



UNIVERSAL PERIODIC REVIEW SUBMISSION FOR ERITREA

NGO Submission

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ABOUT HRF

1. The Human Rights Foundation (HRF) is a nonpartisan nonprofit organization that promotes and protects human rights globally, with a focus on closed societies. HRF unites people in the common cause of defending human rights and promoting liberal democracy. Our mission is to ensure that freedom is both preserved and promoted around the world.
2. We focus our work on the founding ideals of the human rights movement, those most purely represented in the 1948 Universal Declaration of Human Rights (UDHR), and the 1976 International Covenant on Civil and Political Rights (ICCPR).
3. The Human Rights Foundation Center for Law and Democracy (HRF-CLD) is a program of the Human Rights Foundation (HRF). HRF-CLD promotes legal scholarship in the areas of comparative constitutional law and international law, with a focus on international human rights law and international democracy law.

INTRODUCTION

4. This submission was prepared by HRF for the Universal Periodic Review (UPR) of Eritrea. In this submission, HRF evaluates Eritrea's implementation of recommendations made in the previous UPR as it relates to the current human rights situation in the country, which is characterized by systematic, widespread and gross violations of human rights, such as: arbitrary arrests and detention without trial; enforced disappearances; torture; extra-judicial killings; a compulsory and indefinite national service program resulting in the abuse, exploitation and enslavement of conscripts; curtailment of the freedom of expression, assembly and religion; the existence of the shoot-to-kill policy; and reprisals for the alleged conduct of family members.¹

¹ Amnesty International Report 2017 – 2018, page 160; Human Rights Watch Report 2018, page 202; Médecins Sans Frontières 2017, page 16.

FOLLOW UP TO THE PREVIOUS REVIEW

5. On February 3, 2014, the Human Rights Council considered and adopted the outcome of the country's review at its 26th meeting on June 20, 2014.² A total of 200 recommendations were made to Eritrea whereby the government accepted 92 recommendations, and rejected the remaining 108.³
6. Although Eritrea accepted recommendations covering a wide range of issues, including those concerning the ratification of some international human rights instruments,⁴ it has not made progress on the ratification of these instruments.⁵ Eritrea refused to ratify the Convention on Enforced Disappearance and the Rome Statute of the International Criminal Court (ICC)⁶ among others.
7. In the 2014 UPR cycle, U.N. member states were concerned about Eritrea's systematic violation of civil and political rights, failure to implement the country's constitution and violation of the due process of the law. Specifically, member states expressed concerns about enforced disappearances; torture and extrajudicial killings; incommunicado detention of perceived political opponents, journalists and human rights defenders; and indefinite military conscription characterized by forced labor.⁷ The U.N. member states called for accountability of the perpetrators and the enhanced protection of human rights.
8. In its response⁸ concerning arbitrary arrest, detention, enforced disappearances,

² Human Rights Council, *Report of the Human Rights Council on its Twenty-Sixth Session*, A/HRC/26/2, December 11, 2014, para 713.

³ *Ibid*, para 716.

⁴ Such as the Convention on the Prevention and Punishment of the Crime of Genocide International (1948), the Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (1990), the Convention on the Rights of Persons with Disabilities (2008), and ILO Convention No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labor.

⁵ See https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-1&chapter=4&clang=en; <http://indicators.ohchr.org/>; http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:11300:0::NO::P11300_INSTRUMENT_ID:312327. See also the UPR mid-term reporting page on <http://www.ohchr.org/EN/HRBodies/UPR/Pages/UPRImplementation.aspx>

⁶ See the Addendum to the Report of the Human Rights Council Working Group on the Universal Periodic Review (A/HRC/26/13/Add.1), *Twenty-Sixth Session*, June 17, 2014, page 5; and <http://indicators.ohchr.org>.

⁷ Human Rights Council, *Report of the Working Group on Universal Periodic Review on its Twenty-Sixth Session*, A/HRC/26/13, April 7, 2014, for example para 37, 38, 41, 42, 43, 51, 52, 59, 62 to 68, 71, 72, 74, 76, 103, 104, 110, 111, 117.

