

Flygtningenævnets baggrundsmateriale

Bilagsnr.:	401
Land:	Eritrea
Kilde:	The Advocates for Human Rights og World Coalition against the Death Penalty
Titel:	Stakeholder Report for the United Nations Universal Periodic Review: The Death Penalty
Udgivet:	11. oktober 2023
Optaget på baggrundsmaterialet:	28. maj 2024

Eritrea
Stakeholder Report for the United Nations Universal Periodic Review:
The Death Penalty

Submitted by The Advocates for Human Rights,
a non-governmental organization in special consultative status
and
The World Coalition Against the Death Penalty

for the 46th Session of the Working Group on the Universal Periodic Review
April–May 2024

Submitted 11 October 2023

Founded in 1983, **The Advocates for Human Rights** (The Advocates) is a volunteer-based non-governmental organization (NGO) committed to the impartial promotion and protection of international human rights standards and the rule of law. The Advocates conducts a range of programs to promote human rights in the United States and around the world, including monitoring and fact finding, direct legal representation, education and training, and publication. The Advocates is the primary provider of legal services to low-income asylum seekers in the Upper Midwest region of the United States. In 1991, The Advocates adopted a formal commitment to oppose the death penalty worldwide and organized a death penalty project to provide pro bono assistance on post-conviction appeals, as well as education and advocacy to end capital punishment. The Advocates currently holds a seat on the Steering Committee of the World Coalition against the Death Penalty.

The World Coalition Against the Death Penalty (WCADP), an alliance of more than 150 NGOs, bar associations, local authorities, and unions, was created in Rome on 13 May 2002. The aim of the World Coalition is to strengthen the international dimension of the fight against the death penalty. Its ultimate objective is to obtain the universal abolition of the death penalty. To achieve its goal, the WCADP advocates for a definitive end to death sentences and executions in those countries where the death penalty is in force. In some countries, it is seeking to obtain a reduction in the use of capital punishment as a first step towards abolition.

EXECUTIVE SUMMARY

1. This report addresses Eritrea's compliance with its international human rights obligations with respect to the death penalty; prohibition of torture and cruel, inhuman or degrading treatment; conditions of detention; enforced disappearances; arbitrary arrest and detention; administration of justice and fair trial; and human rights defenders.
2. Eritrea has not formally abolished the death penalty or implemented a moratorium on executions, nor has it limited the application of the death penalty to the "most serious" crimes. Although Eritrea has not sentenced anyone to death or executed anyone in many years, capital punishment remains a possibility under Eritrea's existing laws, particularly given the lack of an independent judiciary and insufficient safeguards to ensure fair trials. People serving criminal sentences in Eritrea experience poor detention conditions, including torture, overcrowding, insufficient food and water, and unhygienic surroundings. Arbitrary arrest and detention and enforced disappearances are common, particularly with regard to people perceived to be government critics.
3. This report examines the current state of the death penalty in Eritrea and recommends Eritrea (1) abolish the death penalty and ratify the Second Optional Protocol to the International Covenant on Civil and Political Rights. This report further recommends that, in the interim, Eritrea should: (2) institute an official moratorium on executions; (3) limit the death penalty to the most serious crimes, as defined by international human rights standards; (4) ensure timely access to competent counsel for all defendants accused of capital offenses; (5) take comprehensive steps to eliminate the use of torture and ensure that courts do not consider evidence obtained through torture; (6) provide for independent judicial oversight of conditions of incarceration; (7) codify and enforce rights safeguarding fair trials; and (8) discourage threats and prosecute violence against human rights defenders.

I. IMPLEMENTATION OF INTERNATIONAL HUMAN RIGHTS OBLIGATIONS

A12 Acceptance of international norms

Status of Implementation: Not Accepted, Not Implemented

4. In the third-cycle Universal Periodic Review (UPR), Eritrea noted seven recommendations to ratify or consider ratifying the Second Optional Protocol (Second Option Protocol) to the International Covenant on Civil and Political Rights (ICCPR).¹ Eritrea also noted four recommendations to ratify or consider ratifying the Optional Protocol to the Convention Against Torture (Optional Protocol, and collectively with the ICCPR and Second Optional Protocol, the Protocols).²
5. Eritrea acceded to the ICCPR in 2002 but has not ratified or acceded to the Second Optional Protocol. Eritrea acceded to the Convention against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment (Covenant) in 2014 but has not ratified or acceded to the Optional Protocol.

