

Ethiopian (19)

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3/10-00

UNHCR's position on the treatment of rejected Ethiopian asylum-seekers and others whose Ethiopian nationality is disputed (with particular reference to their deportation/returnability to Ethiopia or Eritrea)

I. Contextual Framework of Policy Position

1. This general Policy position has been developed at the request of the Ministry of Justice of Japan, the Bureau of Immigration Refugee Recognition Section.

2. The specific request was formulated as follows: "Re: Deportation of rejected asylum seekers

The issuance of rejection letters to asylum seekers is usually followed by one of the three administrative options in Japan: granting of humanitarian status, advice to return to the country of origin, or deportation of overstayers.

Please advise us what is UNHCR's general position on 1) whether rejected Ethiopian asylum seekers could be duly advised to return to Ethiopia, 2) whether they could be duly deported. In your answer, please elaborate with detail on the reasons why UNHCR believes deportation to Ethiopia would not be advisable. Please also state your position for those falling under any of the three situations below:

Case 1. Those whose asylum claim was based on their Eritrean origin (but failed to qualify as refugees due to their unsolved nationality issue);

Case 2. Those whose asylum claim was based on their alleged membership to a particular social/political/ethnic group such as (the All Amhara Peoples Organisation) AAPO (but failed to prove credibility of their claims); and

Case 3: Those whose asylum claim was not based on the Convention definition but on the war situation of the country of origin."

II. Background Information

1. In order to fully appreciate the situation in Ethiopia today, it is necessary to give a somewhat detailed historical background, with a bearing on the assessment of asylum claims by individuals from Ethiopia, which in turn is relevant to the question whether all or certain categories of Ethiopian nationals who unsuccessfully lay claim to refugee status can properly and safely be returned to their country of origin.

2. It must be borne in mind that the handling of asylum claims lodged by Ethiopian nationals is further complicated by the fact that the State of Eritrea, which was previously a province of Ethiopia, severed this link and effectively declared itself as a separate and sovereign state after a protracted thirty-year war of liberation, which ended in May, 1991 and the formalisation of this position through the Referendum of 1993.
3. UNHCR Technical studies and discussions with the Governments of Eritrea and Ethiopia over their respective nationality legislation have shown that neither Eritrea¹ nor Ethiopia² took the necessary, conscious, precautionary legal steps of ensuring that the change in legal character of Eritrea would not result in the loss of citizenship by persons having links with Eritrea or claiming Eritrean citizenship or vice versa.
4. The outbreak of the border conflict between Eritrea and Ethiopia in May, 1998, has brought into sharp focus the lacuna in the nationality legislation of the two countries, particularly in the wake of the mutual deportations as well as internment-like measures of the respective nationals and persons suspected of holding the nationality of the other,

¹ See UNHCR Internal Memorandum dated 3 May, 1999 and entitled **Ethiopia/Eritrea Conflict and Questions of Individual Status (Department of International Protection/UNHCR)**, page 8, where it is reported that "The Eritrean Government appears to be of the opinion that not all persons of Eritrean ethnicity now being deported from Ethiopia are actually Eritrean nationals." Note also that this study makes it clear that the Eritrean Nationality Proclamation Number 21/1992 only provided for the acquisition of Eritrean nationality, and in its Article 2(2) linked Eritrean origin to <residence in Eritrea in 1933> and did not refer to Eritrean *ethnicity*. See page 9 of the cited Study.

² Ethiopians of Eritrean origin who resided abroad prior to the outbreak of the Ethio-Eritrean conflict, faced particularly serious problems. They were unable to renew their Ethiopian passports and those who attempted to return on passports which were still valid were rejected at the border entry points and forced to return. On 9 November 1999, the Department of Immigration and Nationality Affairs published the following notice:

"It is well known that we are currently engaged in identifying those Eritreans who, following the downfall of the Dergue, participated in the Eritrean independence referendum and subsequently took up Eritrean citizenship by voluntarily rescinding their Ethiopian citizenship. However, it has been discovered that due to the conditions that prevailed previously, Eritreans living abroad are still making use of Ethiopian passports which they had been issued earlier. These Eritreans are now required to deliver all kinds of Ethiopian travel documents in their possession to our diplomatic missions close to them.

