritrea's mining sector as possibly contributing to the improvement of the economic performance of the country (African Development Bank, 2016). This optimism is based on feasibility studies conducted between 2010 and 2012 that confirmed the viability of copper, zin, gold, silver and quality potash. The commencement of copper output at Bisha (2013); gold at Zara and Koka (2014/2015) all critical to the improvement of fiscal performance of the country. **(See Schedule 3 for Estimated Production of Mineral Commodities; Structure of the Mineral Industry, Minerals in the National Economy).**

63. The expectation, the hope is that Eritrea is moving towards a mining boom and that income generated from the sector will ease the country's fiscal problems and spread wealth among the population.⁸²

"I agree with the growing predictions that Eritrea is moving towards a mining boom, it will not be long before we see this happening in our country," Alem Kibreab, Director General - Department of Mines – Ministry of Energy and Mines

"In the next ten years other nations in the region will look to Eritrea.....Probably the most important contributing factor is the fact that Eritrea's mining law is so up to date, attractive and competitive..... The law set government stakes in any mining project at 10% with option to buy a further 30%. This is a small claim compared with Egypt that mandates a 50% stake and Sudan at 60%."

64. In a 2016 Reuters Article – with the title of: Eritrea Looks to Mining Sector to Kick Start the Economy, the expectation of the economic benefits to the country of the mining sector is affirmed.⁸³

"In 2018, we will have four mining companies," he said, giving one of the most detailed outlines yet for the development of the industry. "Eritrea is very prospective. It is investor-friendly" - Alem Kibreab, Director General - Department of Mines – Ministry of Energy and Mines

However, the same article strikes a cautionary note as it refers to the issue Bisha Mining Resources Ltd. and forced labour:

"Meanwhile Bisha has been dogged by allegations from Human Rights Watch, other groups and former workers who are now outside the country, about the use of poorly paid workers on national service when the mine was built. Human Rights Watch and others describe the use of conscripts as "forced labour"."

"The government and Nevsun deny any national service conscripts had been used in commercial mining, and the Canadian firm says its own investigations failed to find any evidence of this. Alem also dismissed the allegations. "I don't know why they put on this smear campaign. It is absolutely incorrect," he said. [Alem Kibreab]"

Finally:

"So far Eritrea has attracted only smaller, so-called junior, mining firms - but Alem said: "They are aggressive explorers." [Alem Kibreab]

⁸² Miningreview.com; March 29,2010 Eritrea poised for mining boom

⁸³ Edmund Blair; Reuter;26 February,2016; Eritrea looks to build mining sector to kick-start economy; [tps://www.reuters.com/article/us-eritrea-mining/eritrea-looks-to-build-mining-sector-to-kick-start-economy-idUSKCN0VZ13S](https://www.reuters.com/article/us-eritrea-mining/eritrea-looks-to-build-mining-sector-to-kick-start-economy-idUSKCN0VZ13S)

65. Irrespective of the denials of the Director General - Mine Department and Nevsun as to the use of forced labour the reality is that:
- a) the practice exists, and we have already mentioned in this document that prior to the cancellation of all private building construction licences there existed an arrangement whereby building contractors could obtain access to workers and labourers through the Ministry of Defence. That is, they would be assigned workers and would pay the Ministry of Defence;
 - b) the economy in Eritrea is dominated by the Government and PFDJ companies and any interaction with such companies will result in the deployment of National Service conscripts and hence of forced labour.
66. **On 20 November 2014, three Eritreans filed a lawsuit against Nevsun in the Supreme Court of British Columbia, Canada, in relation to whether Nevsun relied upon forced labour (Araya et al-v- Nevsun Resources Ltd).**
67. The plaintiffs claim that Nevsun expressly or implicitly approved the widespread use of forced labour by its local contractor, Segen Construction Company, at the Bisha mine in Eritrea. The plaintiffs allege that they endured appalling working and living conditions and were subjected to severe punishment for perceived disobedience. They are suing Nevsun, a company incorporated in BC, for conversion, battery, unlawful confinement, negligence, conspiracy and the negligent infliction of mental distress. The lawsuit also asserts claims based on international law, relying on provisions against forced labour, torture, slavery, cruel, inhuman or degrading treatment and crimes against humanity. In October 2016, Nevsun's motion to dismiss the case based on the legal concept of 'forum non conveniens' was denied by the Supreme Court of British Columbia. The court found that the plaintiffs faced the risk of an unfair trial in Eritrea. The case can now proceed to trial.⁸⁴
68. Eritrea may, soon, have the mineral resources to sustain a mining boom. However, it is unlikely that any such boom will benefit the population of Eritrea. Most Eritreans will work at the mines for little or no pay, will have no freedom of assembly or association to organise themselves independently of the Government; will have no freedom of speech to demand accountability for the funds the Government receives from the mines; will have no freedom of speech to obtain information; nor will they have an independent judiciary to defend their rights. In such a situation, the mining operations in the country cannot benefit the people of Eritrea.

Bisha Mining Corporation (ENAMCO and Nevsun Resources Ltd)

69. The Bisha mine was the first mine to become operational. In accordance with the provisions of legal framework, the Bisha Mining Share Company (BMSC) was established with Nevsun Resources Ltd (a Canadian company) holding 60% of the shares and the Eritrean National Mines Corporation (ENAMCO) holding 40% of the shares⁸⁵.

⁸⁴ Araya et al-v- Nevsun Resources LTD - <http://claihr.ca/2017/04/06/araya-v-nevsun-resources-ltd-an-overview/>

⁸⁵ <https://www.bishamining.com/about-us/>

70. According to available information the following joint ventures have been established in the mining sector: **(See Schedule 4 – Mining Joint Ventures)**
- a) Zara Mining Share Company (ENAMCO and SFECO Group subsidiary of Shanghai Construction Group); Gold
 - b) **Asmara Mining Share Company (ENAMCO and** Sichuan Road & Bridge Mining Investment Development Corp. Ltd.) – copper-zinc-gold project;
 - c) Coluli Mining Share Company (ENAMCO and Danakali Limited) – Potash project;
 - d) Kerkebit Mining Share Company (ENAMCO and Sinchuan Road & Bridge Mining Investment and Development Company -SRBM) -
71. Though there are several joint venture agreements, the Bisha Mining Share Company is so far, the only company that is extracting and exporting mineral (gold, copper, and zinc).
72. Bisha Mining Share Company was granted a mining licence in 2008 and ore production started in 2011. According to data that Nevsun has presented to the UN Commission of Inquiry, Nevsun has paid 85 million USD to the Government of Eritrea in income taxes, royalties and other fees. According to the company it expect to pay to the Eritrean government a total of 14 billion USD over the next 10 years.(A/HRC/29/CRP.1, 2015).
73. There are number of issues as to how the mining industry in Eritrea is presently operating namely
- a) The use of forced labour;
 - b) The impact on the surrounding communities;
 - c) The issue of what happened to the funds received by the Government both as its share of the venture as well as any taxes paid
74. In the lead up to production, Bisha Mining Share Company, carried out a lot of construction and other work to prepare the mine for production. PFDJ and Government owned companies predominate in the sector much, therefore much of the contract work was carried out by them. As these companies rely heavily on the forced labour of conscripts it therefore follows that much of the work was done by Forced Labour
75. In the case of Bisha Mining Share Company the construction work was contracted to Senet who then subcontracted the work to national contractors and specifically Segen. As stated previously in this document Segen is a PFDJ owned company and as such makes extensive use of the forced labour of conscript. The UN Human Right Commission describes the situation as follows:” *Even though BMSC [Bisha Mining Share Company] and Senet were able to directly employ foreign workers and some Eritreans who had been released to perform*

technical and skilled functions, they were required by the Eritrean Government to hire Segen and other Eritrean public companies to carry out all of the unskilled labour and basic construction work.” (A/HRC/29/CRP.1, 2015)

76. On the issue of Segen the Commission of Inquiry found: “.....Segen was the main Eritrean public company involved in the site work. It sent some skilled workers to Bisha, including engineers, carpenters and safety officers, as well as unskilled manual labourers. *Even though Segen tried to conceal their status, the majority of Segen’s “workers” were in fact conscripts performing their national service. Engineers and other skilled staff worked directly for Segen under the civil national service scheme, while the majority of labourers were conscripts whose military units were put at the disposal of Segen by the army. Work assigned to conscripts included building the transport infrastructure to access the site, housing compounds for BMSC and Senet staff a few kilometres away from the mine, and all of the mine infrastructure.*”
77. There are three categories of workers at the Bisha Mine⁸⁶
- a. Workers hired by Bisha Mining Share Company (both permanent professionals and temporary unskilled labourers mostly):
 - b. Workers hired by SENET (A South African specialised sub-contracting company)
 - c. Other sub-contractors taking care of some projects. They are mostly subcontracting from SENET, but some are subcontracting directly from Bisha Mining Share Company. These are Segen; TRANSHORN; Benaye Security Company – all Government/PFDJ businesses
78. The issue is with workers in group (c). This group of workers are “**owned” and managed** by the Government and are mostly National Service/Warsay Yikaalo Development Programme conscripts and were the workers deployed to work on the construction of the tailing dam as well as provide security. The wages of this group are nominal – approximately USD 3 to 10 per month (parallel market rate of USD1=50-54 Nakfa prior to 2015 Nakfa exchange). As they are conscripts their service is endless, or for unlimited years. Their conditions of employment are appalling they “live the lives of gorillas”
79. The National Service group cannot use the Bisha Health services; their water supply is trucked in from distant wells which are not subject to the same regulations as the water from wells which are not subject to the same regulations as the waster for those in the group (a). They travel by open mining truck for transport (whereas group a use air-conditioned buses). No food is supplied for them except sorghum flour delivered in short supply which they must bake themselves in traditional fashion reminiscent of the liberation war years.

⁸⁶ HRCE: An open letter to Mr Louis Mazel; March 29, 2016; <http://hrc-eritrea.org/hrce-an-open-letter-to-mr-louis-mazel/>
Appalling Work conditions at Bisha – Nevsun Mining Project, Eritrea ; July17; 2011; <http://asmarino.com/interviews/1108-appalling-work-conditions-at-bisha-nevsun-mining-project-eritrea>

80. In 2011, a heavy epidemic of diarrhoea occurred among the National Service workers employed by Segen. The Public Health Centre of Mogoraib was responsible at the time and dealt with more than 100 cases. Some cases were referred to Agordat hospital.
81. The SEGEN camp is very poorly equipped, without adequate facilities, even no utilities. The equipment for female workers is even worse. Yet it is a few meters' distance from the well-established professionals/expatriates camp of Bisha Mine workers' residence. Such an incomprehensible contrast within a very short distance between workers for the same mining process! The food for National Service recruits is so poor in nutrients that it compounds and aggravates the incidence of diarrhoea. Such negligent, military-type handling of unpaid workers with poor and segregated services and punishments is one of the worst types of abuse of human rights being practiced in Bisha Mine.
82. One former conscript described how his unit came to work in Bisha (A/HRC/29/CRP.1, 2015):

“The Segen people were doing the harder work and all the heavy duty, including driving big construction trucks, which are Chinese and of bad quality - they often break down or cause accidents and the drivers were injured – but nobody cared. They transported the heavy material, constructed roads, etc... they had only lentils to eat, no proper clothes, no security equipment.

If they worked on Sunday, they only had special food and meat as compensation. The Segen workers are all soldiers doing their national service. They were assigned to the Bisha mine on and off, depending on the needs.

But they were not required to do the extraction of the gold itself.

For the extraction, the Bisha mine had its own workers. Around Bisha, there were several military units surrounding the mine to ensure its safety. On the mining site, some Segen workers had guns and guarded the mine. They oversaw security.”

Bisha Share Mining Corporation and surrounding community

83. There is a population of more than 30,000 people living in adjacent to the Bisha mine and who are directly affected by the operations of the mine. The villages in the surrounding area are: Mogoraibl Adarat, Jimel, Adi-Ibrahim; Tekreret; Agordat; Hambok and Takawda.
84. Bisha Mining Share Company has a Social and Environmental Management Plan (SEMP) as of 2011, as part of the plan there are several community development and support activities such as the tree planting programme. The reality is that not much has been done to improve the lives or directly benefit these communities and of the tree planting programme so far only 20 to 30% has been achieved

85. HRCE has collected information on several surrounding villages by way of example we are sharing the Case study for Adarat and Mogoraib villages

Case Study Adarat Village

Adarat is a village about 10 kms from Bisha Main Pit and 1-2 kms from Harena pit. The land is a flat plane with mountain ridges to the South East of the village. This plane or meadow is endowed with various shrubs, especially where streams flow. Besides helping human beings and animals with shade in this hot and dry area, vegetation also helps as a barrier to wind and dust. The plane is the pastoral land in which people in this community practice their traditional animal herding (with camels, donkeys and cattle). It is a semi-desert with little agriculture. The housing comprises straw-roofed huts with highly ventilated wood side-linings. Wind and dust easily penetrate inside.

Consequently, people and materials inside the huts are exposed all the time to the effects of dust and air-borne volatile pollutants carried by the wind. The elementary school of three classes is built similarly to the local housing, has no benches and is dusty (Classified as “nomad school” — temporary).

Therefore, students are exposed to dust and wind even when in class sessions. The four wells are not protected and are in the middle of the river bed. These are exposed to all types of pollutants. The main diseases encountered among the communities are diarrhoea, respiratory infections, eye infections, skin infection and malnutrition.

What has Bisha done to avert this situation? The answer is almost nothing.

The Harena pit and the activities there are almost within their village, with consequent heavy impact.

In the area between Harena and Bisha (8 kms) the meadow is bisected by a very dusty road for heavy transport, hampering the movement of animals and people to and from the mountains. This hampers the people’s traditional grazing practices, reducing the shade for animals and people using this road and increasing the distance to be travelled because of the road cutting.