D23 Death penalty

Status of Implementation: Not Accepted, Not Implemented

6. In the third-cycle UPR, six member states made recommendations related to Eritrea's use of the death penalty.³ Eritrea noted all of these recommendations, including recommendations to abolish the death penalty, establish a moratorium on executions, and reduce the number of crimes to which the death penalty applies.⁴ To date, Eritrea has not implemented any of these recommendations.
7. Since the last UPR, Eritrean courts have not sentenced any individuals to death and authorities have not carried out any executions.⁵ At the end of 2022, no people were known to be under sentence of death.⁶ Nonetheless, Eritrea has not officially abolished the death penalty or imposed a moratorium on executions. In its 2019 constructive dialogue with the UN Human Rights Committee, the Eritrean delegation opined that "there was no consensus in the country on the abolition of the death penalty."⁷ The Committee noted in its 2019 Concluding Observations that "it is concerned that the death penalty remains in the Penal Code and the government has not instituted an official moratorium on the use of the death penalty, with a view to its abolition."⁸ The Committee recommended that Eritrea establish an official moratorium on the death penalty with a view to abolishing it and accede to the Second Optional Protocol, aiming at the abolition of the death penalty.⁹
8. The Constitution of Eritrea currently contemplates the use of capital punishment, stating that "[no] person shall be deprived of life without due process of law."¹⁰ Therefore, under the Constitution, an individual can be sentenced to death, provided that the legal proceedings satisfy certain procedural requirements. It is worth noting that, although the Constitution was formally ratified by the Constituent Assembly on May 23, 1997, it has not been implemented (i.e., the government has yet to create the institutions necessary to enforce it).¹¹ The legal status of the country's de facto Constitution therefore remains unclear.¹²
9. Under the Eritrean Penal Code, the death penalty may be imposed when a "Class 1 Serious Offense" or "Class 2 Serious Offense" has been committed. Eritrean law does not mandate the death penalty; it is one sentencing choice among a range of punitive options.¹³ A Class 1 Serious Offense includes (1) genocide, (2) crimes against humanity, (3) war crimes against the civilian population, (4) war crimes against wounded, sick, or shipwrecked persons, (5) war crimes against prisoners of war, (6) high treason, (7) aggravated sabotage, (8) piracy, and (9) aggravated murder.¹⁴ A Class 2 Serious Offense includes (1) treason during times of war or state emergencies, (2) aggravated espionage, (3) aggravated corruption of a public official for an amount exceeding 5,000,000 Nakfas, (4) hijacking of an aircraft, and (5) "causing a catastrophe."¹⁵ Exemptions do exist; authorities may not execute pregnant women, women with children under three years old, people who are "mentally or physically ill," or people who have not yet exhausted all appeal options.¹⁶ Additionally, authorities may not carry out an execution if a period of 30 years has elapsed since a court handed down the sentence.¹⁷
10. The above-described range of offenses that carry the death penalty includes certain crimes that do not meet the threshold of "the most serious crimes" within the meaning of Article 6 of the ICCPR, which defines such crimes as cases in which it can be shown that the person to be sentenced to death had an intention to kill, which resulted in the loss of

life. Specifically, crimes such as piracy, treason, and aggravated corruption of a public official may be carried out without such requisite intent, but are nevertheless potentially subject to the death penalty.

D25 Prohibition of torture and cruel, inhuman or degrading treatment

Status of Implementation: Not Accepted, Not Implemented

11. In the third-cycle UPR, eight member states made recommendations related to torture and other cruel, inhuman, or degrading treatment or punishment.¹⁸ Eritrea noted all of these recommendations, including recommendations to investigate all allegations of torture and ill-treatment in detention facilities and by law enforcement agencies, recognize the competence of the Committee against Torture to hear complaints, and accept requests for visits by the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment.¹⁹ To date, Eritrea has not implemented any of these recommendations.
12. In its 2019 constructive dialogue with the Human Rights Committee, the Eritrean delegation rejected allegations of torture within the country.²⁰ It claimed “that torture of any kind was prohibited and all cases of torture were strictly sanctioned,” with “[p]olice officers... trained in the prevention of torture and in the rights of detainees.”²¹ The Committee noted in its 2019 Concluding Observations that it was “concerned about allegations of the extensive and methodical use of torture in civilian and military detention centres, including reports of use of torture punish criticism of the Government, practising of religions not recognized by the Government, attempting to leave the State party or failing to perform duties during national military service.”²² The Committee was also concerned about “the lack of an independent body to investigate complaints and prevent torture and ill-treatment by law enforcement officials.”²³ It recommended that Eritrea put an end to the practice of torture and ill-treatment, and specifically: (1) review its laws to ensure that all elements of the crime of torture are prohibited in accordance with Article 7 of the Covenant and stipulate sanctions for acts of torture that are commensurate with the gravity of the crime, (2) ensure prompt, thorough and effective investigation of all allegations of torture and ill-treatment and, where appropriate, prosecute and punish the perpetrators with penalties commensurate with the gravity of the offence and provide effective remedies for the victims, including rehabilitation, (3) take all measures necessary to prevent torture, including by strengthening the training of judges, prosecutors, the police and military and security forces, and (4) establish an independent mechanism for investigating complaints of torture and ill-treatment by law enforcement officials.²⁴
13. the de facto Constitution prohibits torture: “[no] person shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.”²⁵ As noted in paragraph 8 above, however, the legal status of the Constitution remains uncertain.²⁶ Moreover, there is little evidence to suggest that authorities comply with this provision.
14. Although Eritrean law arguably prohibits torture, there are reports that authorities continue to use torture, particularly against political prisoners.²⁷ Human rights defenders advocating for an end to the death penalty are similarly at risk of torture. Former prisoners who have escaped the country have reported that government actors tied them

up and held them upside down on frames, legs and arms bound, while beating their feet, legs and buttocks with sticks or wire.²⁸ These survivors reported two specific forms of torture: “helicopter,” in which a government actor forced prisoners to lie face down on the ground and tied their hands and legs behind them; and “8,” where prisoners were tied to a tree. Government actors often forced people to stay in either position for 24 to 48 hours, and released them only to eat or to relieve themselves.²⁹ Survivors also reported that authorities, including people conducting interrogations, commonly used psychological torture, such as conducting beatings within earshot of other prisoners to intimidate them.³⁰ In March 2021, the European Union imposed individual sanctions on the head of Eritrea’s national security agency for serious human rights abuses, including torture.³¹