⁸ Human Rights Council Twenty Sixth session held in June 2014. See the Addendum to the Report of the Human Rights Council Working Group on the Universal Periodic Review (A/HRC/26/13/Add.1).

extrajudicial killings, and ill treatment of detainees, the government of Eritrea denied the existence of such practices as well as the presence of prisoners of conscience⁹ in the country. Furthermore, it stated that all detainees are treated humanely and that there are no reports of enforced disappearances.¹⁰

ERITREA'S NATIONAL FRAMEWORK FOR PROTECTING HUMAN RIGHTS

9. The Constitution of Eritrea of 1997¹¹ provides a basic framework for protecting the human rights of its citizens:

Article 14

All persons are equal under the law.

No person may be discriminated against on account of [...] ethnic origin, [...] religion, [...] political view, [...].

Article 15

No person shall be deprived of life without due process of law.
No person shall be deprived of liberty without due process of law.

Article 16

[...].

No person shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

No person shall be held in slavery or servitude nor shall any person be required to perform forced labor not authorized by law.

Article 17

No person may be arrested or detained save pursuant to due process of law.

[...]

⁹ Addendum to the Report of the Human Rights Council Working Group on the Universal Periodic Review (A/HRC/26/13/Add.1), *Twenty-Sixth Session*, June 17, 2014, page 6 to 7.

¹⁰ *Ibid*, page 6.

¹¹ See <http://www.wipo.int/edocs/lexdocs/laws/en/er/er001en.pdf>

Every person arrested or detained shall be informed of the grounds for his arrest or detention [...].

Every person who is held in detention shall be brought before a court of law within forty-eight (48) hours of his arrest [...].

Article 19

Every person shall have the right to freedom of thought, conscience and belief.

Every person shall have the freedom of speech and expression, including freedom of the press and other media.

[.....]

Every person shall have the freedom to practice any religion and to manifest such practice.

[....]

[....]

Every citizen shall have the right to leave and return to Eritrea and to be provided with passport or any other travel documents.

ARBITRARY ARREST, DETENTION AND DEATH IN CUSTODY

10. Although Eritrean law prohibits arbitrary arrest and detention,¹² security forces have systematically and arbitrarily arrested and detained without trial thousands of people.¹³ Those detained include actual or suspected critics or political opponents of the government; journalists; members of religious groups and those practicing an ‘unrecognized’ religion; people or relatives of those trying to evade national service conscription or trying to flee the country; and those enquiring about the fate of persons detained.¹⁴

¹² Article 29 of the Criminal Procedure Code of the State of Eritrea (2015) states that no person may be detained or arrested except by a warrant of a court. According to Article 32, arrest without warrant can be done when a person is believed to commit or about to commit an offence; when a person commits a breach of the peace, or is a deserter from the armed forces; or commits the crime of vagrancy under Article 207 of the Penal Code which includes living without fixed abode or without regular or visible means of support; and being able-bodied but leads a life of idleness or disorderly behavior, or living by begging, refusing to take honest, paid work which that person is capable of doing.

¹³ Amnesty International Report 2017 – 2018. Page 160.

¹⁴ Human Rights Watch report 2018, page 202; Amnesty International Report Summary on Eritrea: 20 Years of Independence; But Still No Freedom (2013) available on https://www.amnesty.nl/content/uploads/2016/11/1305_rap_eritrea.pdf?x18276.

11. Although the law requires that the arrested people be informed of the reasons for their arrest,¹⁵ the majority of people are arrested without justification or without legitimate cause,¹⁶ and are detained indefinitely and often incommunicado while others disappear altogether.¹⁷ For example, a mother of three young children was arrested and detained in November 2017 because her husband had fled the country.¹⁸
12. A former Eritrean Ambassador to Nigeria, Mohamed Ali Omaro, who was arrested in April 2014 and detained incommunicado in Karshele in Asmara without charges or trial,¹⁹ was still in detention as of June 2017.²⁰
13. Furthermore, a group of activists who were arrested in 2001 –dubbed ‘G-15’– have not been seen up until the drafting this submission in June 2018.²¹ In addition, Haile Woldetensae, a former Minister of Foreign Affairs who belonged to ‘G-15,’ reportedly died in custody in January 2018.²²

TORTURE AND EXTRA-JUDICIAL KILLINGS

14. Eritrea is a state party to the Convention Against Torture, Cruel, Inhuman and Degrading Treatment (CAT).²³ However, torture practices have been commonly used by security forces in Eritrea.²⁴ Some of the torture methods used consist of tying the arms and feet of the victims behind their back while lying them facedown

¹⁵ Ibid, Article 33(4) states that the police officer shall inform the arrested person of the offense for which he is arrested and his right to be brought before a court within 48 hours.