There are plans to plant trees along this stretch of road, we are told; if this succeeds, it will be a long-term solution in this semi-desert climate. Since the number of heavy trucks crisscrossing this road is very high, one can imagine the effect of accidents and dust (even if the mining authorities say, “we do sprinkle water daily”, this is inadequate).

Thus, Adarat villagers are heavily affected by the mining activities and nothing significant has been done so far to help them.

Almost all of them are illiterate herders who lack the skills to work in the mine, so they have hardly benefitted from employment, except for a little temporary work given to some.

The only local wealth of Adarat inhabitants is the gold, copper, zinc and silver in the ground, but Bisha Mining Company alone is profiting from this, whereas villagers get no benefit except the negative impact on their environment.

To sum up, animal grazing, the livelihood of these villagers, has been negatively affected. Human beings, animals, and plants are all affected, with possible migration of wild animals out of the area and deterioration of the already poor health of the community. All these mining processes are altering the ecology and impacting the biodiversity of the area.

Adarat village is typical of the communities which extracting companies do visit, consult and speak with at the initial stages of the project, until they establish a strong hold and start extracting wealth. Once they reach that stage, they forget the village communities and discuss matters only with the higher authorities, as has happened in Bisha.

They had a community liaison officer with a good approach, working with the local communities for the first 4 to 5 years. They even started to plough and sow sorghum (around 3 hectares) for the people, but unfortunately this failed, and was totally forgotten and direct community assistance by Bisha ceased.

There was even a big dispute and disagreement between Bisha Mine and the local communities. The issue was about the company paying money to local communities for the labour of digging up graves for more than 100 corpses and re-burying them in a site identified by the community. Bisha Mine company did not pay the community for more than 8 months, while the sub-zonal administrator continued to accuse Bisha management all this time.

Intense discussion was going on, leaving anger and a negative feeling towards the administration and Bisha management. The sentiment is still strong in the hearts of the local people. This resentment is not made public simply because the local people are afraid of the government and the consequences.

Ever since, Bisha Mining Company is working mainly with the government and has much less direct contact with local people. The community assistance package is nominal and is supposedly handled by the government, with the result that the directly impacted communities are spectators without significant benefit.

Case Study Mogoraib Village

Mogoraib is the administrative seat of the Sub-Zonal administration. It has had a well-built elementary school since 2014, a well-built Health Centre with solar-powered cold chain and lighting. It started its services long before Bisha started to establish its camp, let alone its mining plant. It is a government-run service with no direct official link with the mine.

The housing in Mogoraib is similar to the housing in Adarat, but the buildings have better plastic inside-lining. This is more protective from wind and dust, conducive to more moderate temperatures in the interior.

There are few shops or bars. It is a road side village. People driving to Sawa military training camp stop by to rest and spend some money in the shops. The water system is a bore-hole water resource, but experiences frequent breakages and breakdowns that compel people to use unsafe water from unprotected wells.

The common diseases in Mogoraib are similar to the common diseases of Adarat and the hazards are the same, from the same source. Mogoraib is 1km from Bisha Pit and a few kilometres from Bisha Camp. Again, no significant community assistance was given by Bisha Mine to this village since 2014.

Some Eritrean Ministries, like Health and Education, run their respective services, such as installing and repairing solar power sources, etc. Bisha Mine did not do these. Bisha management says they established a training centre for skills development in early 2014, but it hasn't trained or developed skilled workers from the villages, and apparently did not do so until the company ended gold extraction.

Approximately 150 unskilled workers were hired temporarily by ABM of Great Britain the tailings sub-contractor, to collect wood, stone etc. and help the levelling of the dam bed lining for a short period. There are some local people who are hired as cleaners, washers, gardeners, etc. But this hiring's are not significant enough to claim that Bisha Mining company is really implementing community assistance programmes, as outlined in the SEMP.

The communities directly impacted by the mine have not received any significant benefit so far. The hazards the population are exposed to and the risks sustained are such that closer monitoring for long term effects should be considered.

At present these communities are sustaining all the negative impacts and are watching from a distance as their ancestral land and its mineral wealth is extracted and loaded and removed, without any tangible benefit to themselves.

Bisha is a typical and saddening example of a local community's rights being violated, yet nobody is present to speak out or be the voice for these voiceless village communities. Similar

or worse deteriorations of environmental and social conditions will no doubt occur at the projected three mines that will start soon. Action is urgently needed to prevent such abuses from the start.

Mining in Eritrea – the money trail

86. The former Minister of Finance Berhe Abrehe, in 2011/2012 asked the Government to properly account for revenue raised from the mining operation. The response was to freeze him and replace him with Berhane Habtemariam (a former auditor general of Eritrea).
87. According to the UN Somalia Eritrea Monitoring Group (2013), the understanding is that Berhane Habtemariam even as the Minister of finance, exercised influence at ENAMCO (the government partner in all the mining joint venture), as well as the Auditor General's office and that, a clear conflict of interest but also a consistent approach for a government that has consistently ignored such nuances
88. Because of the opaque nature of the Eritrean Government, public finances and budgeting, the Monitoring group expressed concern as the proper accounting for millions of foreign currencies being generated by the mining sector and accordingly recommended a due diligence process for the mining sector in Eritrea.
89. The Monitoring group pointed out that:” Neither Nevsun nor the Government of Eritrea have declared how these payments [**mining royalties, taxes; return on equity**] were made, or to which banks, institutions or companies within Eritrea such funds were paid. This is significant, given the opacity and fungible nature of the hard currency system as explained above and in previous reports of the Monitoring Group.(Somalia Eritrea Monitoring Group;S/2013/440; 2013) ⁸⁷
90. The money trail remains unclear.

⁸⁷ (Somalia Eritrea Monitoring Group;S/2013/440; 2013)- As reported in S/2011/433, Eritrea manages two parallel economies: a formal economic sphere ostensibly managed by the State, and an opaque, largely offshore financial system controlled by elements of the ruling PFDJ party and their supporters. According to government officials, the formal economic system involves transactions almost exclusively in nakfa, the non-convertible Eritrean national currency, and is characterized by a chronic hard currency deficit that theoretically curbs Eritrea's ability to provide financial support to foreign-armed groups. The informal, PFDJ-controlled economy is in many respects a legacy of the financial organization of EPLF during the independence struggle. It involves a much higher proportion of hard currency transactions than the formal economy and is managed almost entirely offshore through a labyrinthine multinational network of companies, individuals and bank accounts, many of which do not declare any affiliation to PFDJ or the Eritrean State and routinely engage in “grey” or illicit activities. Hard currency deposits, such as they exist, are officially managed by a hard currency oversight board, comprising representatives of the Ministry of National Development, the Ministry of Finance, the Bank of Eritrea, the Commercial Bank of Eritrea and the Director of the PFDJ Economic Affairs Department, Hagos Gebrehiwot (also known as Hagos “Kisha”). While the Bank of Eritrea may, in theory, exist as the country's apex hard currency depository, in practice, hard currency appropriation takes place through a number of banks and informal channels

Foreign Exchange – National Currency- Business Licences

PFDJ Control of Foreign Exchange

91. In theory, the country's hard currency is managed by a Board comprising of the Ministry of National Development, the Ministry of Finance, the Bank of Eritrea, the Commercial Bank and the Director of the PFDJ Economic Affairs Department (Hagos Gebrehiwot; AKA as Hagos "Kisha). However, the Board has not met since 2009⁸⁸ and foreign currency resources are in fact managed by Hagos Kisha, the Director of the PFDJ Economic Affairs Department.
92. The PFDJ Economic Affairs Department has been acting as the de facto Treasury of the state and exercises control over the hard currency raised by Eritrean Embassies from the diaspora through taxes as well as revenues generated by commercial attaches at forcing embassies who handle transactions on behalf of the PFDJ

Freezing the National Currency

93. In 2015, the Parallel market in Eritrea was exchanging 1 USD for 40 Nakfa the official exchange rate has been 1USD for 15 Nakfa since 2005. Irrespective of the official exchange rate good in the market are prices according to market cost that is the Parallel exchange rate. Thus, for years there has been a divergence between the Official rate and the Market.
94. The issue of the Parallel market for exchanging foreign currency fits within the mode of operation of the Government in that many of the money changer exchangers were in fact linked to the Government or the PFDJ in some way.
95. In 2005, the Government introduced currency regulations requiring person exchanging money to hold a permit and, in the process, setting up Himbol (a PFDJ company) as an official exchange business. The Government also put in place a foreign currency declaration system (in place till 2015/2016) at the airport both upon enter as well as exit. At the same time a system was put in place to stop foreign account holders from withdrawing foreign currency. Any withdrawal would be immediately converted to Nakfa. Foreign currency withdrawal can be made for international travel purpose upon presentation of evidence (i.e. ticket, exit visa etc...). In that case too there is a limit of USD 2,000. This effectively blocked the accounts of many Eritreans especially those returning from the diaspora to invest or retire.
96. The unfavourable exchange rate offered by official money changers, the increasing cost of living means that, despite the Government's control mechanism only small amounts of money is changed officially. Therefore, the parallel market for foreign currency exchange has flourished. In November 2015, the government issued Legal Notice No 124/2015 - Legal Tender Nakfa Currency Notes Regulation. The Regulation provides for the exchange of the current Nakfa legal tender with new Nakfa legal tender.

⁸⁸ Ibid - In January 2011, however, the Manager of the Commercial Bank of Eritrea told the Monitoring Group that the board had not met since 2009

97. The Regulation makes the following provision:

Description of provision	Art
The rate of exchange old Nakfa to new Nakfa is 1:1	3(2)
The exchange can be made at the Commercial Bank of Eritrea	4(1)
Individuals/ business can redeem currency only at one bank and only once	4(2)
Any amount greater than 20,000 Nakfa must be deposited in a bank account – that is there is a limit on cash exchange	4(3)
During the redemption period only 20,000 Nakfa may be withdrawn from bank accounts.	4(4)
<i>IN FACT, THE LIMIT IS 5,000 NAKFA</i>	
Transactions in excess of 20,000 Nakfa must be made cheques	
<i>THIS IN A COUNTRY WHERE THE INSTRUMENT OF A CHEQUE HAS LIMITED USE</i>	
Foreigners /visitors may exchange old Nakfa for new Nakfa but must produce evidence of the legal purchase of the old Nakfa	4(5)
The exchange/ redemption was to take place over a period of 6 week starting from 04.11.2015 - It took longer than 6 weeks as the Government did not have sufficient new Nakfa for the exchange	

98. The official explanation for the exercise is the desire of the Government to stimulate the economy and stop the foreign exchange parallel market (i.e. black market), as well as the circulation of counterfeit money, the laundering of money, the hoarding of large bills.

99. However, the measure has not injected new capital into the Eritrean economy, it has not built business or investment confidence, and as the Government itself is heavily involved in the alternate/ parallel systems. The measure has not addressed issue of money laundering, instead the action has:

- a) Reduced: the amount of foreign currency in the country has decreased as the exchange rate for USD is not close to the official rate (i.e. 1 USD for 20Nakfa);
- b) Reduced the circulation of the Nakfa, because citizens have been forced to bank all their money as part of the exchange process while at the same time they are limited to 5,000 Nakfa withdrawals at any one time.

As Eritrea is mostly a cash-based economy and because of the difficulties of accessing funds citizens are avoiding depositing their money in the banks.

100. The effect of the measures taken is that the local currency is not circulating and there is a general slowdown of the local economy as large transactions (i.e. purchase of machinery, cars etc) are on hold because withdrawals of more than 5,000 Nakfa require detailed justification to be presented to the Local Administration (M'mhadar; Kebele) who then approves the expenditure and provides support letter for the bank. Clearly this is not business facilitation and the general mood of the business community is negative. "People from the business community feel that they were duped into believing that surrendering their Nakfa currency in 2015 entailed that the government would honour its promise to exchange it for equal value and later discovered they do not have free access to their deposits." (Awate)
101. From December 2017 to January 2018, the Eritrean Government closed approximately 450 businesses accusing them of hoarding cash - that is failing to carry out their business activities through checks and other banking systems. The expectation is that most of the businesses will remain closed for up to 8 months a kind of **freezing of the business** - further undermining the business community in the country. Awate explains⁸⁹:

"In the efforts that were exerted so far to establish and strengthen legal transaction as a culture, it is evident that such kind of illegal transactions has become habitual, and a hindrance. Even now those who withdraw money from their accounts, but never deposit money in return, and who do not want to neither operate legally, or declare the source and amount of their revenue and refuse to accept checks, and those who do not pay taxes, and who engage in illegal acts like trading in forcing exchange and hard currencies, are not lacking"

Disruption of Business Licence System

102. Proclamation No128/2002 A Proclamation to Amend the Business Licensing System Control and Business Licensing Office. Proclamation No 128/2002 replaced Proclamation No 72/1995 and overnight cancelled all existing licences.(Government of Eritrea, 2002)
103. Whereas under the previous licencing system it was possible to have multiple year licences a licence was renewable at different dates calculated from the date the licence was granted– under Proclamation 128/2002 the licence is only for one (1) year and the application for renewal must be submitted ninety (90) days prior to the end of the fiscal year. Art 11(4)(b)(Government of Eritrea, 2002)
104. The 2002 Proclamation also requires applicants to: "produce clearances or no objection letter from inland revenue" Art 9(7), This process was not a requirement in the previous system. Such clearances are bureaucratic and involve several offices, including the local administration (i.e., Kebele, M'mhadar) and takes days.