15. In May 2022, the Special Rapporteur on the situation of human rights in Eritrea issued a Report acknowledging continued torture in Eritrea, including torture of people in prison, military deserters, and people resisting national service.³² The Special Rapporteur recommended that the government of Eritrea “establish efficient, transparent mechanisms for the registration of detainees and introduce adequate monitoring mechanisms to prevent torture and inhuman or degrading treatment” and that Member States and International Organizations “[u]rge the Government of Eritrea to end the two-decade-long practice of enforced disappearances, torture, arbitrary and incommunicado detention of political opponents, prisoners of conscience and those detained because of their faith or religion.”³³

D26 Conditions of detention

Status of Implementation: Partially Accepted, Not Implemented

16. In the third-cycle UPR, six member states made recommendations related to conditions of detention in Eritrea.³⁴ Eritrea noted four of these recommendations but supported two, to “[c]ontinue its efforts aimed at improving the penitentiary system and protection of detainee rights” and to improve the administration of the justice system by carrying out judicial and penitentiary reforms in order to ensure compliance with international human rights law.³⁵ To date, it does not appear that Eritrea has implemented any of these recommendations.
17. In its 2019 constructive dialogue with the Human Rights Committee, the Eritrean delegation asserted that conditions in the country’s prisons were “very dignified” with “educational and recreational institutions, as well as shops and dedicated spots for religious practice.”³⁶ The Committee observed in its 2019 Concluding Observations that there were “reports of overincarceration and overcrowding, poor hygiene, inadequate nutrition and water supply and lack of health care in detention facilities.”³⁷ The Committee was “concerned about the reported use of underground cells and shipping containers to detain prisoners,” “allegations of a high number of deaths in custody,” and the “lack of access to prison facilities granted to independent monitoring groups.”³⁸ The Committee recommended that Eritrea take measures to improve detention conditions by: (1) adopting practical measures to reduce overcrowding, including by promoting alternatives to detention, (2) ensuring that persons in detention are treated with humanity and dignity, in accordance with the Standard Minimum Rules for Treatment of Prisoners (Nelson Mandela Rules), (3) allowing for independent monitoring of detention facilities,

and (4) considering accession to the Optional Protocol.³⁹ It also suggested that Eritrea investigate all custodial deaths promptly and thoroughly, prosecute and, where appropriate, punish those responsible and grant full reparations to victims' families.⁴⁰

18. A 2020 report from Amnesty International documented the “overcrowding and general lack of adequate sanitation, healthcare and food” in Eritrean detention centers.⁴¹ The report described how prisoners were confined in spaces with three to four times the number of people they were designed to contain, rarely allowed to shower or wash their clothes, and provided with only first aid as medical care.⁴² These conditions would apply equally to any Eritreans who might be sentenced to death.
19. There is no indication that detention conditions improved in recent years, as one 2022 report characterized the conditions as “harsh and life-threatening, leading to serious damage to health and, in some instances, death.”⁴³ The report noted that juveniles were sometimes housed with adults (despite a law prohibiting the practice); that food, sanitation, ventilation, and lighting were inadequate, potable water was sometimes available only for purchase, and that authorities are alleged to be detaining some people incommunicado in metal shipping containers and underground cells without toilets or beds.⁴⁴ In addition, Eritrea has not established a mechanism by which people in detention can submit complaints to judicial authorities. Authorities have not conducted adequate monitoring of detention conditions, and the government does not permit NGOs or international bodies to carry out monitoring visits.⁴⁵
20. A 2021 Frontline documentary featured video footage secretly obtained in an Eritrean prison, showing “months of brutal interrogations.... [m]asses of fellow detainees packed into large, overcrowded holding rooms.... [p]eople driven out of their minds by the conditions in which they were being held.”⁴⁶ The footage included shots of “a dark room in which a mass of people lie nearly on top of each other, covering the floor, the only sound a person coughing.”⁴⁷

D32 Enforced disappearances

Status of Implementation: Not Accepted, Not Implemented

21. In its third-cycle UPR, Eritrea received seven recommendations to ratify the International Convention for the Protection of All Persons from Enforced Disappearance and otherwise put an end to enforced disappearances, all of which it noted.⁴⁸ Enforced disappearances continue to be common in Eritrea, particularly of people who express opposition to the government. As discussed in greater detail in paragraphs 27 to 31 below, human rights defenders who might otherwise express opposition to the death penalty and advocate for abolition are at risk of enforced disappearances.

D33 Arbitrary arrest and detention

Status of Implementation: Not Accepted, Not Implemented

22. In its third-cycle UPR, Eritrea received seven recommendations that it end arbitrary arrests and detention, all of which it noted.⁴⁹ International observers have noted many instances of arbitrary arrest and detention since Eritrea's last UPR, including arrest and

detention of those who have criticized the government. As discussed in greater detail in paragraphs 27 to 31 below, human rights defenders who might otherwise express opposition to the death penalty are vulnerable to arbitrary arrest and detention.

