

ERITREA (93)

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Eritrea Country Report on Human Rights Practices for 1997

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ERITREA

Eritrea became an independent state in 1993, following an internationally monitored referendum in which citizens voted overwhelmingly for independence from Ethiopia. The Eritrean People's Liberation Front (EPLF), which led the 30-year war for independence, has controlled the country since it defeated Ethiopian armed forces in 1991; its leader, Isaias Afwerki, serves as President. The People's Front for Democracy and Justice (PFDJ), the core of the former EPLF, which split off from the Government in 1994, is the sole political party. The Government did not fulfill its stated program to hold elections in 1997; elections are planned for 1998. However, there was some progress in democratization. In 1994 the National Assembly, partially appointed by the PFDJ leadership and partially elected, created a 50-member National Constitutional Commission to draft a constitution. After a broad process of consultation and civic education, the Constitution was ratified by a constituent assembly elected from newly elected local assemblies on May 24. It provides for democratic freedoms, but public understanding of its implications remains limited. The judiciary remains independent but weak.

The police are generally responsible for maintaining internal security, although the Government may call on the 40,000-member armed forces, the reserves, and demobilized soldiers in times of internal disorder. The army is responsible for external and border security. Since 1993 the army has been forced to deal with the Eritrean Islamic Jihad (EIJ), a small, Sudan-based insurgent group that has mounted terrorist attacks in northern and western Eritrea. Increased EIJ activity, coupled with a buildup of Sudanese forces along the Western border, led the Government to increase security and deploy much the army to the West. Some members of the security forces committed human rights abuses.

Eritrea began a transition from a deteriorating centrally planned economy to a free-market economy through the privatization of formerly state-owned enterprises and the liberalization of investment and trade. While trade, services, and manufacturing provide the greatest portion of gross domestic product, the rural economy is largely based on subsistence agriculture, with more than 70 percent of the population of 3.6 million involved in farming and herding. The small industrial sector consists mainly of light industries, many using outmoded technologies. International economic assistance has accounted for a significant portion of external revenues, with loans replacing grants. The country is extremely poor, with an average annual per capita income of less than \$238.

The Government generally respected the rights of its citizens in some areas, but serious problems remain. Citizens do not have the right to change their government, which is dominated by the PFDJ. Although a constituent assembly ratified a new constitution, the Government did not fulfill its stated program for a transition to democracy by 1997. The Government does not permit prison visits and arbitrary arrest and detention is a problem. An unknown number of persons suspected of association with the Ethiopian Mengistu re-

gime, radical Islamic elements, or terrorist organizations remain in detention. The undeveloped judicial system limits the provision of speedy trials, and the use of military courts limits due process. The Government restricts press freedom, including the rights of the religious media, and limits freedom of association. The Government restricts religious freedom and freedom of movement. There are no domestic or international human rights organizations. Societal discrimination against women is a problem, and female genital mutilation (FGM) remains widespread.

RESPECT FOR HUMAN RIGHTS

Section 1 Respect for the Integrity of the Person, Including Freedom From:

a. Political and Other Extrajudicial Killing

There were no reports of political or other extrajudicial killings.

b. Disappearance

There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The Ethiopian Penal Code, as modified by the transitional Penal Code of Eritrea, prohibits torture, and there were no reports that the authorities employed it.

Prison conditions are Spartan. The Government does not permit prisoners to correspond with family and friends and restricts visitation privileges. There were no confirmed reports that prisoners were beaten or that any prisoner died due to lack of proper medical care; however, there were persistent unconfirmed reports of mistreatment of persons in detention.

The Government does not permit independent monitoring of conditions in detention facilities.

d. Arbitrary Arrest, Detention, or Exile

The Penal Code stipulates that detainees may be held for a maximum of 30 days without being charged with a crime. In practice the authorities sometimes hold persons suspected of crimes for much longer periods. In 1995, on the second anniversary of independence, the Government pardoned and released 91 detainees who had been held for up to 4 years for collaboration with the Mengistu regime. An unknown number of additional suspected collaborators remain in detention without charge, despite a statement by President Isaias later in 1995 that their cases would be considered soon. An unspecified number of persons associated with radical Islamic elements or suspected terrorist organizations also remained in detention without charge. There were unconfirmed reports that the Government arbitrarily holds several Eritrean Liberation Front (ELF) members. Military authorities sometimes arbitrarily arrest and detain former combatants who violate the military's unwritten code of conduct (see Section 1.c.).

The Government detained a journalist in March for inaccurate reporting, and continued to hold her indefinitely without trial at year's end (see Section 2.a.).

The Government does not use exile as a means of political control.

e.

Denial of Fair Public Trial

The judiciary is independent but weak, although there were no known incidents of executive interference in the judicial process during the year.