While notifying all Eritreans who, failing to deliver the Ethiopian passports in their possession, are found trying to defraud and try to enter our country by unlawful means that they would take all the responsibility for whatever problems they might face at the checkpoints, we would like to warn that we shall take a (sic) legal action against such Eritreans by confiscating their passport."

³ "The humanitarian considerations in the Framework Agreement do not specifically ban deportations or impose restrictions that go beyond international humanitarian law. We also believe the sovereign decisions on deportations that Ethiopia has made during the crisis cannot be reversed on the basis of the humanitarian provisions of the Framework Agreement. Future actions of Ethiopia on the deportations of individuals who pose security risk to the country cannot be restricted beyond what is required by international humanitarian law..." Extract from **Memorandum On Ethiopia's Concerns With Regard to the Technical Arrangements**, p6. This Memorandum was issued in the context of the OAU Peace Initiative for resolving the Eritrea/Ethiopia border conflict. For an independent opinion on the policy of deportation, see the 28th Special Report issued by the Ethiopian Human Rights Council

on the ground that they are enemy nationals in time of war.³

4. During the nine years since the fall of the Dergue regime of Haile Mariam Mengistu in May, 1991, there have been several significant developments, although not entirely perfect, on the political front: elections have been held and new elections were held in May, 2000. Internal wings of the opposition have participated in the electoral process. Whilst there are still some teething problems,⁴ it can be said that the political process in Ethiopia is relatively on the path of consolidation.
6. In September, 1999, UNHCR decided to apply the Cessation Clauses to Ethiopian refugees who had fled from the country prior to 1991, and this decision became effective on 1 March, 2000. In accordance with established refugee law norms and doctrine, it must be emphasised that the decision to invoke the Cessation Clauses does not, in and of itself, mean that there can no longer be persons from Ethiopia, alleging persecution. Indeed, this point is further underlined by the selective nature of the Cessation Clauses, which are applicable to a specific group of individuals whose general reasons for flight occurred before the advent of the present regime, and who presumptively therefore, would have nothing to fear from the current Government.
7. The application of the Cessation Clauses does however entail a much higher threshold for the substantiation of persecution claims by asylum-seekers from Ethiopia, particularly if they fled their country of origin before 1991.
8. At present, it is thought that the factors which are outlined below, constitute continuing obstacles to the realisation of a fully-blown democratic environment in Ethiopia:

a. The fact that apart from the ruling Ethiopian Peoples' Revolutionary Democratic Front (EPRDF), previously known as the Tigrayan Peoples' Liberation Front (TPLF), the armed struggle against the Marxist/Leninist Dergue regime was in reality waged by various other Ethiopian factions, such as the Oromo Liberation Front (OLF), the Ethiopian Peoples' Revolutionary Party (EPRP) and others (see the Annex for a more comprehensive listing of existing political parties and organisations in Ethiopia), all of whom were excluded from power-sharing arrangements. The leadership of these

(EHRCO), entitled *The Question of Citizenship & Problems Posed by it in relation to the Elections*, dated 3 February, 2000, which states: "After the war broke out between Eritrea and Ethiopia, persons who were born of an Eritrean parent, or who had one Eritrean among their four grandparents were categorised as Eritrean, forced to leave the country, dismissed from their jobs, and recently told that they could neither compete nor vote in the upcoming elections. Consequently, rather a standard definition applicable to all and everywhere in the country, citizenship appears to be defined arbitrarily by *qebele* (these are local Administrative officials in Ethiopia) officials. More appropriate and just would have been to follow the definition given to citizenship by the relevant provisions of the constitution." Paragraph 3, page 1 of the Report.