⁸⁹ Gedab News; December 29,2017; The Eritrean Government Admits its Banking Blunder; <http://awate.com/the-eritrean-government-admits-its-banking-blunder/>

105. This Proclamation No 128/2000 did not have a positive effect on the business community. At the time of its enactment there was panic and long lines at the various Government offices, of people applying for clearances. There was no prior preparation of the affected Government offices, who were also caught unaware and often did not have the required forms in stock – thus causing more delays and stress.
106. At the time (2002) over 15,000 licences were affected; 4,500 requested the renewal form; approximately 3,000 submitted the application and by September 2003 only 800 had been issued new licences.
107. Presently most businesses are operating without a licence because of the time it takes to renew the licence. Basically, by the time a licence is renewed a renewal application is due requiring the same bureaucracy

M. Woman Rights

1. Eritrean women played a pivotal role during the harsh armed struggle for independence. Many sacrificed their lives for their country; others had to spend the rest of their lives suffering from physical and mental disability. Those who did not join the armed struggle stayed behind and farmed and faced hardships, including raising children as single parents. Others did not have children and spent their lives waiting for the return of their husbands. After independence was secured some husbands did not return. The women that returned from the armed struggle also faced a society reluctant to accept the equality their service to the country merited.
2. The contribution Eritrean women made to the armed struggle is immeasurable, but women continue to be marginalized by the current government. During the armed struggle, women comprised 25% of the military. Presently women hold only 3 of 18 cabinet positions. Post-independence, the vision of social justice and equality for women, was extinguished and betrayed by the President. Like all Eritreans, women became victims of the dictatorial government.
3. In 2017, the Eritrea Human Right Concern (HRCE) published a report on: Women's Rights Violence in Eritrea (HRCE Report 1/2017; 8 March 2017). The study finds that Eritrean women are being sexually and physically abused not only by the military officers but also by the President. Therefore, gender-based abuse is sanctioned at the very highest level; hence the misery endured by Eritrean women is unrelenting and will continue until, somehow, the Government is held account.

Women and Forced Labour

4. After completion of military training, some women are forced to work in military shops and canteens. Women are deliberately assigned these duties where they can be easily targeted for many forms of abuse.

5. No one is willing to address this issue. There are no clear complaints mechanisms and the vulnerability of the women is such that it is impossible for them to make any kind of official complaint.
6. Civilian women are also not immune to abuse as, for every anniversary and national holiday, they are forced to participate and dance in the streets. Any woman who refuses to take part in such activity is considered a protester and will be fined.

Young Women Unable to Establish Families

7. As of 1st January 2017, Eritrean can only be married if they have completed their National Service. Consequently, the municipality, priests, and sheiks have been instructed not to permit any marriage unless the couple can produce National Service Completion Certificates. Difficult to obtain given the never-ending nature of the National Service.
8. Where a couple have married prior to the specified date to obtain a marriage certificate, they must bring a letter from their respective military units, bearing witness to their active participation in National Service.
9. Persons, who are engaged in performing their National Service can marry, however women who become pregnant, are not released from national service until they are dangerously close to their delivery date.
10. After delivery of the baby, and while waiting to be demobilized, women usually struggle, as there will not be any source of income nor any governmental assistance and at the same time they are not allowed to work. This is very difficult especially as the cost of living is high and there is no means of support. All of this means that it has even more difficult to start a family a very important social transition in Eritrea.
11. Obtaining an Exit Visa, for any reason including study and health is a rare privilege in Eritrea. To obtain an Exit Visa: (i) people must pay a large sum of money to bribe officials; or (ii) rely on a close relative amongst the immigration officials who can assist. Where the husband is living in another country and the woman wants to join him, the husband must produce a certificate to show that he is paying 2% of his annual income to the Eritrean Embassy in that country.
12. Women below the age of 28 are only allowed to obtain an Exit Visa five (5) years after their marriage, even if their husband is paying the 2% levy imposed on the Eritrean Diaspora.
13. Children above the age of five (5) will not be issued an Exit Visa - that is the children are not allowed to leave – often leaving parents, with very difficult decision of using smuggler to move their children.

Women and Prison Conditions

14. Eritrea is described as a mass prison by all in the human rights community, since people are not allowed to move in and out of their own country, and are deprived of all basic human rights, including freedom of expression.
15. Many languish in the nation's 300 prisons, denied any contact with their family and without ever having a court hearing. Included among official justifications for imprisonment are the following:
 - Not completing national service;
 - Absconding from the military;
 - Trying to leave the country illegally
16. Women, who resist aggressive sexual advances of military officers are also detained. The official reason for such detentions is that they disobeyed a direct order. The situation in the prisons is appalling as often in detention centres 70-150 people are detained in one cell, in metal shipping containers or in the many underground cells. These are situations where temperature can reach unbearable levels of heat or cold and where hygiene conditions are dreadful.
17. Many prisoners suffer from severe malnutrition and do not receive proper medical care. Consequently, many die. Because of the number of prisoners and the lack of appropriate facilities, receiving proper medical treatment in the prisons is a rare privilege. Usually the person qualified in First Aid recognizes the prisoner's serious condition and recommends referral to a clinic or hospital. However, permission comes only from the immediate prison leader, who is not usually present and is typically unconcerned. Therefore, many prisoners die in the process of being transported to the appropriate health facility.

Prison Condition – Eye Witnesses Case 1

A former female detainee, who did not want to be identified, described her ordeal as follows:

“There were days when we used to think that those who were killed by the border soldiers were better off than those of us who were inside the prison, because life in the prison was hell. The border guards enjoy sleeping with any woman- whether she is married or not, young or old, even if she tells them she is pregnant. The soldiers at the border are given shoot to kill orders regard who tries to cross the border; hence, upon arrest, the soldier would demand sex from the women as a bribe to spare her life. Many may believe that being submissive in such a situation is the better option. However, for those women who have been raped in front of their children and those who were raped by the very person who killed their husbands, one can argue that death might sometimes be a better option.

In 2009, I was detained in a small cell with 70 other women who came from different places. The room was very small with literally no space to stretch your legs. We were only allowed one toilet

break where we go out onto the open field to defecate. Other times there was a small container in our room that we use for urine only. And the worst part was, we had to eat in our room, while the room is full of urine smell and other body odours. However, life was not safe outside the cell as well. When your name is called by the prison guards, you know for a fact that you will be beaten if not raped; hence you prefer the filthy prison cell.

Prison Condition – Eye Witnesses Case 2

In the prison, I met three old Eritrean women, from the Kunama ethnic group, who were detained for a year and three months. They were told that the reasons they were detained was that their sons have joined the armed opposition group based in Ethiopia.

In 2010, we were transferred to another prison called prima country. However, there was very little change in our prison conditions. Even though we were not beaten, still we were not allowed to meet our family.

In this new prison, I met a woman by the name of Meron, who had a mental problem due to the severe prison conditions. She used to shout openly that her boyfriend was killed in front of her, and that the military officers called her to his office and raped her. When she tried to report the abuse, she was accused of lying and she was moved to another prison. After a while in prima country, we were moved to Adi Abeyto prions, near the capital city of Asmara. In Adi Abeyto we were 130 women in one room, all young and old crammed together. Still even there we were not allowed a visit from our family. Water was scarce, and we were usually concerned about the women detained with their young children. For instance, there was a woman that was detained for eight (8) months with her child, because she was alleged helping her husband leave the country, as opposed to reporting him to the authorities. Eventually the child got sick and his condition got worse in a short period, and he died in detention. The mother left the prison to bury her son, but she never returned, and we never saw her again. I am not sure whether she is alive or not.

Most of the women who were detained with their children did not have anyone at home to take care of their children. And, those who did manage to get someone to take care of their children, usually suffered greatly from the separation which had a serious psychological impact on their lives.

There was another woman who was detained with her child who was found trying to leave the country illegally. She was advised by her prison mates to claim that she was HIV positive. One evening, one of the interrogators called her to his office and as he was preparing himself to rape her, she told him that she was living with HIV/AIDS. The officer, however, did not show any concern, instead, he told her he was living with HIV too and he ended up raping her, and she ended up having HIV.

Women and Access to Livelihoods

18. According to the Land Proclamation No.58/94, all lands belong to the government. Historically land was owned by the communities.
19. The Eritrean government is notorious for taking land from the occupants of any farm or village to sell it to wealthy people. At present, only women who have completed their national service can obtain land.
20. The government does not tolerate any form of opposition and has arrested women who assembled to vent their frustration with the process of land allocation that impacted them.
21. Recently, the women of 'Haddish-Adi' and 'Awhi', for example, faced harsh retributions for objecting to the government's reallocations of their land. Women who were proceeding to the offices of the President and the Ministry of Local Government to file their complaint regarding this issue were blocked by the security forces of the country and arrested.
22. In Eritrea, there is no National Pension scheme. Those that suffer the most because of this lack, are women. As so many family members are taken up by the National Service up to the age of 80 for many men – meaning that family income generating livelihood activities are reduced and so are family savings. Therefore, when women reach age of retirement, they have no support and no source of income. Moreover, the rise in the cost of living, including rent and household commodities, makes it more difficult for women to rely only on savings. As a result, many become destitute and resort to begging in the street begging, or outside churches and mosques.
23. Culturally begging is considered taboo in Eritrean society, and the government does not tolerate it. However, women who have children, whether conceived through rape or marriage, do not have any source of income and therefore have no alternative to begging. Yet the government detains anyone who is found begging, and the women become victims again. Ironically, they are usually asked to pay a 20,000 Nakfa (Eritrea's local currency) fine to be released from jail, and those who cannot raise such an amount are forgotten in prison. Many died due to harsh prison conditions and lack of medical care and are usually buried by the state without informing their relatives.
24. Unpaid maternity leave in Eritrea lasts for only two months. Moreover, the government has not developed a program to assist mothers after they return to work, and there are no adequate, affordable and privately-owned child care facilities. In fact, all private health facilities in the country have been closed placing a further strain on the overstretched Government facilities

Rape and Children who do not know their father

25. Since the 1990's the number of unplanned pregnancies has increased, particularly with the introduction of the students' forced summer work program and national service. In some of these cases, the young women became pregnant because of rape.

26. While, it is also the case that in certain cases, men have abandoned the women and have chosen not to be responsible for the child in many cases it is a consequence of rape and the women are left to deal with the pregnancy on their own.
27. Some women file charges against the rapists. However, even when the rapists are summoned by the court, there have been cases when they refuse to present themselves and the file is withdrawn or closed. There also instances where the women do not know who the father is, particularly when the rape and attack have occurred at night
28. In the past, in accordance with traditional laws, there was a system that addressed the issue of children born with no father. The government now claims to have replaced the traditional system by introducing a DNA paternity test; however, the test is rarely used in the country. As a result, many children do not know their fathers and are obliged to use the surname of their mothers.
29. The victimized mothers, after going through such an ordeal of physical and psychological trauma, mostly end up in prostitution to support themselves and their family, and often leave their children with their parents. Those who do not have parents leave the country, sometimes leaving their children in the streets

Women – Freedom of Religion - the Right to Worship

30. As already stated in this report in Eritrea there is no freedom of religion or belief. Jehovah's Witnesses and Pentecostals are not allowed to practice their religion freely. Leaders of these faiths have been detained for more than a decade now. Likewise, many Eritrean women are languishing inside prison cells because of their faith. Few of those prisoners who have been lucky enough to be released dare to recount the inhumane treatment and hardships that prisoners experience.

N. Child Right

1. The never ending National Service and the Warsai Yekalo Development program result in the separations of families as consequence of the service itself or from the fact that people are leaving the country to avoid it. In both cases there is an impact on children who are left behind usually in the care of elderly grandparents or simply the oldest child (i.e. Child heads households). Many of these children are also following in the footsteps of their elder sibling and other family members and leaving the country. Hence, recent reports of the dramatic increase unaccompanied minors from Eritrea.
2. As we previously mentioned, children are Arbitrarily detained because they are:
 - a. Caught during National Service round ups (giffa);
 - b. Rounded up from the street for begging or selling good without a licence;
 - c. Crossing the border;
 - d. Because their parents are jailed

3. Where Children are detained it is very rare for those responsible for the arrest, often military, to inform the parents or guardian of the arrest – therefore contrary to the commitment made under the CRC, there is nobody protecting the interest of the child. There is also, no notification nor collaboration or coordination with the Department of Children Services (i.e. Ministry of Labour and Human Welfare) who is responsible for the welfare of children in the country.
4. Such failures have severe consequences on the children involved who:
 - a. May be conscripted (as already discussed in this document) into the National Service programme;
 - b. Because of the detention miss out on school and upon release may not be able to be re-admitted and receive no support to ensure that they are re-admitted into school.

Both have long term implications for the lives of the children involved

A witness writing on the detention and arrest of a 10/11-year-old child reports: ⁹⁰

“**Many street children**, who have no family, are taken into the military system even though they may be well below 18 years of age. These children are trained as soldiers. They become hardened soldiers often used to carry out nefarious acts.

In post liberation Eritrea, it is easy to disappear, and it is not only adults that disappear. Children also disappear. Children are collected from the streets and are taken to makeshift detention centre. Of this I have personal experience as I have taken special interest in a young boy assisting him to return to school, until one day he went to school and never returned home. We all looked for him for months only to find out that he had been arrested and that he was in a prison not far from Asmara⁹¹. The prison was in Woki Duba and it was a stable guarded by the military.

Nobody was informed: of his arrest. When we went to Woki Duba to inquire after him, we were told that he was not there. He was released 6 months later. Nobody was informed of his release, so he was released to the streets., His crime? His crime was being young, being poor and being a member of a family unit totally impacted by the militarisation policies of the Government.