D51 Administration of justice and fair trial

Status of Implementation: Accepted, Not Implemented

23. In its third-cycle UPR, Eritrea received four recommendations on the administration of justice and the right to a fair trial, all of which it supported.⁵⁰ Countries recommended that Eritrea ensure the rights to liberty, security and a fair trial at and reinforce the administration of justice by implementing new national codes and strengthening institutional capacities.⁵¹ Despite Eritrea's acceptance of these recommendations, there are continued reports of violations of fair trial rights.
24. The Human Rights Committee expressed concern in its 2019 Concluding Observations about the lack of independence of the judiciary in Eritrea and the lack of basic guarantees of fair trial, including the right to a legal representative, to defense, and to appeal, and the absence of a public hearing and public decisions.⁵² The Committee recommended that Eritrea "[p]rovide for the right to a fair trial at all stages of the judicial procedure, including the right to a defence and an appeal."⁵³
25. Although Eritrean law provides for an independent judiciary, the government generally did not respect judicial independence and impartiality.⁵⁴ Additionally, although there are legal rights to a fair, timely and public trial, and a presumption of innocence, these rights are not respected.⁵⁵ Eritrean law also provides a right to counsel, but this right does not apply in cases deemed to involve national security, including capital cases involving national security charges.⁵⁶ Eritrean law does not afford defendants a right to be informed promptly and in detail of the charges against them, to have adequate time or facilities to prepare a defense, to confront witnesses against them, or to refuse to testify.⁵⁷
26. The Special Rapporteur in 2022 stated that Eritrea "has made no progress towards the development of the minimum institutional infrastructure necessary to effectively protect and ensure respect for human rights. The country continued to lack the rule of law, and the Constitution of 1997 has never been implemented. Power is concentrated in the figure of the President. There is no division of powers, and Eritrea lacks a national assembly to develop and enact laws and regulations, and an independent judiciary to ensure the fair and equal enforcement of the law."⁵⁸ The Special Rapporteur also noted that, although Eritrea committed to put in place measures to ensure respect for the rights to liberty, security and a fair trial in the context of its last UPR, the Special Rapporteur had not seen any information suggesting such measures had been adopted.⁵⁹ The Special Rapporteur recommended that Eritrea "[d]evelop independent rule-of-law institutions, and ensure the administration of justice by independent, qualified professionals, including an independent judiciary, attorney general and review bodies able to operate autonomously from the executive branch."⁶⁰

H1 Human rights defenders

Status of Implementation: Partially Accepted, Not Implemented

27. In its third-cycle UPR, Eritrea received two recommendations to create a safe and enabling environment for human rights defenders.⁶¹ It supported Argentina's recommendation to "Adopt all the necessary measures to ensure a safe environment for the exercise of freedom of expression for those who work to promote and protect human rights, including human rights defenders and journalists, and investigate and punish all acts of violence against them," but noted a similar recommendation from Ireland.⁶² Despite Eritrea's acceptance of Argentina's recommendation, threats against human rights defenders continue.
28. The coauthors are not aware of any civil society organizations in Eritrea that advocate for abolition of the death penalty, most likely because of the intimidating environment for human rights defenders. People who criticize government policies are vulnerable to arbitrary arrest and detention as well as enforced disappearances and torture.⁶³
29. In the 2019 constructive dialogue with the Human Rights Committee, the Eritrean delegation denied reports that former officials critical of the government had been arrested and asserted that "everyone was free to express their views and critique the Government."⁶⁴ The Committee expressed concern in its 2019 Concluding Observations about "the severe restrictions on freedom of assembly and association applied to independent human rights defenders and civil society organizations."⁶⁵
30. Eritrean authorities attempt to stifle critics within the country and beyond its borders. In June 2019, shortly after the conclusion of Eritrea's last UPR, Amnesty International reported on "the routine and widespread use of harassment and threats by the Eritrean government and its supporters against Eritrean human rights defenders... in the diaspora, in an apparent bid to muzzle criticism of its human rights record."⁶⁶ Such harassment included physical assaults, verbal threats, rude remarks, and character assassination of human rights defenders.⁶⁷ Amnesty International further stated that, inside Eritrea, anyone who publicly criticized or was perceived as being critical of the government (including its human rights record) would be arrested and held in indefinite incommunicado detention without charge or trial.⁶⁸
31. In 2022, the Special Rapporteur on the situation of human rights in Eritrea saw no change in the situation, with "widespread arbitrary arrest and incommunicado detention of individuals and groups perceived as critical of the authorities" being used "to instill fear and to effectively suppress freedom of expression and of association in the country."⁶⁹ Another report cited serious government restrictions on domestic and international human rights organizations while "[t]he government did not generally take steps to investigate, prosecute, or punish officials who committed human rights abuses" and "[i]mpunity for such abuses was the norm."⁷⁰

II. RECOMMENDATIONS

32. The coauthors of this stakeholder report suggest the following recommendations for the government of Eritrea:
 - Formally abolish the death penalty and replace it with a fair and proportionate sentence aligned with international human rights standards.
 - Ratify the Second Optional Protocol to the ICCPR.

- Amend domestic law to conform with the ICCPR and the Second Optional Protocol.
- Clarify the legal status of the Constitution and fully implement it.
- Institute an official moratorium on executions.
- In the meantime, ensure that no court sentences a person to death for a crime that is not among the “most serious,” as specified under Article 6(2) of the ICCPR.
- Prohibit the use of torture during interrogations.
- Ensure that all persons prosecuted for grave offenses, including people accused of offenses involving national security, receive competent and timely legal assistance and representation, starting from the moment of arrest or charging, all the way through to appeals and other recourse procedures, including any potential clemency or mercy processes, regardless of their socio-economic backgrounds.
- Direct law enforcement to provide all persons accused of a crime with timely access to counsel, prior to any interrogation.
- Prohibit judges from considering as evidence any statements obtained through coercion, torture, or other ill-treatment, except when offered to prove the crime of torture, and require judges to order the prompt, independent, and effective investigation of any such allegations raised by the defense.
- Conduct credible, independent, and impartial investigations into all allegations of torture.
- Implement the Special Rapporteur’s 2022 recommendation that the government of Eritrea “establish efficient, transparent mechanisms for the registration of detainees and introduce adequate monitoring mechanisms to prevent torture and inhuman or degrading treatment.”
- Provide for independent judicial oversight of conditions of incarceration at Eritrean prisons.
- Allow NGOs and international organizations to visit Eritrean prisons and report on the conditions of incarceration there.
- In collaboration with civil society, educate Eritrean judges on the legal rights to a fair, timely, and public trial and the presumption of innocence.
- By statute or legal rule, codify rights for criminal defendants to be informed promptly and in detail of the charges against them, to have adequate time and facilities to prepare a defense, to confront witnesses against them, and to refuse to testify.
- Implement the Special Rapporteur’s 2022 recommendation that the Government of Eritrea “[d]evelop independent rule-of-law institutions, and ensure the administration of justice by independent, qualified professionals, including an independent judiciary, attorney general and review bodies able to operate autonomously from the executive branch.”
- End government harassment and threats against human rights defenders within Eritrea and across the diaspora.
- Investigate and prosecute acts of violence against human rights defenders within Eritrea.