⁴ EHRCO has documented human rights violations committed against peaceful demonstrators, such as those in Tikimt 28 on 8 November, 1999 over the introduction of a new language, *Wegagoda*, in which the security forces used excessive force against the demonstrators, and subsequently, sixteen elders from Welaita, Ari and Mali villages were arrested—See 29th Special Report of EHRCO entitled *The Unabated Violation of Human rights in North Omo*.

organisations has been dispersed in Europe and North America.

b. The present Government is perceived by many as an ethnically-based group comprising almost entirely of people from Tigray, who dominate whole spectrum of public affairs, in the civil service, the army and other institutions.

c. There are also concerns that the Government has deliberately adopted the "Regionalisation" policy, whereby the various ethnic regions have autonomy, as a deliberate "divide and rule" policy to perpetuate its own existence, and individuals affiliated with the external wing of the opposition will often cite this as part of the reason why they are unable to return to Ethiopia.

d. The opposition factor in the country cannot be said to be effective in the objective sense. That which exists comprises of break-away internal wings of organisations such as the OLF which are not thought to be credible. On this aspect, it should be noted that ordinary members of the opposition are able to align themselves with their chosen parties and to stay freely in the country.

e. It is also important to note that Amnesty International believes that there are still persistent and widespread human rights violations in Ethiopia, including the continued incarceration of thousands of former officials of the Mengistu regime or persons suspected of having co-operated with that regime, without trial and in inhuman prison conditions. UNHCR's own assessment is that while the question of human rights abuses cannot be ruled out, this is not of the magnitude as to justify the departure of considerable or significant numbers of the population in search of asylum.

f. Another factor which may be cited by asylum-seekers whose persecution claims hinge on membership of a political group, is the abduction of twenty-six EPRP-affiliated cadres from Gedaref in the Sudan in June, 1992 and the continued detention of four of them on the ground that they are POWs. Applicants for refugee status may cite this as evidence of the propensity of the present Government to hunt down its opponents in the past and at present, which in turn may be used as an argument for seeking asylum in territories not contiguous to Ethiopia. In addition, in the period leading to the elections scheduled for May, 2000, there have been reports of intimidation and arrest of opposition politicians as well as a hardened attitude towards the private press. Journalist have reportedly been harassed and in some cases detained.

V. Devising a Policy Framework for the return of rejected asylum-seekers

UNHCR therefore suggests that in selecting the most appropriate administrative option for finally disposing of cases of rejected asylum applications by Ethiopian nationals or persons who claim to be Ethiopians but are of Eritrean origin or ethnicity, the foregoing factors

should be fully borne in mind. Because of the apparent fluidity of the situation, particularly as regards those asylum-seekers whose nationality is in doubt (owing to the actions of the Ethiopian authorities, and the ambivalent attitude of the Eritrean authorities towards persons in this category) UNHCR cannot affirmatively state that it would be advisable and safe for such individuals to be returned to Eritrea. The formal position of UNHCR in such cases is that the mere possibility that a given individual may enjoy Eritrean nationality, does not, and should not imply that the individual is placed outside the Inclusionary Clauses of the 1951 Convention Relating to the Status of refugees by virtue of article I. E.⁵ In addition, UNHCR does not believe that the provisions of Article 1 (2), in the proviso thereto, can presumptively or otherwise be applicable to persons thought to have Eritrean links or to be of Eritrean ethnicity, because the objective, prevailing circumstances have placed them in a *de facto* situation of statelessness.⁶ UNHCR therefore further suggests that cases subject to return be examined on the basis of the following Categorisation, to ensure that deserving cases are not even accidentally denied the benefit of international protection, albeit under the Humanitarian status option.