The judiciary consists of lower courts and an Appellate Court. The undeveloped judicial system suffers from a lack of trained personnel, adequate funding, and infrastructure that in practice limits the State's ability to grant accused persons a speedy trial. At independence the Government chose to retain the Ethiopian legal system. Under this Code, simple crimes are brought to the lower court and are heard by a single judge. Serious crimes are tried publicly by a panel of three judges, and defendants have access to legal counsel, usually at their own expense.

Although there is no formal public defender's office, the Government has successfully requested that attorneys work without fee to represent defendants accused of serious crimes who are unable to afford legal counsel. Defendants may appeal verdicts to the Appellate Court, which is composed of a president and five judges.

As a result of the lack of legally trained personnel, the Ministry of Justice was unable to process a large volume of civilian corruption cases, which were handled by the Ministry of Defense. In 1997 the Eritrean Press reported that 2,431 civilians had been tried by special military courts. Approximately half were fined and imprisoned, while 360 were found not guilty. In military courts there are usually no defense lawyers and no right of appeal. The continued handling of civilian cases by military courts raises problems of due process.

Since the population is largely rural, most citizens only have contact with the legal system through traditional courts. Village judges, appointed by a panel of government magistrates, provide justice in civil matters. Criminal cases are transferred to magistrates versed in criminal law. Many local issues—for example, property disputes and most petty crimes—are adjudicated by local elders according to customs or, in the case of Muslims, Shari'a law. The traditional courts cannot impose sentences that involve physical punishment.

Crimes allegedly committed by members of the military forces are handled by military courts. Senior former fighters are often held to a stringent unwritten code of conduct, and violations of this code are handled within the governing circle outside the normal judicial process. Some former fighters accused of violating this circle of trust have been arrested and held without formal charge. Senior government officials are summarily relieved of their duties if they in any way overstep their role or make mistakes.

f.

Arbitrary Interference With Privacy, Family, Home, or

Correspondence

Under the law, warrants are required before the Government can monitor mail, telephones, or other means of private communication. Warrants also are required in routine searches and seizures, except in cases where authorities believe individuals may attempt to escape or destroy evidence. There is no evidence that the Government monitors or has monitored private mail or telephone service. The Government has not yet allowed access to the Internet through the telecommunications system. The Government may ban the import of any foreign publications (see Section 2.a.).

a.

Freedom of Speech and Press

The Constitution provides for freedom of speech and of the press; however, individuals must be cautious in stating their views in public since the Ministry of Internal Affairs detained one person whose remarks it considered inappropriate. The June arrest of an Eritrean-American citizen for remarks allegedly made while in the United States underscored the authority of the Ministry to arrest people based on suspicion.

The Government controls all media, which include three newspapers, one radio station, and one television station. The Government may ban the import of any foreign publication, and the press proclamation forbids the local reprinting of articles from banned publications. The Government continued to restrict the rights of the religious media to comment on politics or government policies. In theory nonreligious print media are free to criticize the Government. Nonetheless, criticism tends to be limited and fairly mild. Although there is no formal censorship body, the media practice self-censorship. The arrest and detention without trial in March of an Agence France Presse correspondent and a PFDJ member in March for falsely reporting remarks made by President Isaias raised further doubts about press freedom. The open-ended jail sentence the reporter received without a trial denied her due process.

The Government's press proclamation allows for individuals to publish newspapers, and private newspapers and magazines began to publish toward the end of the year. It does not allow for private ownership of any broadcast media or foreign ownership of any media. The proclamation requires that all newspapers obtain a license from the Ministry of Information before publication and that all reporters register with the Ministry. The Government may also punish "whosoever insults, abuses, defames, or slanders the Government or one of the constituted legislative, executive, or judicial authorities," and forbids the publication of any matter that contravenes general morality. This authority has hindered the development of print or broadcast media critical of the Government.

Academic freedom is respected at the one institution of higher education, the University of Asmara.

b.

Freedom of Peaceful Assembly and Association

The Government requires a permit from the Ministry of Internal Affairs for a public meeting or demonstration. In general permits are granted freely for nonpolitical meetings or gatherings, and although no political demonstrations have occurred, there were no reports that permits for political demonstrations were denied.

The Constitution states that every citizen shall have the right to form organizations for political, social, economic, and cultural ends. However, the PFDJ has stated its opposition to the formation of any religiously or ethnically based parties.

c.

Freedom of Religion

Although the Constitution provides for freedom of religion, the Government has banned religious organizations from involvement in politics. The Government has discouraged foreign religious groups and NGO's from proselytizing, as it believes this could create unnecessary friction in the delicate balance between the Muslim and Christian populations. In a 1995 proclamation, it described specific guidelines on the role of religion and religion-affiliated NGO's in development and government, stating that development, politics, and public administration are the sole responsibility of the Government and people. As a result, religious

organizations may fund, but not initiate or implement, development projects. The proclamation also sets out rules governing relations between religious organizations and foreign sponsors.