- Create a safe and enabling environment for domestic civil society organizations and international organizations to observe and report on the human rights situation in Eritrea.

¹ Human Rights Council, *Report of the Working Group on the Universal Periodic Review: Eritrea* (April 18, 2019), U.N. Doc. A/HRC/41/14, ¶ 131.5 Sign and ratify the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty (Portugal); ¶ 131.17 Ratify the Convention on the Rights of Persons with Disabilities and the first and second Optional Protocols to the International Covenant on Civil and Political Rights (Spain); ¶ 131.18 Implement measures to abolish the death penalty and consider ratifying the Second Optional Protocol to the International Covenant on Civil and Political Rights aiming at the abolition of the death penalty, as previously recommended (Uruguay); ¶ 131.19 Formally abolish the death penalty and accede to the Second Optional Protocol to the International Covenant on Civil and Political Rights aiming at the abolition of the death penalty (Australia); ¶ 131.20 Formally abolish the death penalty and ratify the Second Optional Protocol to the International Covenant on Civil and Political Rights aiming at the abolition of the death penalty (Rwanda); ¶ 131.21 Ratify the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty (Montenegro); ¶ 131.22 Sign and ratify the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty (Luxembourg); Human Rights Council, *Report of the Working Group on the Universal Periodic Review: Eritrea, Addendum* (June 20, 2019), U.N. Doc A/HRC/41/14/Add.1, ¶ 131.

² Human Rights Council, *Report of the Working Group on the Universal Periodic Review: Eritrea* (April 18, 2019), U.N. Doc. A/HRC/41/14, ¶ 131.2 Sign and ratify the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Portugal); ¶ 131.12 Ratify the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Hungary); ¶ 131.37 Ratify the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Denmark); ¶ 131.58 Invite the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment for the country visit, ratify the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and establish an independent national preventive mechanism (Czechia); Human Rights Council, *Report of the Working Group on the Universal Periodic Review: Eritrea, Addendum* (June 20, 2019), U.N. Doc A/HRC/41/14/Add.1, ¶ 131.

³ Human Rights Council, *Report of the Working Group on the Universal Periodic Review: Eritrea* (April 18, 2019), U.N. Doc. A/HRC/41/14, ¶ 131.18 Implement measures to abolish the death penalty and consider ratifying the Second Optional Protocol to the International Covenant on Civil and Political Rights aiming at the abolition of the death penalty, as previously recommended (Uruguay); ¶ 131.19 Formally abolish the death penalty and accede to the Second Optional Protocol to the International Covenant on Civil and Political Rights aiming at the abolition of the death penalty (Australia); ¶ 131.20 Formally abolish the death penalty and ratify the Second Optional Protocol to the International Covenant on Civil and Political Rights aiming at the abolition of the death penalty (Rwanda); ¶ 131.142 Undertake steps aiming at the abolition of the death penalty (Armenia); ¶ 131.143 Abolish the death penalty and reduce the number of offences punishable with the death penalty (France); ¶ 131.144 Impose a moratorium on executions and abolish the death penalty (Iceland).

⁴ Human Rights Council, *Report of the Working Group on the Universal Periodic Review: Eritrea, Addendum* (June 20, 2019), U.N. Doc A/HRC/41/14/Add.1, ¶ 131.

⁵ Amnesty International, *Death Sentences and Executions 2019* at 44; Amnesty International, *Death Sentences and Executions 2020* at 47; Amnesty International, *Death Sentences and Executions 2021* at 51; Amnesty International, *Death Sentences and Executions 2022* at 33.

⁶ Amnesty International, *Death Sentences and Executions 2022* at 33.

⁷ United Nations Human Rights Committee, *Human Rights Committee examines Civil and Political Rights in Eritrea in absence of a report* (Mar. 13, 2019), available at <https://www.ohchr.org/en/news/2019/03/human-rights-committee-examines-civil-and-political-rights-eritrea-absence-report>.

⁸ United Nations Human Rights Committee, *Concluding observations on Eritrea in the absence of its initial report*, No. CCPR/C/ERI/CO/1 (May 3, 2019), ¶ 23.

⁹ United Nations Human Rights Committee, *Concluding observations on Eritrea in the absence of its initial report*, No. CCPR/C/ERI/CO/1 (May 3, 2019), ¶ 24.

¹⁰ The Constitution of Eritrea (Draft), (May 23, 1997), arts. 15(1), available at https://www.constituteproject.org/constitution/Eritrea_1997.

¹¹ Human Rights Watch, *Eritrea: Events of 2021*, (Dec. 22, 2021) available at <https://www.hrw.org/world-report/2022/country-chapters/eritrea>.