III. Categorisation

1. The following indicative Categorisation is suggested:

A. Asylum claims by Ethiopian nationals in general

Unless individual persecution claims are linked to any of the following categories, at paragraphs B and C, asylum claims by Ethiopian nationals must be individually examined and assessed on their own merits. Dates of departure from the country will play a significant role in the eligibility process, in view of the application of the Cessation Clauses to the pre-1991 Ethiopian refugee caseload.

⁵ See paragraph 36 of the UNHCR Study *Ibid.* at footnote number 1, page 13.

⁶ See paragraph number 38 of the UNHCR Study, *Ibid.*, page 14 which reads: "...it is possible that some persons who have been deprived of Ethiopian citizenship have been left stateless. The risk would be particularly high for those who do not have established residency in Eritrea, (sic) who cannot demonstrate an automatic right to nationality based on residency in Eritrea before 1952, or those who, resident abroad following the adoption of the Nationality Proclamation, did not request Eritrean citizenship. Not all Eritreans were registered to vote in the referendum and a presumption as to Eritrean citizenship is not possible in such cases. With reference to the Eritrean nationality law, in cases where the individual does not hold the Identification Card of Eritrea which allowed one to vote, it should not necessarily be presumed that this is equivalent to citizenship for persons who have not been residing in Eritrea, a formal application for citizenship apparently being necessary..." FILE Note: The Senior Regional Protection Officer supervised the Eritrean Referendum process in the River Atbara District of the Sudan, and it was noted at the time, that only those who held the Identity Card of Eritrea were allowed to vote. UNHCR's interventions with the Eritrean authorities to ensure that all Eritrean refugees had access to the Identity Card were unsuccessful; the card also having been issued partially on the basis of political affiliation to the Eritrean Peoples' Liberation Front (EPLF).

Persons laying claim to refugee status and who left the country prior to 1991 must demonstrate that they would suffer persecution by the existing authorities because their departure was not prompted by the latter. This general statement does not include cases of those individuals who establish the fact that they fled from TPLF-liberated areas in Tigray because of persecution or fear thereof, or because they had defected from the TPLF.

B. Asylum claims premised on the war situation in Ethiopia (Case 3 and Case 1)

The fighting field for the ongoing conflict with Eritrea is mainly localised to parts of the North and North East of Ethiopia, mainly along the common border. For what are seen as military strategic reasons, the Ethiopian authorities declared the region North of Mekelle to be a conflict zone. The other parts of the country are safe. Since the recent outbreak of renewed fighting from 12 May, 2000, the war has resulted in the departure of significant numbers mainly of the civilian population of Eritrea and others into neighbouring countries of Sudan (circa 70,000 as of 8 June, 2000) and Djibouti (circa 1,500 Somali refugees previously based at a refugee camp in Assab). In addition, a few individuals, both Ethiopian and Eritrean, are reported to have arrived in Yemen. There are approximately 700,000 and 350,000 internally displaced persons in Eritrea and Ethiopia respectively.

Claims to refugee status which are based on the war situation can only be veritable if they fall in the following categories: 1. The applicant is a deserter or **conscientious objector**; 2. The applicant claims to have been "interned"⁷ as an enemy national under the Hague Conventions and to have been allowed to leave Ethiopia for a third neutral state (see the first part of footnote number 2 above; and 3. The applicant is of Eritrean parentage or is believed by the Ethiopian authorities to have Eritrean origins or links and has escaped from being deported to Eritrea (note that persons in this category claim Ethiopian citizenship which they may have arbitrarily been deprived of under the circumstances already described elsewhere). According to the UNHCR Country Annual Protection Report for Ethiopia for the year 1999, there are estimated to be between 100,000 and 150,000 persons who consider themselves to be Ethiopians but who the Ethiopian authorities now regard as Eritreans

The Japanese authorities may deal with the cases of conscientious objectors as they deem appropriate, applying the relevant criteria as per the UNHCR **Handbook on Procedures and Criteria for Determining Refugee**

⁷ The veracity of most of such cases, if they end up abroad, can easily be verified since the ICRC has been actively involved in their situation, including paying them visits in the detention centre, documenting them and facilitating their departure in a few cases. It must be noted that in such cases, the Ethiopian authorities have curiously issued the affected individuals with one way Travel Documents which do not entitle them to return to Ethiopia. If they happen to initially have been deported to Eritrea, they are issued with documents which are marked "Not to Return," see paragraph 10 of the Report of the UNHCR Senior Legal Officer (Statelessness Issues) following her Mission to Eritrea from 18 – 21 January, 2000.