The Constitution provides for the "freedom to practice any religion and to manifest such practice." However, government persecution of the small community of Jehovah's Witnesses continued. In 1994 the Government revoked the trading licenses of Jehovah's Witnesses and dismissed those who worked in the civil service. This governmental action resulted in economic, employment, and travel difficulties for Jehovah's Witnesses, especially former civil servants and businessmen. In addition, in April, the government labor office issued a form to all employers in Asmara and the surrounding area requesting information on any personnel who were Jehovah's Witnesses.

Jehovah's Witnesses have refused universally on religious grounds to participate in national service or vote in a referendum. This spurred widespread criticism that the members were collectively shirking their civic duty. The harsh measures for refusal to participate in national service were applied only to Jehovah's Witnesses. In addition to the Government's continued denial of passports, Jehovah's Witnesses are also denied identification cards, trading licenses, and government housing. However, they are not barred from meeting in private homes.

Authorities closed a foreign-based NGO associated with an evangelical church because, according to the Government, its proselytizing activities in a Muslim district could have caused religious friction. The Government restricts the rights of the religious media to comment on politics or government policies (see Section 2.a.).

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation

The Constitution provides fully for the rights of movement and emigration. In general citizens may live where they choose and travel freely throughout the country. Some areas are restricted for security reasons, however. In particular, clashes between government forces and Eritrean Islamic Jihad members have led the Government to restrict travel along much of the border with Sudan. Some areas remain heavily mined, a legacy of the war for independence, and occasionally new mines are set by the EIJ, leading to additional travel restrictions.

Citizens are largely free to travel outside the country, although Jehovah's Witnesses, former ruling party members, those who have not completed national service, and intending emigrants have been denied passports or exit visas and can only leave the country by traveling overland to Ethiopia. In general citizens have the right to return. Instances in which citizens living abroad have run afoul of the law, contracted a serious contagious disease, or been declared ineligible for political asylum by other governments are considered on a case-by-case basis.

The Government cooperates with the Office of the U.N. High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees. The Government provides first asylum and provided it to Sudanese refugees from the conflict in Sudan during the year. The Eritrean Relief and Refugee Commission, a government agency, is the principal organization for refugee issues.

A pilot refugee return program resulted in the repatriation of 25,000 refugees from Sudan in 1995. However, a further 100,000 of the estimated 150,000 to 300,000 Eritrean refugees remaining in Sudan were not repatriated under a program sponsored by the UNHCR because of the failure of the governments of Eritrea and Sudan to conclude an agreement on the modalities of such a repatriation. All UNHCR foreign staff members were expelled from Eritrea in May because of activities that the Government alleged were inconsistent with the UNHCR mandate.

Change Their Government

Although the Constitution provides this right, citizens have not been able to change their government in multiparty elections since 1991. Credible reports suggest that authority within the Government is very narrowly held. The Government is dominated by the PFDJ. The PFDJ did not fulfill the ambitious program that it had outlined for transition to a democratically elected government by 1997. Its leadership stated that public education and institutional structures were needed before multiparty democracy would be established.

In an effort to encourage broader participation by women in politics, the PFDJ named 3 women to the Party's executive council and 12 women to the central committee. Women participated in the Constitutional Commission, are represented in local assemblies, and hold senior government positions, including the position of Minister of Justice.

Section 4 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

The Ministry of Foreign Affairs and the Ministry of Internal Affairs are jointly responsible for handling human rights inquiries. All NGO's also must register with the Eritrean Relief and Refugee Commission. There are no domestic or international human rights organizations. In April the Government proclaimed a policy to restrict NGO's to supporting the Government in the sectors of health and education. The Government reported no applications or registrations of human rights NGO's during the year. It expelled all UNHCR foreign staff members from the country in May (see Section 2.d).

In 1995 the Government proclaimed that religious organizations, including religious-based NGO's, could not engage in development activities. The Government also removed religious-based indigenous NGO's completely from relief work in order to prevent the development of church-based organizations receiving money from abroad. It closed one religious NGO.

A governmental proclamation issued in May 1996 required that all private NGO's hire those who have completed their national service. This proclamation was part of the Government's effort to establish a national service program as a legal obligation of all citizens regardless of their religious beliefs.

All foreign staff members of NGO's (or of any nongovernmental organization) who live and work in the country for more than 183 days must pay the highest income tax rate, 38 percent of their salaries and allowances. This tax situation has encouraged the departure of NGO's; most NGO's left at the Government's request.

Section 5 Discrimination Based on Race, Sex, Religion, Disability, Language, or Social Status

The transitional civil code prohibits discrimination against women, children, and people with disabilities, and the Government generally enforces it.