¹² Article 19, *Eritrea: A Nation Silenced*, (Jun. 2013), available at <https://www.article19.org/data/files/medialibrary/38019/Eritrea-a-Nation-Silenced-Report.pdf>.

¹³ Penal Code of the State of Eritrea, (2015), available at <https://faolex.fao.org/docs/pdf/eri210565.pdf>.

¹⁴ Penal Code of the State of Eritrea, (2015), available at <https://faolex.fao.org/docs/pdf/eri210565.pdf>.

¹⁵ Penal Code of the State of Eritrea, (2015), available at <https://faolex.fao.org/docs/pdf/eri210565.pdf>.

¹⁶ Penal Code of the State of Eritrea, (2015), available at <https://faolex.fao.org/docs/pdf/eri210565.pdf>.

¹⁷ Penal Code of the State of Eritrea, (2015), available at <https://faolex.fao.org/docs/pdf/eri210565.pdf>.

¹⁸ Human Rights Council, *Report of the Working Group on the Universal Periodic Review: Eritrea* (April 18, 2019), U.N. Doc. A/HRC/41/14, ¶ 131.14 Implement measures to comply with the provisions of the Convention against Torture and consider acceding to the International Convention for the Protection of all Persons from Enforced Disappearance, as well as accepting the competence of its committee to receive and consider communications (Uruguay); ¶ 131.36 Withdraw the reservations made to the Convention against Torture (Chile); ¶ 131.54 Accept requests for visits by the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, as well as by the Special Rapporteur on extrajudicial, summary or arbitrary executions, as previously recommended (Uruguay); ¶ 131.58 Invite the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment for the country visit, ratify the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and establish an independent national preventive mechanism (Czechia); ¶ 131.59 Implement the Convention against Torture, ratified in 2014, also by considering recognizing the competence of the Committee against Torture (Italy); ¶ 131.145 Cease persistent and endemic attacks, as well as the use of torture as an integral part of systematic repression against the civilian population (Greece); ¶ 131.149 End its practices of arbitrary arrests, indefinite detention, torture and ill-treatment of detainees (Canada); ¶ 131.176 Ensure accountability for past and persistent human rights violations and crimes, release without delay all persons detained without trial and investigate all allegations of torture and ill-treatment in detention facilities and by the law enforcement agencies (Slovakia).

¹⁹ Human Rights Council, *Report of the Working Group on the Universal Periodic Review: Eritrea, Addendum* (June 20, 2019), U.N. Doc A/HRC/41/14/Add.1, ¶ 131.

²⁰ United Nations Human Rights Committee, *Human Rights Committee examines Civil and Political Rights in Eritrea in absence of a report* (Mar. 13, 2019), available at <https://www.ohchr.org/en/news/2019/03/human-rights-committee-examines-civil-and-political-rights-eritrea-absence-report>.

²¹ United Nations Human Rights Committee, *Human Rights Committee examines Civil and Political Rights in Eritrea in absence of a report* (Mar. 13, 2019), available at <https://www.ohchr.org/en/news/2019/03/human-rights-committee-examines-civil-and-political-rights-eritrea-absence-report>.

²² United Nations Human Rights Committee, *Concluding observations on Eritrea in the absence of its initial report*, No. CCPR/C/ERI/CO/1 (May 3, 2019), ¶ 25.

²³ United Nations Human Rights Committee, *Concluding observations on Eritrea in the absence of its initial report*, No. CCPR/C/ERI/CO/1 (May 3, 2019), ¶ 25.

²⁴ United Nations Human Rights Committee, *Concluding observations on Eritrea in the absence of its initial report*, No. CCPR/C/ERI/CO/1 (May 3, 2019), ¶ 26.

²⁵ The Constitution of Eritrea (Draft), (May 23, 1997), arts. 16(2), available at https://www.constituteproject.org/constitution/Eritrea_1997.

²⁶ Article 19, *Eritrea: A Nation Silenced*, (Jun. 2013), available at <https://www.article19.org/data/files/medialibrary/38019/Eritrea-a-Nation-Silenced-Report.pdf>.

²⁷ Information on file with authors.

²⁸ Id.

²⁹ Id.

³⁰ Id.

³¹ Human Rights Watch, *Eritrea: Events of 2022*. Also available online at <https://www.hrw.org/world-report/2023/country-chapters/eritrea>.

³² United Nations Special Rapporteur on the situation of human rights in Eritrea, Situation of Human Rights in Eritrea (May 6, 2022), U.N. Doc. A/HRC/50/20 ¶¶ 22, 31, 42.

³³ United Nations Special Rapporteur on the situation of human rights in Eritrea, Situation of Human Rights in Eritrea (May 6, 2022), U.N. Doc. A/HRC/50/20 ¶¶ 78(e), 79(c).

³⁴ Human Rights Council, *Report of the Working Group on the Universal Periodic Review: Eritrea* (April 18, 2019), U.N. Doc. A/HRC/41/14, ¶ 131.158 Open all places of detention to organizations with expertise in the field, such as the International Committee of the Red Cross (ICRC) (United Kingdom of Great Britain and Northern Ireland); ¶ 131.159 Continue its efforts aimed at improving the penitentiary system and protection of detainee rights (Georgia); ¶ 131.167 Release or bring before a court all persons detained without a charge and respect international standards in the treatment of detainees and provide unlimited access to the ICRC to all detention facilities (Germany); ¶ 131.169 Release unconditionally detained persons who have not been brought before a court, and improve conditions of detention and the prison system in general (Luxembourg); ¶ 131.176 Ensure accountability for past and persistent human rights violations and crimes, release without delay all persons detained without trial and investigate all allegations of torture and ill-treatment in detention facilities and by the law enforcement agencies (Slovakia); ¶ 131.177 Improve the administration of the justice system by carrying out judicial and penitentiary reforms in order to ensure compliance with international human rights law (Norway).