¹⁶ Bertelsmann Stiftung’s Transformation Index (BTI) report 2016, page 11, available on http://www.bti-project.org/fileadmin/files/BTI/Downloads/Reports/2018/pdf/BTI_2018_Eritrea.pdf ; and Amnesty International Report, page 160.

¹⁷ Human Rights Watch Report 2018, page 202.

¹⁸ Report of the Special Rapporteur on the situation of human rights in Eritrea (A/HRC/38/50) of June 25, 2018, page 8.

¹⁹ Bertelsmann Stiftung’s Transformation Index (BTI) report 2016, page 8.

²⁰ Report of the Special Rapporteur on the situation of human rights in Eritrea 2017 (A/HRC/35/39), page 6.

²¹ Human Rights Watch Report 2018, page 202.

²² Report of the Special Rapporteur on the situation of human rights in Eritrea (A/HRC/38/50) of June 25, 2018, page 10.

²³ Eritrea has made reservation on Article 20 of CAT. Therefore, it does not recognize the competence of the committee on CAT to handle complaints concerning cases of torture.

²⁴ Médecins Sans Frontières Report 2017, page 17.

on the ground or suspending them in the air (popularly known as ‘helicopter’); tying of the hands and feet in the shape of the number eight; beating with whips, plastic tubes and electric sticks; and forcing victims to walk barefoot on sharp rocks and thorns.²⁵

15. In November 2015, an individual who was caught fleeing the country was tortured severely in his genitals leading to his infertility.²⁶ Three victims reported to have had their upper limbs amputated following torture which involved tying up their hands for a long period of time resulting in septic swells due to blocked blood.²⁷

16. The shoot-to-kill policy was still in effect at border points for those trying to flee the country. For example, in July 2017, a young man was shot dead as he tried to cross the border.²⁸

FREEDOM OF EXPRESSION

17. Freedom of expression continues to be under attack in Eritrea. In February 2017, Eritrean authorities detained two journalists working with the state-owned Television Agency. The journalists Abraham Yitbarek and Senait Ekubay were suspected of attempting to flee the country which the regime considers an act of treason.²⁹ At the time of drafting this submission, the status of the journalists was unknown.

18. In March 2018, two other journalists were also arrested and detained during the funeral of Muslim religious leader Musa Mohammed Nur. In addition, a man who owns an internet café was detained in 2016 for sharing photos of people queuing for basic commodities in the country.³⁰

²⁵ Eritrea Human Rights Electronic Archive (EHREA) available on <http://www.ehrea.org/prisontortutr.php>; Amnesty International Summary Report 2013.

²⁶ Médecins Sans Frontières Report 2017, page 17.

²⁷ See the Horn of Africa Affairs website, Eritrea’s 15 favorite methods of torture, <https://hornaffairs.com/2015/06/13/eritrean-favorite-methods-torture/>

²⁸ Report of the Special Rapporteur on the situation of human rights in Eritrea (A/HRC/38/50) of June 25, 2018, page 10.

²⁹ Liberty Magazine, page 8. <http://www.jeberti.com/17/Eritrea.LIBERTY%20magazine%20issue%20No%2043.pdf>

³⁰ Report of the Special Rapporteur on the situation of human rights in Eritrea (A/HRC/38/50) of June 25, 2018, page 7.