Women

The Government has publicly taken a firm stand against domestic violence; health, police, and judicial authorities report that no serious domestic violence problem exists.

The Government consistently advocated improving the status of women, many of whom played a significant role as fighters in the struggle for independence. Since women have enjoyed the rights to equal educational opportunities, equal pay for equal work, and legal sanctions against domestic violence. In 1994 the Third Party Congress advocated more rights for women, including parity in the right to the use of land and other property. However, much of society remains traditional and patriarchal, and most women have an inferior status to men in their homes and communities. The law provides a framework for improving the status of women, but laws are unevenly implemented, because of both a lack of capacity in the legal system and in-

grained cultural attitudes. In practice, males retain privileged access to education, employment, and control of economic resources, with more disparities in rural areas than in cities.

The law requires that of ages 18 to 40 participate in the national service program.

Children

The Ministry of Labor and Human Welfare is responsible for government policies concerning the rights and welfare of children. The Government in 1996 reorganized and created under the Ministry of Labor and Human Welfare a department that includes the Children's Affairs Division. The Children's Affairs division covers child care, counseling, and probation. Due to a shortage of schools and teachers, half the country's children are unable to attend school.

Female genital mutilation, which is widely condemned by international health experts as damaging to both physical and psychological health, is practiced extensively on girls at an early age. The Government, through the Ministry of Health and the National Union of Eritrean Women, discourages this practice.

People With Disabilities

The long war for independence left thousands of men and women physically disabled from injuries they received as guerrillas and as civilian victims. The Government spends a large share of its financial resources to support and train these war disabled, who are regarded as heroes, and does not discriminate against them in training, education, or employment. There are no laws mandating access for the disabled to public thoroughfares or public or private buildings.

Section 6 Worker Rights

a. The Right of Association

There are no government restrictions regarding the formation of unions, including in the military forces, the police, and other essential services. Labor association is encouraged by the Government, which promulgated Proclamation 8 in 1991 providing workers with the legal right to form unions and to strike to protect their interests. The Government continued to rewrite the Labor Code. The National Confederation of Eritrean Workers, which was part of the EPLF during the war, is independent of both the Government and the PFDJ. It represents over 20,000 workers from 129 unions and receives some funding the International Labor Organization (ILO), the AFL-CIO, and European unions. The largest union is the Textile, Leather, and Shoe Federation.

There were no strikes reported in 1997.

Unions may affiliate internationally, but none has attempted to do so.

b. The Right to Organize and Bargain Collectively

Eritrea is a member of the ILO, which provided assistance in 1993 to prepare the draft labor code, which prohibits antitrust discrimination by employers and establishes a mechanism for resolving complaints of discrimination. The Government has indicated its intention to ratify several key ILO conventions on labor—freedom of association, the right to bargain, a labor administration system, and prohibition against child labor—but still has not done so. The Ministry of Labor and Human Welfare indicated that ratification of the conventions may not occur for some time. Wages are determined by the market.

There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor

There is no law prohibiting forced or compulsory labor, but it is not known to occur. All citizens between 18 and 40 are required to participate in the national service program, which includes military training as well as civic action programs. High school students are also required to participate in a summer work program, for which they are paid.

d. Status of Child Labor Practices and Minimum Age for Employment

The law does not prohibit forced or bonded labor, including that performed by children, but there were no reports that it occurred (see Section 6.c.). The legal minimum age for employment is 18 years, although apprentices may be hired at age 16. While the Ministry of Labor and Human Welfare is responsible for enforcement of laws pertaining to employment of children, there is no inspection system in place to monitor compliance. The Government has not ratified the ILO Convention on the Prohibition of Child Labor. According to labor officials, 50 percent of children are not able to attend school due to a shortage of schools and teachers. Rural children who do not attend classes often work on their family farms, while in urban areas, some children are street vendors of cigarettes, newspapers, or chewing gum.

e. Acceptable Conditions of Work

There are two systems regulating employment conditions, the civil service system, and the labor law system. There is no legally mandated minimum wage in the private sector. In the civil service sector wages vary from \$40 to \$473 (250 to 3000 birr) per month, with factory workers (in government-owned enterprises) earning the highest wages. The minimum wage does not provide the average worker and family with a decent standard of living.

The standard workweek is 48 hours, but many people work fewer hours. There is no legal provision for a day of rest, but most workers are allowed 1 to 1 1/2 days off per week. The Government has instituted occupational health and safety standards, but inspection and enforcement vary widely among factories. The draft labor law includes a number of provisions concerning women, including one that states that women during pregnancy shall not be assigned to jobs that could endanger their lives or the lives of their unborn children. Workers are permitted to remove themselves from dangerous work sites without retaliation.

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