Status, Chapter V, Paragraphs 167 - 174.

The incidence of internment of individuals suspected to be Eritreans or of Eritrean origin is factual and about 1,500 such individuals are currently interned. The common hallmark of individuals in this category is that they will generally be young males. The Ethiopian authorities have been known to release individuals in this category on the understanding that they would leave for a third country. Such individuals are issued with one-way Travel Documents by the Ethiopian authorities. The spatial validity of such Travel Documents is limited to the individual's chosen third country of final destination, other than Eritrea. Please refer to the much-publicised case of the twenty-five Eritrean nationals who had been interned in Ethiopia and were allowed to travel to Malawi in September, 1999.⁸ Individuals in this category may choose not to prejudice their claims to Ethiopian nationality or may be afraid of forcible conscription if they were to return to Eritrea.

Conscription in Eritrea is compulsory and is more evident with the state of war which prevails between Eritrea and Ethiopia. Objective information confirming the fact of internment can be furnished through the good offices of the International Committee of the Red Cross, who have access to interned individuals as well as details about them. **Requests for information, on a case by case basis, can be made to the UNHCR Branch Office in Addis Ababa.**

UNHCR's position is that while the issue of nationality may not have adequately coalesced at this stage or sufficiently evolved as to allow for definitive decisions on status, the individuals in this category potentially fall in the category of statelessness. **The mere assertion by the Ethiopian authorities, that a given individual is an Eritrean citizen should not, in and of itself, constitute a ground for invoking the provisions of Article 1. A. (2) nor imply that the person is not deemed to be lacking the protection of his or her country of nationality because he or she has not availed himself or herself of the protection of "one of the countries of which he/she is a national."** This is by extension of argument if the theoretical situation of dual nationality were to be applicable. Here, it is to be noted that the Mission of the UNHCR Senior Legal Officer for Statelessness Issues) of January, 2000, conclusively established the the Temporary Identification card issued to deportees is **not considered by Eritrean authorities to provide long-term residence or citizenship status in Eritrea. Furthermore, the Mission established that "The view consistently expressed (by the Eritrean authorities) was that the deportees are in a <refugee-like> situation and the Card only provides a temporary status. The Card is issued to all persons, whether of Eritrean or some other background"**⁹

⁸ It must be noted that when the Malawi authorities rejected the asylum applications of these individuals, and forcibly returned them to Ethiopia, the latter was only obliged to receive them back because they had travelled on an Ethiopian Airlines plane. Upon their return, the individuals were again placed in detention facilities

⁹ See paragraph number 11 of the UNHCR Expert's Mission Report.

Persons escaping from potential deportation (note that information from the Eritrean Non-governmental organisation, "Citizens for Peace in Eritrea" suggests that there may be up to 60,000 such individuals in Ethiopia who live in hiding). While the figure itself may not be entirely credible, it is a fact that there are such individuals. Persons in this category may have similar preoccupations over returning to Eritrea as would the internees who are released (that is, fear not to compromise their nationality claim/or claims revolving around fair and adequate compensation for "takings" or expropriations of property belonging to ethnic Eritreans or Ethiopians with Eritrean family links and fear of forcible conscription).