5. The Militarisation of the School system requiring students to complete Grade 12 at Warsai school in the Sawa Military centre, at the same time a new promotion policy was introduced. The policy aims to avoid/ reduce “**wastage**”. A reference to the number of students that were repeating grades taking the view that the existing curriculum was too rigorous and competitive, leading to the failure of large number of students and therefore to a high degree of wastage. The response of the teachers to this was (O’Kane David;Hepner Tricia R, 209AD):

⁹⁰ Saba Makeda;13 January 2014; Eritrea, the forced recruitment of street children: how to kill a generation; <https://www.africa-express.info/2015/01/13/eritrea-forced-recruitment-street-children-kill-generation/>

⁹¹ Woki Duba - guarded by military

“The curriculum is not the problem..... [the] curriculum has never been the problem..... [This new policy says that there should be no wastage, so this makes the student not to work hard. They are thinking that the government is going to send them to Sawa and, because the government wants to send them to Sawa there is no chance to repeat grades”

5. As part of the process of ensuring no **waste**, in 2004 the Ministry of Education dropped the grade necessary to pass from 60% to 50% and by the 2005 to 40% in this ensuring that almost every student passed and so ensuring a wider catch for Grade 12 at the Sawa Military facility. This is a process of dumbing down the Education system to secure the netting of a larger group of youth for the National Service/Warsai Yikaalo Development Programme. Such action is contrary to both the ACRWC as well as the CRC. The new Education policies equated/identified students as soldiers that is being a student is just another way of being a soldier (O’Kane David;Hepner Tricia R, 209AD). Gaim summarises the situation as follows: “Currently, the main mechanism of conscription is through the Warsai School at Sawa in which all secondary school students, at the end of 11th grade, are automatically transferred to Sawa to complete 12th grade under military discipline in combination with military training.” (Kibreab, 20,
And,

“The post-secondary school colleges are also fully militarised. Those who are transferred to the colleges after completing 12th grade at Sawa are regimented in military units, companies, platoons, battalions and divisions and are headed by military commanders, as was the case in Sawa, as well as the Eritrean military. This indicated the extent to which education is militarised in the country.”(Kibreab, 2014)

6. We also share the concern of the Global Hunger Index as to the number of Eritrean Children at risk of malnutrition and stunting a consequence of lack of food security in the country. A food security deficit that cannot be met by a subsistence agriculture that is undermined by the never Ending National Service or the Government /PFDJ controlled (strangled economy).
7. Currently it is impossible to independently monitor the implementation of the CRC in Eritrea as there is not enough publicly available material on such things as:
 - a. CRC enforcement by the Courts;
 - b. Government Budgeting process
8. Though in 2015 the Civil Code, the Penal Code, and the Civil and Criminal Procedure of Eritrea were adopted the Committee on the Right of the Child regrets the fact that there is no information as to the implementation of these laws in the country.
9. At the fourth periodic review, the Committee on the Rights of the Child expressed highlighted some concerns on such matters as (See **Schedule 5 for a full list**):
 - a) The implementation of the 1997 Constitution;
 - b) The compliance of domestic law with CRC;

- c) The need to intensify efforts to eliminate discrimination against children from minority groups;
- d) The need to respect the rights of children belonging to all religious denominations including Jehovah's;
- e) The extreme tight control of exit visas;
- f) The punishment of family members, including children for the actions of another family members conduct (i.e. fleeing the country);
- g) Deprivation of the family environment due to the absence of family members due to National Service, Arbitrary Arrests and Disappearances
- h) High neonatal and maternal mortality;
- i) Malnutrition related disease including stunting remain high;
- j) Primary and secondary school enrolment remains low;
- k) Dropout rate of girls is high
- l) Secondary school students completing high at Sawa Military training centre;
- m) Children of nomadic schools still face disadvantage accessing education
- n) Forced underage recruitment

O. Conclusion

1. The Eritrean Government Report concludes⁹² that "Eritrea has now reached a promising stage after much work and resilience" and that there is ".no human right crisis in Eritrea". The conclusion is that Eritrea is on track for Nation Building and Social Economic Development.
2. They are not on track and there are Human Right issues in Eritrea. And until the Government admits and recognises the problem, it will not be solved; the Eritrean people will continue to suffer and there will be no real Development.
3. Real development is not about impositions of a social vision or economic order from the top down – as is happening in Eritrea now; where the people are not citizens but masses to be led and to be engaged in forced labour. At first, the labour was to attain liberation and independence. Now the labour is to Build a Nation that most Eritreans do not recognise because they have no say as to its direction or values.

⁹² Eritrea: Initial National Report (199-2016): Paragraphs 383-385

Development is a: “, process for expanding real freedoms that people enjoy” Such freedoms depend on variables other than the growth of GNP; or individual income; they also depend on such things as:

- **Education** in Eritrea totally militarised, and most children do not see the point of participating given that the outcome is the never ending National Service/ Warsay Yikaalo Development Programme;
- **Health care** - in Eritrea all private clinics are closed and presently Primary Health Units operated by churches are being closed;
- **Freedom of Speech and Association** - denied unless it is in line with and totally manage by the Government;
- **Freedom from Arbitrary arrest**: this is an ongoing process and continuing
- **Freedom from Extrajudicial killing**: such killings are ongoing
- **Freedom from Torture**: torture is ongoing
- **Religious Freedom**: prescribed religions are persecuted and treated as non-citizens, and allowed churches are restricted to pastoral activities and repeatedly threatened

Application of the rule of law

- **Independent Judiciary**: there is not independent judiciary
- **Freedom from Gender Based Violence**: despite the role of women in the liberation movement, in modern Eritrea they are the target of Gender Based Violence including rape

2. Contrary to the assertions made in the report as to progress and there being no Human Right Issue in Eritrea, the Government of Eritrea is presently in violation of the following articles of the ACHPR:

- Article 2 (enjoyment of rights and freedoms),
- Article 3 (equality of individuals before the law),
- Article 4 (respect for life and refraining from arbitrary deprivation);
- Article 5 (torture, degrading punishment);
- Article 6 (liberty and security),
- 7(1) (right to trial and self-defence);
- Article 8 (Free practice of religion); and;
- 9(2) (right to expression);
- Article 10 (free association),

- Article 11 (freedom of assembly);
- Article 12.1 (freedom of movement);
- Article 12.2 (right to leave or return);
- Article 13 (right to freely participate in government);
- Article 14 (right to property); and Article 15 (right to work under equitable and satisfactory conditions.)

ACHPR	Report	HRCE Reply - Situation
<u>Article 2: Enjoyment of rights and freedoms</u> Every individual shall be entitled to the enjoyment of the rights and freedoms recognised and guaranteed in the present Charter without distinction of any kind such as race, ethnic group, colour, sex, language, religion, political or any other opinion, national and social origin, fortune, birth or any status.	There is no discrimination, exclusion, restriction or preference made on the basis of ethnicity, religion, social status, language, opinion, gender and race (Page 12) Eritrea is a secular state and freedom of religion is protected by law.... The Government has shouldered the obligations to ensure that this centuries-old religious tolerance and harmony is not perturbed by externally-induced new trends of Islamic or Christian fundamentalism that corrode the social fabric. (Para 65) In general, religious bodies have their respective hierarchies, conduct their own elections for their respective hierarchies – the Synod, the Dar-al-Addee, and other decision-making organs without any intervention from any side, including from the Government. (Para 66.)	Jehovah's Witnesses * The Case of Pentecostals Government Intrusion in the business of religious bodies including Arrest of Patriarch Antonios, Al Diaa School Medhanie Alem School

ACHPR	Report	HRCE Reply -Situation
<u>Article 3 (equality of individuals before the law)</u> African Charter: Every individual shall be entitled to equal protection of the law	Equality before the Law is guaranteed, and the process and administration are based on an independent judiciary comprising of hierarchical courts and a Public Prosecution institution headed by an Attorney General. The Public Prosecution's independence has been ensured in accordance to Proclamation No.1/1991 and Article 7 of Proclamation 37/93. Hence, it has functioned to uphold the supremacy of the law and protect the basic human rights of the citizens. It also provides judicial and administrative remedies in case of any violation. – Paragraph 39	The courts have no independence The creation of the Special Court -where defendant have no right or representation or defence – no * Defendants have no rights that meet international standards No respect for the rule of law 1997 Constitution, guaranteeing right suspended.

<u>Article 4 Sanctity of Life</u> Human beings are inviolable. Every human being shall be entitled to respect for his life and the integrity of his person. No one may be arbitrarily deprived of this right.	The government goes to great lengths to highlight the importance of the country's "territorial integrity and social services	Arbitrary Arrests Extrajudicial killing Torture are all a feature of how Eritreans are treated and continue to be treated.”, it makes no mention of the sanctity of life and the integrity of human beings. There is no mention in the report as to the sanctity of life
<u>Article 5 (torture, degrading punishment)</u> African Charter: Every individual shall have the right to the respect of the dignity inherent in a human being and to the recognition of his legal status. All forms of exploitation and degradation of man, particularly slavery, slave trade, torture, cruel, inhuman or degrading punishment and treatment shall be prohibited	Torture of any kind is not condoned by Eritrea's domestic laws and is punishable by law. Furthermore, the norm of a society that is founded on extended family and strong communal ties does not allow such reprehensible practices. The information gathered under such condition, if it happens is also rejected in legal proceedings. The judiciary has also periodically monitored prison conditions and takes punitive measures on any prison official if found guilty of such practices. – Paragraph 49	Torture and other human right abuses including forced labour are to such an extent that the UNHR Commission of Inquiry has concluded that there is a case of crimes against humanity. We note that the finding of the UNHR Commission are not mentioned in the report
<u>Article 6 (liberty and security)</u> Every individual shall have the right to liberty and to the security of his person. No one may be deprived of his freedom except for reasons and conditions previously laid down by law. In particular, no one may be arbitrarily arrested or detained	<i>There are also ample provisions in the Transitional Penal Code (for instance provisions that punish all forms of physical injury [Articles 538, 539, 544 etc.]) that protect the person and liberty of any person, including women, from physical harms caused by any person, including their spouses. It is a crime and is punishable with rigorous imprisonment according to the Transitional Penal Code. All other forms of violence are also prohibited by the Transitional Criminal Code. – Para 308</i>	The 2015 Codes are welcome however we note that the codes were ready ten year ago and that their implementation is overshadowed by the continued presence and functioning of the Special Court and the weak Judiciary system

ACHPR	Report	HRCE Reply -Situation
<u>7(1) Every individual shall have the right to have his case heard</u>	<i>The Government highlights the role of the Special Court in fighting Corruption Para 17</i>	The continued existence of the Special court jeopardises the rule of laws. as the Special Court has the power to re-open cases that have already been decided The Special Court identified as a problem for the independence of the Judiciary by Chief Justice Teame Beyene -

		who was removed from his post Defendants appearing before the Special Court have no right to appeal and no right of defence Judges have reported the case of Nay Hadera prisoners who are invisible to the system as neither court officials nor the Attorney General's office can see them or intervene in their cases
<u>Article 9(2) (right to expression);</u>	Paragraphs 72 to 75 more concerned about how the Government can use the media for its purposes than about the freedom of speech than the right of the people to information that can be scrutinised and questioned.	There is no independent media, Independent journalists arrested their whereabouts unknowns Journalists working for the Ministry of Information are regularly purged
<u>Article 10 Freedom of association</u>	<i>Government -Paragraph 69 to 71</i> The model of association and assembly that the Government is promoting is that of the mass movement organisation that act as extension of the Government rather than in the interest of the its members and therefore as an accountability of Government mechanics	. There is no right to free association Proclamation 145/2005 limits NGO/CSO to emergency/ humanitarian work, Restricts NGO access to fund from the UN and other organisations; imposes a USD 1 million capital requirement for National Organisations

ACHPR	Report	HRCE Reply - Situation
<u>Article 11 Freedom of Assembly</u>	<i>Government -Paragraph 69 to 71</i> The model of association and assembly that the Government is promoting is that of the mass movement organisation that act as extension of the Government rather than in the interest of the its members and therefore as an accountability of Government mechanics	Eritrea is a single party state There are not independent NGO's of CSO's Organisation such as: - the Regional Centre for Human Rights and Development; - The Eritrean Women's War Veterans Association – Bana Have been closed in the mid 1990's The same has happened to organisations set up to respond to the 2000 emergency: - Eritrean Development Fund (EDF) - Haben - Vision Eritrea - ESCA Asmara University Teachers Union – closed Asmara University Students Union closed
<u>Article 12. (1) Freedom of Movement</u> <u>Article 12(2) Right to leave and return</u>	<i>Not specifically mentioned in the report</i>	Movement both within and outside of the country is restricted All National Service conscripts must have a Menqesaqesi Wereket - A Movement Pass that must be presented on demand Eritreans wishing to travel outside of the country must obtain an Exit Visa Such documents are not easy to obtain and are not given for children 5 year and above

ACHPR	Report	HRCE Reply -Situation
<u>Article 13 Right to freely participate in Government</u>	Paragraph 4 to 78 describe the legal and social processes of the Government	Eritrea remains a single party state – as: • EPLF/PFDJ banned the return of other Liberation Movements • Legislation facilitating the creation of political parties has not been developed The Government has established 6 Regions (Zobas) without consultation and all key appointment are made by the President
<u>Article 14 Right to Property</u>	Paragraph 297 <i>Women Right to Property</i>	The Government, has Nationalised all Land – again this was carried out without consultation The Land Proclamation focus on agriculture neglects the interest of Pastoralists Access to property such as land or a licence is subject to the completion of National Service – Difficult given the length of time people are serving. Also A disadvantage for anybody who has avoided National Service Disadvantageous for women who married and who have not done National Service
<u>Article 15 Right to work under equitable and satisfactory conditions</u>	Labour Proclamation No 118/2001 Paragraph 215 child labour Paragraph 218 Collective Bargaining National Service / Warsay Yikaalo Development Programme	National Service/ Warsay Yikaalo conscript are working under forced labour conditions and they are the biggest work force - Labour Law does not apply in their case

3. The Eritrean people, upon gaining their independence in 1991, just like other African countries, had hopes and aspirations. However, their dreams, hopes and aspirations have been shattered and fizzled quickly. Today, Eritreans are even scared of their shadows and are terrorized of the dictatorship even in foreign countries where they have dual citizenships. They are fearful to speak openly on any issues regarding the country and especially they are fearful to speak openly against the incessant crimes and human rights violations prevailing in their country for fear of retributions not only against themselves but also against family members. Many know family members that have been rotting in various prisons scattered throughout the country. without trial and due process of the law or even have “disappeared” all together.
4. Just like in North Korea where:
 - citizens are required to nearly worship their leader and oppressor, Eritreans are made to do they same; if they are to survive and avert any form of severe retribution from the government.
 - citizens are expected to show happiness and satisfaction with the administration so also in Eritrea, citizens are expected to do the same;
 - victims of the regime are state secrets and are killed or imprisoned at the slightest suspicion so also the same conditions prevail in Eritrea where numerous Eritreans disappear, and their families are prohibited from inquiring about them;
 - the supreme leader is the life-giver and life-taker so also in Eritrea where the life of every Eritrean is under the mercy of the leader Isaias Afewerki;
 - foreign visitors are guided to observe a content society so also in Eritrea where foreign visitors and personalities are conned to do so;

But underneath all that in Eritrea, the North Korea of Africa, there is a population that is suffering excessive abuse; trauma, terror; frustration; rage and sorrow.