19. Furthermore, 11 journalists who were detained during the major crackdown campaign in 2001 were still in custody and about half of them were reportedly dead.³¹ However, one of the government ministers reiterated in 2016 that the journalists and politicians arrested during that time were all alive and would be tried “when the government decides.”³²

FREEDOM OF RELIGION

20. The Government of Eritrea recognizes only four religious denominations, namely Eritrean Orthodox, Catholicism, the Lutheran church and Sunni Islam.³³ However, members of both recognized and unrecognized religious communities are arbitrarily arrested and detained leading to their deaths in custody in some cases. For example, two Jehovah’s Witnesses (unrecognized), Habtemichael Tesfamariam and Habtemichael Mekonen, died in January and March 2018 respectively in the Mai Serwa Prison near Asmara.³⁴ As of August 2017, about 53 of Jehovah’s Witnesses were imprisoned for attending religious meetings or for conscientious objection.³⁵

21. In March 2018, Haji Musa Mohamed Nur, one of the influential Muslim leaders and former director of the Al Diaa Islamic school died in custody after his arrest in October 2017 together with several people who were protesting against the government’s attempt to expropriate the Al Diaa Islamic School.³⁶ During his burial ceremony on March 3, 2018, security forces arrested thousands of those who attended the funeral, including women and children.³⁷

APPALLING SITUATION IN MILITARY TRAINING AND NATIONAL SERVICE

³¹ PEN International Case List 2017, page 5; and Human Rights Watch Report 2018, page 202

³² PEN International Case List 2017, page 5.

³³ Human Rights Watch 2018, page 203; and Amnesty International Report 2017 – 2018, page 160

³⁴ See the Jehovah’s Witnesses website, <https://www.jw.org/en/news/legal/by-region/eritrea/elderly-jehovahs-witnesses-die-eritrean-prison/>

³⁵ Human Rights Watch 2018, page 203.

³⁶ See the Christian Solidarity Worldwide (CSW) at <https://www.csw.org.uk/2018/03/06/press/3858/article.htm>

³⁷ Report of the Special Rapporteur on the situation of human rights in Eritrea (A/HRC/38/50) of June 25, 2018, page 8.

22. Military training and national service are mandatory by law³⁸; all Eritreans ages 18 to 40 undergo the training for six months and enlist in active military service for 12 months.³⁹ Since the law empowers the Ministry of Defense to extend the time of service,⁴⁰ some of the conscripts have served indefinitely, sometimes up to 20 years under harsh militarized and enslavement conditions, and torture and ill-treatment⁴¹ whereby women and girls are subjected to rape by military commanders.⁴²
23. In 2015, a former military trainer described the conditions at the Sawa Defense Training Center as follows: “The trainers are very harsh. We were told if you don’t apply pressure, they won’t do what you say. In one incident a trainer tied up two people tightly and left them screaming in a tent. Later, one was dead and the other’s hands were crippled. If the trainer does not apply pressure to the trainees, he could end up in prison.”⁴³

RECOMMENDATIONS

24. HRF calls on the Eritrean government to:
- a) Urgently put an end to the gross violations of human rights and hold accountable security forces and all perpetrators of crimes against Eritreans.
 - b) Bring to justice and release all persons arbitrarily detained, including political prisoners, journalists, members of religious communities, and human rights defenders.
 - c) Ensure humane treatment to all persons held in detention facilities as well as conscripts in the military training centers.

³⁸ The National Service Proclamation No. 82/1995 of Eritrea.

³⁹ Ibid, Article 8.

⁴⁰ Ibid, Article 18

⁴¹ Amnesty International Report 2017 – 2018 (page 160), Human Rights Watch Report 2017, page 20; Bertelsmann Stiftung’s Transformation Index (BTI) report 2016 page 3.

⁴² Amnesty International Report 2017 – 2018, page 160.

⁴³ Commission of Inquiry on Human Rights in Eritrea, Report No. A/HRC/29/42 of 4 June 2015: Testimony: Extracts from Interviews, page 2, available at <http://www.ohchr.org/Documents/HRBodies/HRCouncil/ColEritrea/TESTI-MONY.pdf>

- d) Repeal the oppressive laws which contravene international human rights standards such as the National Service Proclamation No. 82/1995.
- e) Implement the Convention Against Torture (CAT) and withdraw the reservations under Article 20 of CAT in order to accept the competence of the Committee to handle torture cases concerning Eritrea.
- f) Effectively protect the rights of women and girls against sexual violence committed in public and private spheres, including in the military training centers.