³⁵ Human Rights Council, *Report of the Working Group on the Universal Periodic Review: Eritrea, Addendum* (June 20, 2019), U.N. Doc A/HRC/41/14/Add.1, ¶ 131.

³⁶ United Nations Human Rights Committee, *Human Rights Committee examines Civil and Political Rights in Eritrea in absence of a report* (Mar. 13, 2019), available at <https://www.ohchr.org/en/news/2019/03/human-rights-committee-examines-civil-and-political-rights-eritrea-absence-report>.

³⁷ United Nations Human Rights Committee, *Concluding observations on Eritrea in the absence of its initial report*, No. CCPR/C/ERI/CO/1 (May 3, 2019), ¶ 29.

³⁸ United Nations Human Rights Committee, *Concluding observations on Eritrea in the absence of its initial report*, No. CCPR/C/ERI/CO/1 (May 3, 2019), ¶ 29.

³⁹ United Nations Human Rights Committee, *Concluding observations on Eritrea in the absence of its initial report*, No. CCPR/C/ERI/CO/1 (May 3, 2019), ¶ 30.

⁴⁰ United Nations Human Rights Committee, *Concluding observations on Eritrea in the absence of its initial report*, No. CCPR/C/ERI/CO/1 (May 3, 2019), ¶ 30.

⁴¹ Amnesty International, *Eritrea: Detainees in overcrowded and unsanitary conditions defenceless against COVID-19* (May 21, 2021). Available online at <https://www.amnesty.org/en/latest/news/2020/05/eritrea-detainees-in-overcrowded-and-unsanitary-conditions-defenceless-against-covid19/>.

⁴² Amnesty International, *Eritrea: Detainees in overcrowded and unsanitary conditions defenceless against COVID-19* (May 21, 2021). Available online at <https://www.amnesty.org/en/latest/news/2020/05/eritrea-detainees-in-overcrowded-and-unsanitary-conditions-defenceless-against-covid19/>.

⁴³ Id.

⁴⁴ Id.

⁴⁵ Id.

⁴⁶ PBS Frontline, *'I Didn't Lose Hope': Meet a Man Who Risked His Life to Secretly Film Inside One of Eritrea's Brutal Prisons* (May 4, 2021), available at <https://www.pbs.org/wgbh/frontline/article/secret-footage-filmed-in-eritrea-prison-refugee-shares-story/>.

⁴⁷ PBS Frontline, *'I Didn't Lose Hope': Meet a Man Who Risked His Life to Secretly Film Inside One of Eritrea's Brutal Prisons* (May 4, 2021), available at <https://www.pbs.org/wgbh/frontline/article/secret-footage-filmed-in-eritrea-prison-refugee-shares-story/>.

⁴⁸ Human Rights Council, *Report of the Working Group on the Universal Periodic Review: Eritrea* (April 18,

2019), U.N. Doc. A/HRC/41/14, ¶ 131.7 Sign and ratify the International Convention for the Protection of All Persons from Enforced Disappearance, as previously recommended (Portugal); ¶ 131.8 Ratify the International Convention for the Protection of All Persons from Enforced Disappearance (Armenia); ¶ 131.10 Ratify the Convention on the Rights of Persons with Disabilities and the International Convention for the Protection of All Persons from Enforced Disappearance (Chile); ¶ 131.14 Implement measures to comply with the provisions of the Convention against Torture and consider acceding to the International Convention for the Protection of all Persons from Enforced Disappearance, as well as accepting the competence of its committee to receive and consider communications (Uruguay); ¶ 131.15 Put an end to enforced disappearance and ratify the International Convention for the Protection of All Persons from Enforced Disappearance (France); ¶ 131.24 Ratify the International Convention for the Protection of all Persons from Enforced Disappearance (Ukraine); ¶ 131.28 Ratify the Convention on the Prevention and Punishment of the Crime of Genocide and the International Convention for the Protection of All Persons from Enforced Disappearance (Senegal); Human Rights Council, *Report of the Working Group on the Universal Periodic Review: Eritrea, Addendum* (June 20, 2019), U.N. Doc A/HRC/41/14/Add.1, ¶ 131.

⁴⁹ Human Rights Council, *Report of the Working Group on the Universal Periodic Review: Eritrea* (April 18, 2019), U.N. Doc. A/HRC/41/14, ¶ 131.146 Bring an end without delay to the practice of arbitrary arrest, detention and imprisonment by establishing due process of law (Japan); ¶ 131.147 Put an end to the practice of arbitrary arrest and detention, release or bring before a court all persons detained without a charge and comply with international standards in the treatment of detainees (Austria); ¶ 131.148 Put an end to arbitrary detentions and free those detained for their religious beliefs (Spain); ¶ 131.149 End its practices of arbitrary arrests, indefinite detention, torture and ill-treatment of detainees (Canada); ¶ 131.150 Put an end to arbitrary arrests and prolonged detention without charge and without trial, notably on political grounds (France); ¶ 131.166 Ensure due process for all detainees and release those arbitrarily detained for political and religious reasons (United Kingdom of Great Britain and Northern Ireland); ¶ 131.195 Protect freedom of expression, lift the media censorship, release imprisoned journalists and protect journalists and media workers from unlawful arbitrary detention (Czechia); Human Rights Council, *Report of the Working Group on the Universal Periodic Review: Eritrea, Addendum* (June 20, 2019), U.N. Doc A/HRC/41/14/Add.1, ¶ 131.