UNHCR's position is that once the individuals have laid a credible claim to refugee status, they should be accorded the benefit of the doubt if they fall in this category. Specifically, Ethiopian citizens expelled from Ethiopia to Eritrea on the ground of their ethnic origin *ipso facto* have a valid claim to refugee status if they do not possess any other nationality or if they have another nationality, they cannot avail themselves of the protection of the country of that other nationality. It is important to recall the difficulties which these cases present on account of the "prescribed nationality on the basis of ethnic origin, which prescription is in turn questioned by both the individuals themselves and the presumed country of nationality, in this case Eritrea. The reference to non-possession of any other nationality must therefore strictly be understood in the context that it excludes that of Eritrea.

UNHCR's position is also that if as a result of the unilateral deprivation of nationality, the affected individuals become stateless, they would be entitled to recognition as refugees under the 1951 Convention and the 1967 Protocol.¹⁰

NOTE on UNHCR's treatment of the deportees either in Eritrea or Ethiopia: In practice, each of the two countries has received persons deported by the other part. There are complex questions as to the exact status of these individuals, who have arbitrarily been deprived of their citizenship. While they are indeed in a refugee-like situation, UNHCR has not made the ultimate determination that they are indeed stateless, which would pave the way for their being recognised as refugees. In this particular context, UNHCR's position has been to adopt a wait-and-see attitude, which is primarily motivated by the desire not to prematurely determine this issue until the decisions of the two countries can, with some degree of certainty, be described as final and irreversible. In addition, the Office has taken cognisance of the fact that the matter of deportation is being addressed in the context of the OAU-sponsored Peace Process, and any definitive decision may take at this stage would prejudice the final outcome of this aspect of the Peace Process. If the individuals were to be treated as refugees by UNHCR, they would satisfy the Convention criteria because they have suffered

¹⁰ See paragraph number 35 of the UNHCR Position cited *ibid.* page 13, which is here quoted verbatim.

persecution on account of their race or ethnicity. Slightly different considerations come into play in relation to affected individuals who manage to lay claim to refugee status in third countries such as Japan. As already described elsewhere, in those cases, the main problem is that there can be no guarantee that the rejected individuals would be re-admitted or admitted as the case may be. The waiting period referred to, would equally justify a decision by the Japanese authorities to exercise their discretion in favour of granting the Humanitarian status to affected individuals.

**C. Asylum claims based on membership of particular groups
(Case 2 under the request of the Japanese authorities)**

UNHCR's position is that such claims may be credible but should be determined on a case-by-case basis to determine their merit. Individuals laying such claims will characteristically be high-ranking officials from the opposition groups, mainly the EPRP (most of whom have already been assisted by UNHCR to resettle in Europe, North America and Australia) and the numerous other organisations listed in the Annex.

The emphasis on rank is linked to the fact that if they were or are ordinary supporters of the opposition, the authorities in the country of origin may not even be aware of their political affiliation, and therefore have no reason to persecute them.

Information on these groups may be obtained from the Branch Office in Addis Ababa or the Branch Office in Khartoum, Sudan.

A common hallmark is that the majority of any such individuals would not be coming directly from Ethiopia, but from one of the countries of asylum in the region, notably Kenya, Djibouti and Sudan.

IV. Return of rejected asylum-seekers

On 22 August, 1997, the Government of Ethiopia concluded a bilateral Agreement "for the return of rejected asylum-seekers" with the Netherlands. The purpose of the Agreement is to promote and facilitate the return from the Netherlands to Ethiopia, Ethiopian nationals "whose applications for refugee status or permanent residence status have been properly considered but rejected after going through due process of law." The Agreement provides that such persons shall be returned voluntarily to Ethiopia, to which end the Government of Ethiopia has assumed a number of obligations to ensure their re-admission. The Agreement also provides for several assistance measures to be funded by the Netherlands Government to facilitate the re-integration of the rejected asylum-seekers once returned to Ethiopia.¹¹ UNHCR is not aware of the exact terms of this Agreement so as to advise on the attitude of the Ethiopian authorities towards individuals who lay claim to refugee status and