5. The appealing renditions contained in the Eritrean Government report are primarily copies of the provisions of the Eritrean constitution that was ratified in 1997 and never implemented. The realities inside Eritrea have no resemblance to the counterfeit and exaggerated claims made in the Report. The bogus statistics stated in the Report are fallacies and there is no credible data to support them and no independent body to verify them and they are only intended to deceive the world community and the African Commission. Eritrea lacks the basic infrastructures of a normal nation in Africa and all its institutions are in shambles and there are no organized plans to lead the nation into the future.
6. The African Commission should be under no illusions nor should it erroneously assume that there is a stable Eritrean government with all the basic infrastructures in place. As we have described in this document, Eritrea has no working constitution, no parliament to make a collective decision, no independent judiciary system, no university. The only university in the country (the Asmara University) has been closed since 2006. Eritrea continues the practice of arbitrary arrest and extrajudicial killing as a means or terrorising people and supressing civic rights such as the Right

to Freedom of Speech; the Freedom of Association and Assembly; Freedom of Religion. To date the whereabouts of the G-15, and the he Journalists, and thousands of detained prisoners of conscience whose whereabouts is unknown. The State continues to fail to protect citizens from acts of torture

7. Finally, the African Commission should:

- a. acknowledge fully that even though the report submitted by the Eritrean Government for its consideration paints a stable, viable, highly organized and a nation with a bright future, the true circumstances of Eritrea is the reverse. Eritrea is a nation devoid of any credible institutions in its infrastructure and is a country solely administered without a constitution, no parliament to make a collective decision. Laws in Eritrea are enacted exclusively at the whims and desires of the president and he and only he dictates what transpires in Eritrea;
- b. be fully aware, as detailed in this submission, that the judicial system in Eritrea is a sham and do not reflect and exercise appropriate and legal judicial jurisprudence. The courts in Eritrea are mere instruments and are extensions of the oppressive regime and were intended to prosecute primarily dissenting Eritreans, who are enemies of Eritrea because of their right to exercise their rights to freely express their God given opinions.;
- c. not be persuaded by the Eritrean government fallacy's declaration in 2015 to draft a "new constitution". Eritrea has a well-documented constitution that was compiled and ratified, in 1997;
- d. accept the fact that Eritrea has seen very little development and virtually no industries established. On the contrary, the few that existed prior to its independence in 1991 have decayed, closed or are operating at a much lower capacity. The claims in the Eritrean Report of steady growth and development is a mere mirage intended

And,

- e. The human rights violations perpetrated by Eritrean government against its own people is well known globally and the flow of refugees to escape the harsh and tragic circumstances in Eritrea is also well documented. Eritrea maybe a small nation but produces the highest number of refugees in Africa. The harrowing experiences of many Eritrean refugees who abandoned their nation to escape prosecution and the pathetic conditions in their country, including shoot-to-kill orders by the regime when spotted, is cruel and is a crime;
8. The Eritrean people are proud Africans that deserve and have the right to the full support of and protection of the African Commission and the African Union to safeguard their Human Rights and thus ensure that they live a fruitful life in their country. It a matter of urgency that the African Commission exerts its maximum powers and influences to guarantee that Eritreans live in their own country without being tortured, tormented, murdered, imprisoned and forced to flee their homelands to escape from persecution. And, that Eritreans fleeing the country are recognised as Refugees and given protection.

P. Recommendations

To the Government of Eritrea: For the restoration of free speech

- a) Implement the 1997 Constitution of Eritrea;
- b) Implement the separation of powers – that in the absence of any Parliament, a body independent of the Executive Government should have the authority to promulgate and amend any laws and particularly media laws such as to ensure the regenerate the private media and guarantee full freedom of expression;
- c) Abolish the Special Court;
- d) Release or try before an impartial court of law, all journalists and political actors detained for their exercise of free speech;
- e) Allow for the establishment and editorial freedom of all media, independent and state owned, including publishers of academic and artistic works;
- f) Issue clear instructions to public officials and holders of information to share such information to all members of the public including the press and the citizenry at large;
- g) Allow for the establishment of tertiary level institutions for the training of journalists in true academic freedom;
- h) Implement Principle VI of the Declaration of Principles of Freedom of Expression in Africa of the African Commission by transforming state owned media into editorially independent and adequately funded public broadcasters as stipulated in the 2001 African Broadcasting Charter;
- i) Implement article 19(3) of the 1997 Constitution which corresponds with Principle VI of the Declaration of Principles of Freedom of Expression in Africa of the African Commission on the promotion of a diverse and independent private media with private broadcasting being regulated by a fair and transparent independent authority.

For the restoration of checks and balances as required by the rule of law

- a) Establish, the independent judiciary envisaged in the 1997 Constitution, allow for the establishment of an independent legislature, elected by popular vote in a fair and transparent manner;
- b) Establish independent Military Courts and develop a Military Law Framework in accordance with International Standards

For the restoration of personal liberties and a just social order

- a) Abolish the national service and release all persons from indefinite forced labour;
- b) No person/citizen should be required to perform forced compulsory labour, whether during National Service/ Warsai Yikaalo Development Programme;
- c) No National Service Conscripts must be used to work at the mine, and no workers should be used at the mine unless it can be proven both orally and from signed written contracts with witnesses that they are volunteers. As well as compulsory maintenance of stringent safety regulations, the company must offer a guarantee of substantial compensation (on a scale publicly available to all employees) for any injuries or deaths from mine accidents;
- d) That an independent body of expert international mining inspectors be invited to inspect the mine, setting their own timescale and itinerary, to assess all possible dangers to human health and the local environment, and that Nevsun and the Eritrean government commit to accept their findings and to implement their safety recommendations;
- e) Ensure that forced labour of any citizen is a crime punishable by law;
- f) Close all unofficial detention facilities s used for the deprivation of personal liberty and release unconditionally those detained therein;
- g) Fully implement as part of Eritrean law the provision of the Convention against Torture;
- h) Ensure that any report of torture be immediately investigated by a Commission independent from the Government;

- i) Ensure that anybody who is accused of ordering or participating in torture, cruel, inhuman or degrading treatment be charged brought to trial and, if found guilty, punished – irrespective of their rank or status;
- j) That all deaths, extra-judicial and arbitrary arrests, are investigated by a Commission independent from the Government with power to charge and commit people for trial;
- k) That the death penalty be abolished;
- l) Abolish the exit visa;
- m) That it be made illegal for border control officers or troops to use firearms and live ammunition against civilians crossing territorial borders,

To the African Commission for Human and Peoples Rights:

Unlike the Charter of the defunct Organization of African Unity (OAU) that strictly prohibited the interference in the internal affairs of member African countries, the new reformed and modified Charter of the African Union (AU) provides a provision of intervention in “extraordinary circumstances.”

Therefore, the African Commission and the African Union have a solemn duty, obligation and responsibility to investigate the egregious human rights abuses in Eritrea and establish a mechanism to hold the perpetrators of the heinous crimes to account. As Africans, the Eritrean people expect and deserve swift, stern and decisive action from the African Commission and the African Union.

The Eritrean Governments nefarious actions against its own people constitute Crimes Against Humanity and are cause for indignation from all quarters of the African continent. The dismal plight of the Eritreans who flee their nation in droves to avert wanton victimization, rape, murder, indiscriminate imprisonments and other heinous forms of deprivations have become notorious and are a black mark in the history of the.

It is therefore urgent that African Commission:

- a. **Address** the serious Human Right situation in Eritrea as a top priority;
- b. **Intervenes** and that such intervention should be not be limited to the restoration of rights of a few- but of such scope as to constitute a clear message not only to Eritrea but also to other African States that; such acts of inhumanity are not condoned and tolerated anywhere in Africa and that drastic measures would be taken to avert such tragic and cruel circumstances from ever taking place in the continent in the future;
- c. **Urgently refer** the case of Eritrea to the Assembly of the Heads of State and in accordance with Article 58(1) of the African Charter, that mandates the Commission to refer to the AU

Assembly of Heads of State and Government special cases that reveal the existence of serious and massive violations of human and peoples' rights;

d. **Establish** an accountability mechanism to:

- i. Investigate;
- ii. Prosecute; and
- iii. Try;

Individuals and organisation, reasonably believed to have committed human right crimes, and crimes against humanity – As per the recommendation of the UN Commission of Inquiry on the Situation of Human Rights in Eritrea:

e. **Request a review of** Eritrea from the following African Commission for Human and Peoples Rights Commission Bodies:

- Special Rapporteur on Rights of women;
- Special Rapporteur on Freedom of Expression and Access to Information;
- Special Rapporteur on Prisons, Conditions of Detention and Policing in Africa;
- Special Rapporteur on Human Rights Defenders;
- Committee for the Prevention of Torture in Africa;
- Working Group on Social, Economic and Cultural Rights;
- Working Group on the Death Penalty and Extra-Judicial Killing; and
- Working Group on Extractive Industries, Environment and Human Right Violations;

f. **Demand** from the State of Eritrea:

- i. A full account of the actions taken to implement the Commission's decisions in the following cases - No 250 of 2002 Liesbeth and Mussie Ephrem-v- State of Eritrea; No275 of 2003 Article 19 -v- State of Eritrea. Specifically, the release of the G15 dissident as well as of the Journalist:
 - ii. Regarding the same cases, a full status report as to the prisoners including; the charge; location of detention; health status, date of death, cause of death, place of burials;
- g. **Demand** the application of the ACHPR - and that to one is arrested arbitrarily, that detainees be informed of the charges against them, that they have access to legal representation as well as family and that while they are imprisoned their safety is ensured and they be free from torture;
- h. **Recognise Eritrean refugees** fleeing their country as authentic displaced persons who had no choice but to escape from persecution from their own government. The authentication of the pathetic predicament of the Eritrean situation by the African Commission would greatly enhance the eligibility of Eritrean refugees worldwide who are erroneously tagged as "economic refugees" negating the serious human rights violations they face in Eritrea;

Schedule 1 – UNHRC of Inquiry Eritrea – List of places of detention identified by the Commission of Inquiry

Detention facilities in Eritrea documented by the Commission of Inquiry on human rights in Eritrea			
No	Prison Name	No	Prison Name
1	First Police Station	35	Gelealo
2	Second Police Station	36	Gergera
3	Third Police Station	37	Haddis Ma'askar
4	Fourth Police Station	38	Hagaz
5	Fifth Police Station	39	Halhal
6	Sixth Police Station	40	Hashferay
7	Abi Adi	41	Idaga Arbi
8	Aderser	42	Karshele
9	Adi Abeito	43	Haddis Ma'askar
10	Adi Imer	44	Mai Duma
11	Adi Keih	45	Mai Edaga
12	Adi Nefas	46	Mai Nefhi
13	Adi Quala	47	Mai Serwa
14	Afabet	48	Mai Temenay
15	Agip	49	Massawa
16	Agordat	50	Me'eter
17	Ala	51	Mendefera
18	Arag	52	Nakfa
19	Assab	53	Nakura
20	Baharia	54	Sawa
21	Barentu Military Intelligence Unit	55	Segeneti
22	Barentu Military Unit	56	Sembel
23	Barentu Police Station	57	Senafe
24	Barentu Prima Country	58	Serejeka
25	Barentu Secret Prison House	59	Sheila Tessenei
26	Dahlack Kebir	60	Tehadasso
27	Darsal	61	Tessenei
28	Debarwa	62	Track B 63. Tsetser
29	Dekemhare	63	Track C 64. Tsetser
30	Dengolo	65	Tsorona
31	Dugona	66	Under Tessenei
32	Eiraeiro	67	Wi'a
33	Gahteley	68	Zara
34	Gedem	69	Mai Duma

Additional detention facilities reported during the investigation by the Commission of Inquiry on the human rights

1	Aba Shawal Police Station	15	Teio
2	Aboy Regum	16	Golij
3	Ali Giddeh	17	Go'igne
4	Asha Golgol	18	Jufa
5	Auna Wato	19	Keru
6	Baleko	20	Kiloma
7	Dahrotay	21	Klima
8	Duarwa	22	Kudo-Felasi
9	Edaga Arbi	23	Metkelabet
10	Eila Ber'ed	24	Shilalo
11	Embatkala	25	Stifanos
12	Garage Fenkel	26	Tsererat
13	Ginda Police Station	27	Villagio Prison House
14	Glas		

Schedule 2 - Extrajudicial Killing –Eritrean Liberation Front ⁹³ Post Liberation War Veterans

- a) Liberation War, handicapped veterans, who had demonstrated to highlight the plight of their condition - 20 were killed and 25 arrested (disappeared); unknown number fled the country.