⁵⁰ Human Rights Council, *Report of the Working Group on the Universal Periodic Review: Eritrea* (April 18, 2019), U.N. Doc. A/HRC/41/14, ¶ 131.151 Put in place measures to ensure that the rights to liberty, security and a fair trial enshrined in the International Covenant on Civil and Political Rights are fully respected with regard to detainees (Seychelles); ¶ 131.163 Strengthen the administration of justice through the implementation of national laws and institutional capacity-building; ¶ 131.164 Pursue its actions and initiatives aimed at reinforcing the administration of justice through the implementation of the new national codes, the strengthening of institutional capacities, as well as the bolstering of institutions and functions of governance (Benin); ¶ 131.177 Improve the administration of the justice system by carrying out judicial and penitentiary reforms in order to ensure compliance with international human rights law (Norway); Human Rights Council, *Report of the Working Group on the Universal Periodic Review: Eritrea, Addendum* (June 20, 2019), U.N. Doc A/HRC/41/14/Add.1, ¶ 131.

⁵¹ Human Rights Council, *Report of the Working Group on the Universal Periodic Review: Eritrea* (April 18, 2019), U.N. Doc. A/HRC/41/14, ¶ 131.151 Put in place measures to ensure that the rights to liberty, security and a fair trial enshrined in the International Covenant on Civil and Political Rights are fully respected with regard to detainees (Seychelles); ¶ 131.164 Pursue its actions and initiatives aimed at reinforcing the administration of justice through the implementation of the new national codes, the strengthening of institutional capacities, as well as the bolstering of institutions and functions of governance (Benin).

⁵² United Nations Human Rights Committee, *Concluding observations on Eritrea in the absence of its initial report*, No. CCPR/C/ERI/CO/1 (May 3, 2019), ¶ 31.

⁵³ United Nations Human Rights Committee, *Concluding observations on Eritrea in the absence of its initial report*, No. CCPR/C/ERI/CO/1 (May 3, 2019), ¶ 32.

⁵⁴ Information on file with authors.

⁵⁵ *Id.*

⁵⁶ Id.

⁵⁷ Id. .

⁵⁸ United Nations Special Rapporteur on the situation of human rights in Eritrea, *Situation of Human Rights in Eritrea* (May 6, 2022), U.N. Doc. A/HRC/50/20 ¶ 36.

⁵⁹ United Nations Special Rapporteur on the situation of human rights in Eritrea, *Situation of Human Rights in Eritrea* (May 6, 2022), U.N. Doc. A/HRC/50/20 ¶ 38.

⁶⁰ United Nations Special Rapporteur on the situation of human rights in Eritrea, *Situation of Human Rights in Eritrea* (May 6, 2022), U.N. Doc. A/HRC/50/20 ¶ 78(h).

⁶¹ Human Rights Council, *Report of the Working Group on the Universal Periodic Review: Eritrea* (April 18, 2019), U.N. Doc. A/HRC/41/14, ¶ 131.189 Undertake comprehensive reforms, such as repeal of Press Proclamation No. 90/1996, to allow for an in-dependent media and a safe and enabling environment for journalists and human rights defenders, including by ensuring their protection against arbitrary arrest, harassment and intimidation (Ireland); ¶ 131.193 Adopt all the necessary measures to ensure a safe environment for the exercise of freedom of expression for those who work to promote and protect human rights, including human rights defenders and journalists, and investigate and punish all acts of violence against them (Argentina).

⁶² Human Rights Council, *Report of the Working Group on the Universal Periodic Review: Eritrea, Addendum* (June 20, 2019), U.N. Doc A/HRC/41/14/Add.1, ¶ 131.

⁶³ Amnesty International, *Amnesty International Report 2022/23: The State of the World's Human Rights* (2023) at 159; Freedom House, *Freedom in the World 2023: Eritrea* (2023), available at <https://freedomhouse.org/country/eritrea/freedom-world/2023>; Human Rights Watch, *Eritrea: Events of 2022*. Also available online at <https://www.hrw.org/world-report/2023/country-chapters/eritrea>.

⁶⁴ United Nations Human Rights Committee, *Human Rights Committee examines Civil and Political Rights in Eritrea in absence of a report* (Mar. 13, 2019), available at <https://www.ohchr.org/en/news/2019/03/human-rights-committee-examines-civil-and-political-rights-eritrea-absence-report>.

⁶⁵ United Nations Human Rights Committee, *Concluding observations on Eritrea in the absence of its initial report*, No. CCPR/C/ERI/CO/1 (May 3, 2019), ¶ 41.

⁶⁶ Amnesty International, *Repression Without Borders: Threats to Human Rights Defenders Abroad* (June 27, 2019) at 4.

⁶⁷ Amnesty International, *Repression Without Borders: Threats to Human Rights Defenders Abroad* (June 27, 2019) at 4.

⁶⁸ Amnesty International, *Repression Without Borders: Threats to Human Rights Defenders Abroad* (June 27, 2019) at 4.

⁶⁹ United Nations Special Rapporteur on the situation of human rights in Eritrea, *Situation of Human Rights in Eritrea* (May 6, 2022), U.N. Doc. A/HRC/50/20 ¶ 43.

⁷⁰ Information on file with authors.