¹¹ For information purposes: The UNHCR Branch Office in Ethiopia reports that in 1998, the programme was implemented under the framework of the Agreement. In 1999, only thirteen persons opted to return voluntarily. There are however no available figures as to the actual numbers of Ethiopian asylum-seekers in the Netherlands given.

are returned. In general however, it would appear that the attitude of the Ethiopian authorities would depend on the nature of the return (example, obvious case of return where the individual is accompanied by security officials from the returning country and they hand him or her over to the Ethiopian authorities) or where the individual is a high profile person returned in such circumstances. UNHCR confirms that the return of individuals who did not directly depart from Ethiopia may pose potential problems for the returnees, as would that of those who left clandestinely.

***Whether it is a punishable offence to leave Ethiopia without authorization and applicable penalties?**

The 1994 Constitution in Article 32 on Freedom of Movement, states that "[a]ny Ethiopian ... has the freedom to leave the country at any time he wishes to." In order to leave the country, however, Ethiopian nationals need to apply for an exit visa at the Department of Immigration and Nationality Affairs. The exit visa is in most cases routinely issued except for persons with pending court cases or debts.

No information is available about the penalties for leaving the country illegally.

At this stage, UNHCR would advise against the return of rejected individuals whose reasons for flight are related to the incidence of deportation, fear of forcible conscription, prior internment or fear thereof, or disputed nationality (see the detailed descriptions under paragraph II. A. above.)

***Return of deserters/draft evaders**

The following information is available to UNHCR:

Punishment for draft evasion/desertion from military service under Ethiopian law?

In principle, there is no obligatory military service in Ethiopia. Following the fall of the Dergue regime, a professional army was established and the size of the army reduced.

Following the outbreak of the Ethiopia-Eritrea conflict in May 1998, appeals were launched urging nationals to join the army. Initially, the war gained strong support among the population and large numbers of youth voluntarily joined the army.

To sustain the war effort and to replace what are generally believed to have been severe casualties, the recruitment tactics have become much more aggressive. There have been reported instances of forced recruitment, especially in the country-side. Local authorities at the *Woreda* and *Qebele* level and through Farmers' Associations, are reported to have pressurised families to give up one of their sons to join in the war effort. There have been

reports that members of families who have refused to do so have been jailed.

I. ***Applicable law(s)**

I. The 1957 Penal Code of Ethiopia, provides as follows:

"Art. 296 Refusal to perform Military Service

- (1) Whosoever, with intent to evade recruitment or military service which he is legally bound to perform, fails to obey an enlistment or mobilization order duly served by personal summons, by placard or by public announcement is punishable with simple imprisonment. Where the offence is committed in time of emergency, general mobilization or war, the punishment shall be rigorous imprisonment not exceeding ten years."

"Art. 300 Desertion

- (1) Whosoever, with intent to evade military service, quits his unit, post or military duties without proper authority, or fails to return to them after being absent with leave, is punishable with rigorous imprisonment not exceeding five years.
- (1) Where the offence is committed in time of emergency, general mobilisation or war, the offender is punishable with rigorous imprisonment from five years to life, or, in the gravest cases, with death."

The 1957 Penal Code, in addition, also states in Article 747 that "[b]reaches of military duties and offences against military discipline, other than those mentioned in the provisions of the Penal Code dealing with military offences ... are specified in the Orders and regulations issued by the appropriate Armed Forces Regulations." UNHCR has been unable to obtain these Orders and Regulations. **Attention is drawn to the discretionary nature of the punishment where desertion or any of the military-related offences occur in time of war, which brings in an element of doubt, as possible punishment cannot be known until the specific charges have been proffered.**

3. **How do the Ethiopian authorities view their nationals whom they come to know sought asylum abroad and have been returned to Ethiopia?**

The 1994 Constitution states in Article 32 on Freedom of Movement that "[a]ny Ethiopian national has the right to return to his country." This principle has been respected in practice.