Post Liberation Military protest 1993

- b) In 1993, on the eve of the official declaration of independence, President Isaias announced that, given the financial constraints of the nation, the member of the EPLF would continue to work, in the military and various government departments, without salaries for another two (2) years. The decision was taken without consultation with the rank and file of the EPLF and resulted in much frustration and anger resulting in a mutiny. The intention of the mutineers was not to overthrow the Government. Through their action the mutineers wanted to force the Government to consult with them and listen to their issues.
- c) The protest resulted in the arrest, of approximately 3,205 members of the Army, the disappearance of an unspecified number and large scale extrajudicial killings

⁹³ Eritrea Liberation Front – International Office; December 2000; ERITREA: HUMAN RIGHTS REPORT; GROSS HUMAN RIGHTS VIOLATIONS, TYPICAL OF THOUSANDS OF CASES THAT CONTINUE TO BE COMMITTED BY THE REGIME IN ERITREA; <http://www.ehrea.org/RIGHTAPPEAL.htm>

Eritrea Ethiopia Border War 1998-2000

- d) During the period of the Eritrea Ethiopia Border war many Eritreans (civilians, soldiers, government employees) were arbitrarily arrested from their homes, offices and the war front. These detainees have disappeared and have not been brought before the law.
- e) This include at least 240 Eritreans arrested in 1999 in Assab including members of the Regional Assembly, tribal chiefs and well-known dignitaries of the Dankalia area.
- f) Eye witnesses report that, during the advance of the Ethiopian forces in May-June 2000, the Eritrean authorities ordered the evacuation of towns and villages. Not all the residents evacuated. Those who remained witnessed looting by both Ethiopian soldier as well as Eritrean soldiers. Once the Eritrean army returned to the location: they treated those who did not leave as ordered as collaborators and were rounded up and taken away. Most have never returned to their homes.

Schedule 2A - HRCE - Interview with Former Prison guard Mr. Eyob Bahta:

Eritrea Ten Years of Torture

Mr Eyob Bahta was a prison guard from September 2001 until his escape from Eritrea in 2010.

How were the prisoners kept at Embatkala prison?

The weather in Embatkala is good and the rooms they were held in had enough space. They were not designed for prison. It was much better than Ella' Ero. They could go to the toilet (about 100 meters from their sleeping quarters). They can go out to the toilet (only one by one) twice a day - 5:30 to 6:00 in the morning and evening. They don't see each other at all. They can hear doors being locked and opened but wouldn't know who is staying next door.

What happens if they get sick and need to use the toilets?

They were not allowed to get out at all beyond those fixed intervals. They are provided with a bucket and they can take it out when their time comes.

You said that they could hear doors being locked and opened. Did they try to communicate with each other – say by shouting?

They had this impression that they would be released soon and obeyed the rules. They didn't try to do anything beyond what was required of them. They could probably try to shout but the sound or scream wouldn't come out of the rooms.

Could you give me an example, if at all?

For some of them, the handcuffs were too tight, and they couldn't stand the pain. They would shout in agony. They would ask if the handcuffs could be relaxed. They were in handcuffs for 24 hours and these were switched from in front to behind their backs. They felt very uncomfortable in them. Later, however, they got used to it.

When they complained about being held in prison and being handcuffed, were they mistreated in some other way – like being tortured or beaten?

There wasn't any torture as such. They were just kept in solitary confinement. That in itself is a big punishment. Other than being allowed to come out twice a day and probably get medical attention when needed, there were no other provisions. I have not seen anyone being beaten because there was nothing they could do in that confined space anyway. But they could have felt a lot better if they had received frequent medical attention or were moved to a bigger room. They didn't have that privilege.

Do you remember the name of the official who took the responsibility to move these prisoners from Embatkala to Era'ero – and if there are any other officials who took part?

The transport is organized by the security forces. If we talk about the drivers, there was someone called „Wedi Yohannes“ [Son of Yohannes] who was also head of a military unit and there was also his driver. The rest of the drivers are part of the security forces.

Before they were transported, were they informed where they were being taken to? [a look of surprise from the interviewee]. Or did they just take them away? Could you tell me how it happened?

They were not told where they were being taken. Not even those who were transporting them knew where they were taking them. The security forces were told to secure the area and all the prisoners were taken to where they were supposed to be taken.

Were there any prisoners who were seriously sick or died in Embatkala prison?

Yes, three died in Embatkala. The first who died was Fessehaye (Joshua). He was a journalist, I think. He committed suicide. He hanged himself. General Okbe Abraha tried to commit suicide by trying to cut himself with broken glass. He was given medical attention. He recovered. But he was suffering from asthma and died about six months later. Mohammed Sheriffo fell sick and died. These three died in Embatkala.

You said that Fessehaye was found hanging in his cell. If they were handcuffed all the time what did he use to hang himself?

Right. He had made several attempts. He was a fit person. He could move his handcuffs from back to front. At night time, their handcuffs are put on the back. Joshua, it was said, could unshackle himself. No one saw him doing that but one day he managed to make a cord out of strings he tore from his blanket. He was also found with a broken pipe (from the toilet) and a T-joint. On a third attempt, he managed to hang himself with a cord made from blanket strings. He was found hanged on the door or window. That is how he died.

It has been reported that Mohammed Sheriffo was suffering from bowel sickness for about a month and that he died due to lack of proper medical attention in time. Is there anything you know about that?

Yes, I have to tell you what I know. Mohammed Sheriffo was under the first security unit and I was part of the second security unit. I knew he was sick, but I don't know what kind of medical attention he was receiving. We only hear what was going on. They used to say he had a growth on his neck, but no one went into his cell except those who were assigned to him. His condition deteriorated, and he died in the end.

So, you think he wasn't given enough medical attention?

There was a nurse on call for the prisoners. But nothing more was provided other the regular medical attendance. I am sure there wasn't any higher medical officer, but I wouldn't know

the ability of the nurse. So, Mohammed Sheriffo didn't receive any medical attention from a professional medical doctor.

Joshua, General Okbe and Sherifo died in Embatkala. Where were they buried? Do you know anyone from among your colleagues who took the duty to bury them?

I don't know where they are buried but I know that their bodies were taken from Embatkala during the night and I don't know who took them. We just assumed that they were buried in the Martyr's grave in Embatkala. It's not for sure.

After they died, did they inform you that the three had died or did you just assume they were dead?

We were not informed by anyone. There is no such thing as formal notification about anything. It is the way things work. It is all informal. That is how information is spread around.

What do you know about Ella 'Ero? Why was that location chosen? How is it set up?

As a member of the prison guard, I am not an advisor but can only speculate why the location was chosen. I would say that because this was a high security issue and because these prisoners are not very well known in faraway areas, they would pose less of a security issue problem from those who know. That is the way it seems. The prison is about 60 km away from the main road towards north. It is in the hot areas in the lowlands and only nomads frequent the area. However, once the nomads are told not to cross the area, they will never dare come back. So, there are no settlements there. Anyone who tries to reach it would find it difficult. They would have to be highly organized. It was all done to hide the prisoners from the general public.

How were prisoners treated in Ella' Ero prison – in terms of food quality, medical attention, body exercise and exposure to open air? And what do the cells look like?

Ella 'Ero is different from Embatkala. Embatkala was not designed for prisoners, and the prisoners could at least go out twice a day. In Ella'Eero however, they are kept in their cells for 24 hours. They don't even know whether it is day or night. Their cell doors are opened only for breakfast, lunch and dinner. Maybe they can be allowed to go out for an hour (between 8 and 9 in the morning) or so in a 2 by 2-meter confined space built by concrete walls with wire mesh on top. If the sun is not out, they wouldn't be allowed.

You said they have breakfast, lunch and dinner. What kind of food is it? Are there any provisions if the prisoners need to have a different kind of food due to illness?

There is no difference in the type of food they are provided with – whether they are normal or sick. As for the food type, it is just basic bread, the traditional lentil or chickpea soup and veggies. The bread used to be proper white flour. Food was in short supply back in 2010.

Sorghum was introduced but it demands strong molars. In general, the food quality was not good.

How about their medical attention?

There are two permanent nurses there. If it is beyond the capacity of these two nurses, prisoners do not have access to any higher medical service.

How about personal hygiene – like changing clothes, washing, cleaning and shaving? Do they have access to books or newspapers?

As far as clothes are concerned, they really don't have lots of needs since they don't get out at all. They are provided with track suits. They have their water and toilet in their own cells. They have a head shave once every month. But they don't communicate with each other.

There were women prisoners. Do you remember their names? You did tell me before. Could you tell me more?

There were two of them – Aster and Miriam. One of them died [meaning Aster].

How did they take their imprisonment? Were they treated differently? Do you recall any observations?

They couldn't take it at first. Like all the new prisoners, they rebelled against it. In their case, they were crying. Later, they calmed down and got used to it.

Were they under your security unit?

They could have been in one or another unit. I worked in the first and second units.

You said that Aster and Miriam expressed their rebellion by crying. Were they crying loud enough to be heard or were they saying something while crying?

I don't remember what they were saying while they were crying but whenever I delivered their food, I could see that they had been crying. There were tears in their eyes. But I can't remember what they were saying.

How were they when they arrived and after they spent some time in prison – I mean health-wise?

Aster didn't look well-built or in good health when she arrived, but everyone thought that she would be able to take the ordeal. Whereas Miriam was bigger in stature but soon after she got sick and required support to go to the toilet. I don't remember what she was suffering from. She was OK before I left but I don't know how she is. That is a year ago now.

Are the security personnel at Ella' Ero a selection from a commando unit or were they especially trained for this purpose?

Those who are working under that unit now were taken straight from the military. It was probably decided by numbers. There wasn't an issue of ability or training involved in giving them the responsibilities. I don't know if they were trained for this purpose. In our case, we were taken from different units and put together.

How were you trained? How many of you were there?

If I am not mistaken, we were told that there were 150 at first. At the moment it could be estimated at about 80.

Why has the number dropped? Was it part of a programme or was there some other reason?

I can only speculate why since I don't know what decisions were being taken at that time. But I think when it all started, there was this big issue of security and they were probably thinking in terms of a high number of military personnel. After a while, they [the government] probably succeeded in being more confident and there was no meaningful opposition to all that either. Maybe that was why there are less prison guards. They initially brought two military units from two different locations in Eritrea. The one from Dankalia returned to its base after a short while. There was also another unit that went from the highlands of Eritrea to Dankalia. There was a lot of reshuffling from one unit to another and from one location to another. At Ella 'Ero, the number of security personnel could probably have gone down to 80 or 70 now. One other reason could be because of people like me [those who fled Eritrea].

How was the relationship between the security personnel and prisoners? Did you have the chance to talk to them?

Were there a selected few who could enter their cells? Any security member could enter the cells during his time of duty. The reason he goes in is mainly due to ongoing assessment and a matter of keeping themselves on guard in case there arise responsibility issues. If anything, unexpected happens, we all assume something bad might happen to us as well. That which is allowed we provide but the rest is of no concern to us.

Whenever the prisoners get the chance – when you give them their food, for example – do they talk to you or ask you questions?

They don't ask questions and it is because they know you are a member of the security and they also know that they can put you in jeopardy as well. If there are any questions, they are about the quality of the food or other services – medical, for example. All we have to do is pass the information.

Do they have a bed in their cells? What does it look like? Can you describe it? It is probably about 3 by 4 meters.

It has a separate bathroom. It does not have a bed. All they have is a mat and a blanket. Previously, they were in a kind of container made of plastic, but it collapsed due to rain. Now, the walls are made of concrete blocks and wooden slabs. There are 13 rooms of that type and there are 20 prisoners. The other 7 are in another type of room.

What do you think was the difference between the time you started working as a prison guard and the time you left?

Your overall experience, I mean from Embatkala to Ella 'Ero and your impression of what was happening to the prisoners? The prisoners could go out at least twice a day when they were in Embatkala. Although we were prison guards, as a human being, one would ask oneself about their imprisonment and treatment. One would also ask if Embatkala is better than Ella' Ero. When I look back, however, Embatkala was a better place for them because they had more space and could see the surrounding area – cars and buses driving by along the road from Asmara to Massawa. The quality of the food was not that different from what the Eritrean military had for its daily ration. Those who had medical conditions such as diabetes were given a different kind of meal like tahini. At Ella 'Ero however, they didn't have that kind of privilege. Furthermore, the climatic conditions at Ella 'Ero were too harsh for the prisoners and prison guards. Let alone inside the prison cells, it would be difficult to withstand the heat outside. The longer you stay there, the less able you are to recover from any illness that might have affected you. This is my observation.

It has been reported that due to the harsh living conditions and ill-treatment, several prisoners have died in captivity. Other than the deaths of Joshua, General Okbe and Mahmood Sheriffo, who else do think survived or died at Ella 'Ero prison?

Joshua, General Ogbe and Sheriffo died in Embatkala. When I was in Ella 'Ero, 12 more died.

Can you recall their names? Their names are:

Saleh Kekya Yusuf Aster Medhanie Tesfameskel or Gebremeskel (I am not sure – maybe Tesfameskel) Mohammed Sayed Hamid Hamed Jermano Nati Mattewos Mehari Kidane These are the names – if I have not forgotten.

Did they die at different times? What was the time span? What was the cause of their death?

They died on various dates. Those who died in the early days of transfer to Ella 'Ero were the ones who couldn't cope with the new climatic and living conditions. They were affected by the sudden changes in circumstances. According to my observation, the list would include Saleh Kekya, Aster and Yusuf. I cannot recall the exact date, but I remember they died three days after they arrived at Ella 'Ero.

It was sudden then. Were they sick?

When they were in Embatkala, they had no illness. But soon after they arrived at Ella 'Ero, the extreme heat drove them to their deaths within three or four days.

Do you recall anything they said before they died?

They did not say anything to me. They were attended by different people and I saw when they are being given some medical attention.

They died at the same time then?

No. Yusuf died first. He arrived on the 5th of the month and I think he died on the day after. Aster died two days later and probably 3 days later, Saleh Kekya died.

Someone was beside them when they died? Am I right if I say they were not found dead?

Yes.

Where were they buried, I mean the three of them?

Their bodies were wrapped. The lights in their cells were switched off. Some people came to pick up their bodies during the night. But I don't know where they took them.

Do you know the name or names of any of those who took the dead bodies?

I don't know their names, but it was all done by their ranks.

Who was the head of Ella 'Ero prison?

Lieutenant Colonel Izsak Araya (Wedi Hakim).

Is he still the head of the prison?

He was there when I left.

The other nine who died later, did they die due to similar conditions or were there a different set of circumstances?

They died under similar conditions but two of them committed suicide.

In Ella 'Ero?

Yes.

Who were they? Tesfameskel?