In the past, UNHCR has signed several tripartite memoranda of Understanding with Ethiopia regarding the return of Ethiopian refugees from abroad. These MOU's include provisions guaranteeing their return in safety and dignity.

***Practice of the UNHCR Branch Office Ethiopia over the return of**

rejected asylum-seekers

The following practice of the UNHCR Branch Office over the return of rejected asylum-seekers may be noted. The main thrust of the practice is that it seeks to build in some form of assurances that the rejectees would not suffer adverse treatment upon return, through the clearance procedure.

Regarding the return of individual Ethiopian rejected asylum-seekers or refugees, B.O. Addis Ababa requests the country from which the Ethiopian is returning to fill out a questionnaire containing critical bio data. UNHCR then requests ARRA to clear the person for return. Following their approval, B.O. Addis Ababa informs the UNHCR office in the country of asylum so that the person can return without facing any problems at the border entry points.

There have been several reports, however, of serious abuses against Ethiopians, who were not registered as asylum seekers or refugees, and who have been allegedly deported from neighbouring countries. In particular, persons sympathising and/or supporting opposition groups may face a serious situation upon their return. According to unsubstantiated reports, they may have fallen victim to imprisonment, torture and other serious human rights violations.

In addition, Eritreans or Ethiopians of Eritrean origin may be prevented from re-entering the country although they may claim to be Ethiopian nationals. Prior to the Ethiopian-Eritrean conflict, such persons were treated regarded as Ethiopian nationals and were treated as such, including the issuance of Ethiopian national passports. Following the outbreak of the fighting, the authorities have arbitrarily deprived many Ethiopians of Eritrean origin of their nationality and have withdrawn their national passports.

ANNEX

Acronyms of Ethiopian Political Parties/Organizations (Not exhaustive)

- 1. AAPO – All Amhara Peoples' Organisation
- 1. ALF – Afar Liberation Front
- 1. ANDM – Amhara National Democratic Movement
- 1. ARDU – Afar Revolutionary Democratic Union
- 1. ARDUF – Afar Revolutionary Democratic Unity Front
- 1. BPLM – Benshangul Peoples' Liberation Movement
- 1. BWEPPD – Benshangul Western Ethiopian Peoples' Democratic Party
- 1. CAFPPD – Council of the Alternative Forces for Peace and Democracy in Ethiopia
- 1. COEDF – Coalition of Ethiopian Democratic Forces
- 1. EDC – Ethiopian Democratic Organisation Coalition
- 1. EDUP – Ethiopian Democratic Unionist Party
- 1. ENC – Ethiopian National Congress
- 1. ENDP – Ethiopian National Democratic Party
- 1. EPDA – Ethiopian Peoples' Democratic Alliance
- 1. EPDM – Ethiopian Peoples' Democratic Movement

- 1. EPRDF – Ethiopian Peoples' Revolutionary Democratic Front
- 1. EPRP – Ethiopian People's Revolutionary Party
- 1. ESDL – Ethiopian Somali Democratic League
- 1. ESDM – Ethiopian Somali Democratic Movement
- 1. GDU – Gamo Democratic Union
- 1. GPDF – Gurage Peoples' Democratic Front
- 1. HPDO – Hadia Peoples' Democratic Organisation
- 1. IFLO – Islamic Front for the Liberation of Oromia
- 1. IGLF – Issa Gurgura Liberation Front
- 1. KPC – Kembata Peoples' Congress
- 1. OLF – Oromo Liberation Front
- 1. ONLF – Ogaden National Liberation Front
- 1. OPDO – Oromo Peoples' Democratic Organisation
- SEPDC – Southern Ethiopian Peoples' Democratic Coalition
- SPDO – Sidama Peoples' Democratic Organisation
- TPLF – Tigray Peoples' Liberation Front
- WSLF – Western Somali Liberation Front
- WSDF – Western Somali Democratic Party
- 1. SLM – Sidama Liberation Movement

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