No, it was Tesfagiorgis and Sayed. These two hanged themselves. These are the ones I know.

Do you remember when?

Tesfagiorgis died in 2004. Sayed died in 2005 or thereabouts.

Who was Tesfagiorgis?

People say that Tesfagiorgis was an administrator of Tsorona. I don't know for sure. It is just the rumour that was circulating amongst us.

And the other one?

The other one was Ahmed Sayed. He was a journalist. Is it Abdelkader or Ahmed Sayed?

What did they use to hang themselves?

I wasn't there when it happened. I was not on duty, but I was told that Sayed managed to unshackle himself and used some cloth to hang himself. Tesfagiorgis also used the same method.

You were a prison guard who had government officials, journalists and other prisoners under your watch. How did you feel as an individual?

When I was there, like everyone else, no one knew what the prisoners were charged for and we all thought it was a temporary thing. Everyone had that hope. Since we were part of the establishment, we were expecting that a proper procedure in a court of law would be conducted. We expected this would take place within months, but it got worse and worse and went on for years and years. We began to see it as an act of cruelty with absolutely no compassion and some began to find their own way of resolving the situation.

From what was happening in the prison when you were there, in what kind of circumstances do you think the prisoners find themselves at the moment? I mean for those who are there – the remaining 20, like you said?

The way I see it, and from my experience, I don't expect the prisoners will be allowed to leave the prison. It is how the system was working and I don't expect it will change how it operates. Unless there is pressure from elsewhere, I don't think they [implying the government] will take the initiative to release them. If they can keep them without any due process of law for so many years while the prisoners are dying of illness and much worse and instead of providing them with medical service but waiting for them to die, I don't think anyone will come out alive.

Out of the remaining 20, were there some who were suffering from serious illness – I mean from what you have observed? And who do you think are those in poor health?

I don't know much about medical conditions but to me, they looked very tired and not in good health. I would say that, at this moment, Haile Woldentensae would not be in good health and was going blind judging from the way he was taking food plates from my hands. I had the impression he was blind.

Did he receive any medical attention?

There wasn't any medical service other than being provided with pain-killers or pills. Other than that, they have no medical service provided from outside. At one time, there was a medical doctor who came to see them without any medical instruments on him.

Do you know his name?

Dr. Haile Meh'tsun. I don't know what he did for them.

Did he come to see all of them?

Yes, he came to see all of them and maybe discussed something with those on duty, but I don't know what they talked about. There were no prisoners that were treated and none of them were taken outside of the prison for medical attention.

Other than Haile Woldentensae, do you know of any others who are in poor health?

Alazar has problems with his backbone and his knees as well. He is in poor health. He suffers from diabetes. Dr. Siraj is incapable of standing straight. He has problems with his knees. Overall, however, I can say that they are all skinny and in poor health.

What about Mariam?

When she first arrived, she was very sick and required some assistance when she goes to the toilets. Sometimes, they used to carry her. At this moment however, I don't know much about her internal health condition, but she looks well on the outside.

Given the general prison conditions at Ella 'Ero – conditions so harsh that they disable able-bodied people –how do individuals like Idris Aba Arre, a former fighter who uses a wheelchair and was in prison for so long, cope in these kinds of circumstances? Is there anyone who looks after him? Is he provided with some help?

He is not provided with any kind of support. He just moves around in his confined and limited space. Maybe it is God's will that he is still well. He was disabled when he arrived. He would need someone to help him with his blanket and provide with some help, but no one does.

Does he talk about something or he just keeps quiet? Does he ask for help?

I wouldn't say he talks about this or that, but the prison guards complain about him – like he was disturbing them. It is all reduced to complaints and disturbances and we don't focus or talk about what he exactly said. I can say that he was talking but I don't know what it was about.

What do you talk about? I mean the supervisors or members of the security guard who were also working in those confined spaces – what do you discuss in your meetings or in those odd moments?

We are not allowed to talk about anything that has something to do with why or what is going on. We don't have the right. All we discuss about is how to be more efficient at what we do and improve our procedures in our daily activities. We don't discuss about improving the living conditions of the prisoners or their rights either. It is all focused-on security issues. We are told by our supervisors that prisoners' issues are none of our concern and it is difficult to raise other matters in that kind of atmosphere.

How do you address the prisoners? You don't call them by their names?

We don't use their names. When we organize ourselves to deliver their food, we refer to them using numbers like no. 1 or no.2. This was our working procedure because if any of the prisoners leaves or dies, there will be a new one who replaces them, but the number stays the same. I think this was done to prevent us or anyone who works there from knowing the names of those who were imprisoned. It became a habitual way of working.

When you refer to the prisoners using numbers, can they hear you?

Yes, they can hear us but what can they do? We all got used to it and sometimes we cannot be too careful. But they wouldn't know who is imprisoned next to their cell. They have no idea.

How was the overall prison guard system managed? What happens at night? Were they able to hear anything if any of the prisoners say or ask for something?

The prison guards had two shifts a day. The first shift starts at 8:00 AM and ends at 12 noon and the second was from 1:00 PM to 6:00 PM. The night shift begins at 6:00PM and ends at 12 midnight and the next shift takes over until 3:00 in the morning. Then the last shift takes over from 3:00 AM to 8:00 AM.

Did the prison guards hear anything – like talking and shouting from the prisoners – because it is more silent at night and they could possibly hear something?

I don't remember much happening at night because almost all are asleep. Once in a while, however, those prisoners who cannot sleep make intelligible sounds – like they are talking to themselves. You wouldn't know what they are saying unless you open the door and listen. It just sounds like someone talking in their sleep.

Have you heard or received any final words or pleas from any of the prisoners?

I didn't.

What could you observe about the prisoners' facial expressions and what can you say about their spirit?

I didn't make much note about their facial expression, but I could see a difference in their overall body strength. Even if they look alright, they keep on asking the medical person to provide them with different kinds of medicine every now and then. It has something to do with stress or some kind of mental condition.

Was there a prisoner who tried to escape?

I would say there wasn't except for one attempt. He tried to escape at night but ended up at a sentry point by mistake. He was put back into his cell.

Could you tell me his name?

Seyoum Tsehay.

How was that possible? They are handcuffed for 24 hours. Are they in shackles as well?

No, they are not in shackles.

Are the handcuffs removed when they eat their meal?

No, they are removed only when they wash themselves.

Do they go to bed with the handcuffs on as well?

Yes.

How many times do they wash themselves in a week?

Once a week, I think. They have their breakfast between 8 and 9 AM and that is when the water supply is switched on. They cannot wash themselves or do any washing with the handcuffs on. I can't recall how many times a week they were allowed to wash themselves. I remember there was a timetable.

Did they have any marks on their hands due to being handcuffed for 24 hours?

Yes, they used to have them in the earlier times but not much later.

Are there any members of the security guard, I mean someone like you, who managed to escape? And if there are any, would you tell me their names?

Yes, there are many of them, but I find it difficult to remember all their names.

Where did they go?

I wouldn't be able to say where they had gone. All I know is that they have managed to escape.

What happens, I mean after members of the security guard escape? How does it affect their colleagues and what would the supervisors do? Do they threaten you in some way? How do they react to the event?

In general, we were not that bothered whenever a security guard escapes. However, you are fully aware that if you ever try to do the same and are caught in your attempt, you know that the consequences are heavy. If you are caught, you are put in prison conditions that are much worse. That is what we used to think and that is the way it is.

When you decide to escape, you have to imagine that you could end up being caught, imprisoned or even get killed. You escape being fully aware of all these consequences. You are not treated like an ordinary person. The prison guards there are like they are in prison – they feel the pressure whether they are on duty or on leave.

You are not allowed to meet people other than their families. If they come in contact with other people or friends, they will naturally ask questions about where you are working and so on. And since you cannot take cover by saying something you don't know much about, you might put yourself in a compromising situation. You could be telling the truth or a lie but the danger is always there and so you are forced to stay away from people. Such is the magnitude of the pressure members of the security guard go through. In that sense, they are prisoners. They are off-duty for one month per year and during that time they are trying to avoid people and friends without proper and decent social exchanges. They always try to avoid people by giving the excuse that they have some work to do. It is difficult to engage in a normal conversation when people are telling you all about themselves and you cannot relate anything about yourself. It is all about trying to avoid such a situation. For how long can you keep on doing that? This is basically what a member of the security guard suffers from.

Were there any members of the security guard who got caught trying to escape?

Yes, there are. I didn't see them in person, but I have heard about them.

Can you recall any names?

Their names... there was Tekle who worked in finance and there was also Semret Fre. These two were caught trying to escape.

Were they caught inside Eritrea, I mean before they crossed the borders?

Yes.

Do you know anything about what happened to them or what steps were taken afterwards?

I don't what steps were taken. However, before I left, I know that there was a discussion on what to do about Tekle (the person from finance). His case had something to do with his work and issues of corruption that was linked to his boss. That was about the time I escaped. I don't how it all ended. If they find anything on them, they will be treated differently [from other prisoners].

As individuals, I mean you and your colleagues, what did you feel morally? You were under orders. But really, what were you feeling when you are the prison guards of your brothers, your people, your brothers in-arms and former fighters who brought independence; heroes, journalists and educated people? What did you feel when they were perishing one by one right in front of your eyes?

Like I said earlier, it is... has something to do with being naïve at first – say the first 5 or 6 months. We assumed that they would be brought to a court of law, get fair trial and be freed. However, when it was extended to a number of years, it was clear to everyone that it was merciless cruelty but there was nothing anyone could do except ask themselves: when will it end? It is painful.

Why couldn't they refer sick prisoners to a proper medical doctor? Why were members of the security guard unable to feel free and mingle with friends and other people?

All these occupy his mind and affect his conscience.

Did you ever talk or discuss about these issues with your colleagues, I mean when you were at work inside the prisons?

We don't discuss these issues seriously, but we talk about them jokingly. You cannot talk about something that is over and done with. In fact, you cannot talk about it at all because you cannot trust anyone. As long as you are working there, you have no idea what they will be thinking about or what impression they will have of you. There could be consequences on your family or your own life and other consequences. If you come under their suspicion, you could lose your time off work. If you are caught red-handed, it is over. But when you are on the edge however, they are capable of driving you to a point where they exactly want you in ways you cannot think of. You do all you can to protect yourself and avoid all possible consequences.

You have given an interview some time before and, some people questioned your Eritrean origins.

They said that it is because Ethiopia has an agenda on Eritrean issues. What would you say to people with that kind of opinion? I am not Eritrean? [with a surprised smile]

Shall I repeat the question for you? Yes [with a nod]. [The question is asked again.]

I would say that nothing can be said to those who want to deny that. Those who know me know that I am Eritrean. If they keep on saying “whether it can fly or not, it is still a goat,” what can one say? For how long can they keep on lying? I have said what I saw and where I have been, and it serves as evidence that I am Eritrean. There is nothing more I can say to them.

You have been away for one year already. The prisoners who are still at Ella ‘Ero prison – with no hope and unable to withstand their ordeal – do you think there is any way they can survive with all their illnesses?

After all these years in prison, I mean after all their suffering and illness, I don’t think they will come out alive. When it comes to their health, I mean those I left in good health, they are still alive.

Who are they? Do you have any names?

When I left, Petros Solomon, Beraki, Temesgen and Seyoum were in good health. As the years stretch however, your spirit, your strength and your consciousness are weakened, they could naturally follow the footsteps of those who passed away.

Were there prisoners suffering due to mental health?

I didn’t observe much about mental health conditions. However, I could say that Dawit – the journalist and not Dawit Isaack– was the youngest. He might have gone mentally unstable. You would see him covering himself with a blanket even when it was hot. I would think that is a sign of mental instability.

It is almost impossible to list the suffering of the Eritrean people. I am sure you know more than I do because you’ve seen it with your own eyes. I cannot say more about that. What could you say on what people can do to strengthen their fight against dictatorship?

Like you just said, the suffering is getting worse, but the people have to show their opposition otherwise there is no resolution. They are showing their opposition. The fact that half of the population has left the country is the evidence. It is a kind of opposition. It is not because they don’t have anything to eat. They could work but how?

Every new born is becoming a soldier. They are forced to abandon education to become soldiers and not being able to manage for themselves. All the schools built have no students in them. A student needs role models to aspire to and study to emulate them.

All that you hear is youngsters saying why should they go to school when most of the older people they know are becoming soldiers. They are not interested. There aren't many students willing to learn and those who do don't have the ability to retain what they are taught. They are all trying to flee the country or in exile. And why? Only because they cannot settle in peace in the country. They cannot work and support their families. Every time one tries to do something or work somewhere, they take them away and force them to do national service. For lack of opportunities, the youngsters are finding themselves in a much worse situation. There is land and other means of engaging in work but there is no system that can provide it. If there are people who believe what the Government of Eritrea is doing is right and good for the country, they are mistaken.

Let's talk about the prisoners who spent at least 10 years in prison and ask what their contribution was for the independence of the country. They were put behind bars, hidden and out of sight. Until when though?

Had the government had any care or been able to show any credibility, they could have put them in a court of law and go through proper legal procedures to set them free or give them the sentence they deserve. But the government couldn't do that. All they did was put everyone in prison without any due process and care – it didn't matter whether they were guilty or innocent. If there are people who deny such a situation in which people are being wiped out, they must have lost their mind.

Schedule 3 -Mineral Sector

Table 1 Eritrea Structure of the Mineral Industryu2012-2014⁹⁴

Commodity	Company	Location	Annual Capacity			Comment
			2012	2013	2014	
Brick	Dahlack Brick and Block Factory	Massawa	10,000mt	7,300mt	7,300mt	PFDJ
Cement	Gedem Cement Works	Gedem	350,000 Mt	350,000 MT	350,000 Mt	PFDJ
	Eritrean Cement Works	Massawa	45,000 MT	45,000 Mt	45,000 MT	PFDJ
Copper	Bisha Mining Share Co (Nevsun Resources Ltd, 60%and Eritrean National Mining Corp 40%)	Bisha mine near Bisha		86,000 Mt	90,000 cubic metre	Government(PFDJ) and Nevsun Resources a Canadian Mining Company
Gold	Bisha Mining Share Co (Nevsun Resources Ltd, 60%and Eritrean National Mining Corp 40%)	Bisha mine near Bisha	9,700kg	2,900Kg	850	Government(PFDJ) and Nevsun Resources a Canadian Mining Company
Silver	Bisha Mining Share Co (Nevsun Resources Ltd, 60%and Eritrean National Mining Corp 40%)	Bisha mine near Bisha		16,000	80,000	Government(PFDJ) and Nevsun Resources a Canadian Mining Company
Granite	Margam Pty Ltd	Gogne	3,000	3,000 cubic metre	3,000mt	PFDJ

⁹⁴ (Yager, 2012); (Yager, 2013)
(Yager, 2014)

Marble	Margam Pty Ltd	Gheleb	5,000 cubic metre	5,000 cubic metre	5,000mt	PFDJ
Lime	Badme Construction	Gogne	7,300 cubic metre	7,300 cubic metre	7,300	PFDJ
	Badme Construction	Barentu	1,800 cubic metre	1,800 cubic metre	1,800	PFDJ
Salt	Assab Salt Works	Assab	150,000	150,000	150,000	PFDJ
	Salina Salt Works	Massawa	80,000 cubic metre	80,000 cubic metre	80,000	PFDJ

Table 2 Minerals in the National Economy ⁹⁵

Year	Manufacturing % of GDP	Mining (including Salt and Quarry) % of GDP
2011	6.2%	1.8%
2012	5.9% of	1,7%
2013	5.8%	1.7%

⁹⁵ (Yager, 2012); (Yager, 2013);(Yager, 2014)

Schedule 4 - Mining Joint Ventures (Eritrea Ministry of Energy and Mines, 2014)

Zara Mining Share Company (ENAMCO and SFECO Group subsidiary of Shanghai Construction Group)

Kokoda gold deposit, located within the Zara project area of Northern Eritrea

SFECO purchased 60% interest from Chalice Gold Mines in November 2012 a total of USD80 Million, inclusive deferred payment of USD2 million on first gold pour at Koka Gold Mine

Asmara Mining Share Company (ENAMCO and Sunridge Gold Corporation)

Sunridge Gold Corp has defined 4 metal deposits outside of Asmara which contain significant amounts of copper, zinc, gold and silver. Sunridge had moved to development phase. Sunridge and ENAMCO have executed a joint venture agreement. Asmara project 60% Sunridge and 40% ENAMCO

Coluli Mining Share Company (ENAMCO and South Bolder Mines) – potash

Coluli is a large multi-salt resource located in Eastern Eritrea. The resource is located 75km from the Red Sea Coast and 180km from the port of Massawa. The salts within the region are suitable to produce potash fertiliser.

The Coluli project is owned by the Coluli Mining Share company a joint venture between South Bolder Mines (STB) and ENAMCO

Kerkebit Mining Share Company (ENAMCO and Sinchuan Road & Bridge Mining Investment and Development Company (SRBM))

Three other foreign companies have received approval to develop mining projects in Eritrea and plan to launch production in 2015 and 2016. ENAMCO and the SFECO Group, a subsidiary of the Chinese firm “Shanghai Construction Group Co. Ltd.”, have created a joint venture to exploit the Koka gold mine, in northern Eritrea. The project plans to start operations during the third quarter of 2015. Two other projects are scheduled to launch operations in 2016. The first one is run by the Canadian-Chinese “Shanghai Construction Group Company and Sunridge Gold Corp” and will operate a gold, silver, copper and zinc mine in the Asmara region. The second is operated by the Australian company “South Boulder Mines Ltd.”, which was awarded an exploration licence in 2009 for the potash Coluli tenements in southern Eritrea. Coluli is reported to have the potential to be the world’s first and largest modern open-cast potash mine

Schedule 5 - The Committee on the Rights of the Child

Concluding observations on the fourth periodic report of Eritrea highlight the following issues/concerns⁹⁶:

General Measures of Implementation	General Principles	Civil Rights and Freedoms	Violence Against children	Family	Disability	Education	Special Protection Measure
➤ The implementation of the 1997 Constitution; ➤ The compliance of domestic law with the CRC; ➤ The adoption of a comprehensive Children's code; ➤ The availability of laws but also of data as to the adoption by local courts and administration of the CRC; ➤ The lack of transparency as to the budgeting process – No budget is published This makes it difficult to ensure that an appropriate budget is allocated to child and child right issues; ➤ The timely release of data and the fact that the system of data collection does not cover all aspects of the CRC; ➤ The lack of independent monitoring; ➤ The limitations placed on	➤ The need to intensify efforts to eliminate discrimination against children from minority groups; ➤ Ensuring that beyond the provision in the 2015 Civil Code that the best interest of the child provision should be a right of the child rather than a mere consideration; ➤ The need to respect and consider the view of the child; ➤ The impact of certain measures (i.e. border control shoot to kill policy, round ups) on	➤ The need to respect the right of children belonging to all religious denominations including Jehovah's Witness to exercise their faith ➤ Reinstate and recognise the full citizenship of children and their families who follow unrecognised religious denominations and ensure their equal access to public services	➤ Violence against children including sexual violence ➤ Torture and detention of children – returning migrant children, children in detention ➤ Children including girls are frequently subjected to violence, including sexual abuse ➤ Harmful traditional practices (i.e. FGM; child marriage)	➤ The extreme tight control of exit visa ➤ The punishment of family member including children for the actions of another family member's conduct (i.e. fleeing the country) ➤ Deprivation of family environment due to the absence of family members due to National Service, Arbitrary Arrests and Disappearances ➤ Lack of data as to children without parental care ➤ The State plan to reduce community-based homes ➤ Lack of funding for family reunification ➤ Lack of provisions for children who cannot re-join their families	➤ Lack of statistical data on children with disabilities ➤ High neonatal and maternal mortality ➤ HIV/AIDS, sexually transmitted disease and tuberculosis remain high ➤ Malnutrition related diseases including stunting remain high ➤ The prolonged period of conscription for national service, including for parents and caregivers, is having negative effects on parents and caregiver's capacity to provide for their children, as the salary and allowance	➤ Primary and secondary school enrolment remains low ➤ Dropout rate of girls is high ➤ Secondary School students completing high school at Sawa military training centre ➤ Children of nomadic schools still face disadvantage accessing education	➤ Forced underage recruitment, ➤ Reports that many children in Grade 12 at Sawa are under the age of 18 ➤ Insufficient data on the psychological health of children involved in previous conflict situations ➤ The need to assess the situation of street children ➤ The threat to children of human smuggling and trafficking ➤ The lack of a juvenile justice system ➤ Children between 16 and 18 tried as adults ➤ Placing of children in detention centres with adults

⁹⁶ Committee on the Rights of Child examines report of Eritrea; Report from UN Office of the High Commissioner for Human Rights; Published 02 June 2008

human right defenders and civil society organisations particularly those working on children rights	➤ the right to life and liberty of a child; ➤ Lack of freedom of speech - restrictions on the press which has serious implications on the right of the child to expression, participation and information			➤ Reduction of assistance to families affected by HIV/AIDS ➤ No data on complaint mechanism ➤ Poor living conditions of young children living in detention centres with their mothers ➤ Lactating mothers having difficulties in providing proper nutrition for their infants owing to poor quality of food provided in detention centres	earned during national service are below minimum subsistence level and the workforce within the family is reduced because of conscription ➤ The policy of self-reliance may have undermined access to humanitarian assistance ➤ Frequent reports of food insecurity and malnutrition remains a leading cause of infant mortality ➤ Disparity as to access to food, water and sanitation ➤ There have been forced evictions and demolition of houses		
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References

- A/HRC/29/CRP.1. (2015). *A/HRC/29/CRP.1 Human rights situations that require the council's attention: Report of the Special Rapporteur on the situation of human rights in the Democratic People's Republic of Korea*. Geneva. Retrieved from http://www.ohchr.org/Documents/HRBodies/HRCouncil/CoIEritrea/A_HRC_29_CRP-1.pdf
- African Development Bank. (2016). Eritrea Interim Country Strategy Paper (I-CSP) 2014-2016. Retrieved from https://www.afdb.org/fileadmin/uploads/afdb/Documents/Project-and-Operations/Eritrea___Interim_Country_Strategy_Paper__I-CSP__2014-2016_-_11_2014.pdf
- Amnesty International. (2015). *Just Deserters: WHY INDEFINITE NATIONAL SERVICE IN ERITREA HAS CREATED A GENERATION OF REFUGEES*. London. Retrieved from <https://www.amnestyusa.org/files/eritrea-deserters-report.pdf>
- Beyene, T. C. J. H. C. E. (2001). 2001.
- Council, H. R. (2016). *Detailed findings of the commission of inquiry on human*. Geneva. Retrieved from http://www.ohchr.org/Documents/HRBodies/HRCouncil/CoIEritrea/A_HRC_32_CRP.1_read-only.pdf
- Eritrea. (2010). *Mining Journal* . Retrieved from <http://www.eritrean-embassy.se/wp-content/uploads/Mining-Journal-Eritrea.pdf>
- Eritrea Ministry of Energy and Mines. (2014). Eritrea Mining Journal Asmara Mining Conference 01-05 October 2014. Retrieved from http://www.eritreambassy-japan.org/data/MINING_JOURNAL_Asmara_Mining_Conference_2014.pdf
- Favali, L ; Pateman, R. (2003). *Blood, Land, and Sex: Legal and Political Pluralism in Eritrea*.
- Government of Eritrea. Proclamation No128/2002 A Proclamation to Amend the Business Licensing System Control and the Business Licensing Office Establishment Proclamation No 72/1995 (2002). Retrieved from <https://s3.amazonaws.com/rgi-documents/97534ddb074802c4dca02a9c6122b4dcd23e237.pdf>
- Government of Eritrea. (2017). *Eritrea: Initial Annual Report (1999-2016)*.
- IDMC. (2009). *Eritrea: IDPS returned or resettled but border tension remains -a profile of internal displacement situation*. Retrieved from www.internal-displacement.org
- Kibreab, G. (2009). Forced labour in Eritrea. *The Journal of Modern African Studies*, 47(1), 41–72. Retrieved from <http://www.jstor.org/stable/30224923>
- Kibreab, G. (2014). The Open-Ended Eritrean National Service: The Driver of Forced Migration, (October), 1–18. Retrieved from https://www.ecoi.net/en/file/local/1282042/90_1416473628_gaim-kibreab-the-open-ended-eritrean-national-service-the-driver-of-forced-migration.pdf
- Kim Sook. (2013). *Somalia Eritrea Monitoring Report S/2013/440**. Retrieved from http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s_2013_440.pdf
- Messner, J. J., Haken, N., Taft, P., Blyth, H., Maglo, M., Murphy, C., ... Young, A. (2017). *THE FRAGILE STATES INDEX*. Retrieved from www.fundforpeace.org
- Miller, J., Robbins, E., H., & Sumka, H. . (1994). *An Assessment of Municipal Management in Eritrea*.

- NRC. (2005). *PROFILE OF INTERNAL DISPLACEMENT : AZERBAIJAN* Compilation of the information available in the Global IDP Database of the Norwegian Refugee Council. Retrieved from <http://www.idpproject.org>
- O’Kane David;Hepner Tricia R (Ed.). (209AD). *Biopolitics, Militarism, and Development:Eritrea in the Twenty-First Century(Dislocatons)*.
- Office/Eritrea, N. S. and E., Macro, O., & National Statistic and Evaluation Office. (2003). Eritrea Demographic and Health Survey 2002. Retrieved from <https://dhsprogram.com/pubs/pdf/FR137/FR137.pdf>
- Open Letter to all P. (n.d.). Retrieved from http://www.snitna.com/docs/Open_Letter_to_All_PFDJ_Members_by_G_15_english.pdf
- Plaut, M. (2016). *Understanding Eritrea Inside Africa’s Most Repressive Stte*. London: Hurst & Company.
- RADSO Foreign Missioin. (n.d.). State of Eritrea: Crimes against Humanity and Genocide against Red Sea Afar People. Retrieved from [http://www.ehrea.org/Afar Genocide in Eritrea.pdf](http://www.ehrea.org/Afar_Genocide_in_Eritrea.pdf)
- Tessema, M. T., & Soeters, J. L. (2006). Practices and challenges of converting former fighters into civil servants: The case of Eritrea. *Public Administration and Development*, 26(4), 359–371. <https://doi.org/10.1002/pad.402>
- Tronvoll, K. ; M. D. R. (2015). *The African Garrison State: Human Rights & Political Development in Eritrea Revised and Updated*. James Curry.
- UNICEF Eritrea. (2017). *Eritrea Humanitarian Situation Report*.
- United Nation Security Council. (2011). *Letter dated 18 July 2011 from the Chariman of the Security Council Committee pursuant to resoulution 751(1992) and 1907(2009) concerning Somalia and Eritrea addressed to the President of the Security Council*. New York (Vol. S/2011/433). New York.
- United Nations Committee for Development Policy. (2016). *Human Development Report 2016, Human Development for Everyone: Briefing note for countries on the 2016 Human Development Report*. Retrieved from http://hdr.undp.org/sites/all/themes/hdr_theme/country-notes/ERI.pdf
- Yager, T. R. (2012). *2012 Minerals Yearbook Eritrea. Mining Journal*. Retrieved from <https://minerals.usgs.gov/minerals/pubs/country/2012/myb3-2012-er.pdf>
- Yager, T. R. (2013). *2013 Minerals Yearbood Eritrea. Minerals Proclamation*. Retrieved from <https://minerals.usgs.gov/minerals/pubs/country/2013/myb3-2013-er.pdf>
- Yager, T. R. (2014). *2014 Minerals Yearbook Eritrea*. Retrieved from <https://minerals.usgs.gov/minerals/pubs/country/2014/myb3-2014-er.pdf>