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Information on the treatment of failed asylum seekers/returnees upon return to Eritrea?

The most recent UK Home Office Border Agency report on Eritrea quotes a letter from the British embassy in Asmara which, in response to a question on the treatment of failed asylum seekers returned to Eritrea, states:

> "This is a grey area as there is little experience of failed asylum seekers returning to Eritrea. However, the Eritrean authorities tell us that if they return and have not committed a criminal offence, no action would be taken. But we have to put this into context. It is an offence to leave the country illegally, so returnees would be liable to detention and questioning. Some have been released without further action but those who have not undertaken military service could be sent to a military training camp." (UK Home Office Border Agency (17 August 2012) *Country Of Origin Information Report – Eritrea*, p.142)

A 2009 Immigration and Refugee Board of Canada response to a request for information on the situation of returning asylum seekers states:

> "In 7 April 2009 correspondence, the Assistant Editor of the World Refugee Survey, the annual report of the U.S. Committee for Refugees and Immigrants (USCRI), an organization that assists in the resettlement of refugees and the provision of services to immigrants in the United States (US), stated that Eritreans who requested asylum abroad after 1993 are 'at risk of long-term imprisonment, torture, and other punishment' if involuntarily returned to Eritrea." (Immigration and Refugee Board of Canada (15 April 2009) *Eritrea: Situation of people returning after spending time abroad or seeking asylum or refugee status*)

Paragraph 445 of a 2007 UK Asylum and Immigration Tribunal judgment states:

> "It is clear that a person of military service age or who is approaching military service age who leaves Eritrea illegally before undertaking or completing Active National Service (as defined in Article 8 of the 1995 Proclamation) (see paragraph 283 above), is reasonably likely to be regarded by the Eritrean authorities as a deserter and punished accordingly. The evidence of a 'shoot to kill' policy in respect of deserters, the imprisoning of parents and the process known as 'the giffa', together with the more general objective evidence regarding the oppressive nature of the Eritrean regime, confirms that any such punishment is likely to be both extra-judicial and of such a severity as to amount to persecution, serious harm and ill-treatment." (UK Asylum and Immigration Tribunal / Immigration Appellate Authority (26 June 2007) *MA (Draft Evaders - Illegal Departures - Risk) Eritrea v. Secretary of State for the Home Department*)

See also introductory section of a 2011 UK Upper Tribunal (Immigration and Asylum Chamber) judgement which, in paragraph (iii), states:

> "The general position adopted in MA, that a person of or approaching draft age (i.e. aged 8 or over and still not above the upper age limits for military service, being under 54 for men and under 47 for women) and not medically unfit who is accepted as having left Eritrea illegally is reasonably likely to be regarded with serious hostility on return, is reconfirmed, subject to limited exceptions. (UK Upper Tribunal (Immigration and Asylum Chamber) (27 May 2011) *MO (illegal exit - risk on return) Eritrea v. Secretary of State for the Home Department*)

Paragraph (v) of this section states:

> "Whilst it also remains the position that failed asylum seekers as such are not generally at real risk of persecution or serious harm on return, on present evidence the great majority of such persons are likely to be perceived as having left illegally and this fact, save for very limited exceptions, will mean that on return they face a real risk of persecution or serious harm." (ibid)

Paragraph 38 of the section headed "Determination and Reasons" refers to the evidence of expert witness Professor Kibreab, Professor and Director of Refugee Studies at the London South Bank University, as follows:

> "Professor Kibreab said he considered that the attitude of the Eritrean authorities to Eritreans who had claimed asylum abroad would be hostile. If they had exited illegally they would have severe problems; if they had exited legally they would still have serious problems unless they were people who had been sent abroad by the regime and/or they were seen to have done service for them. The attitude of the authorities was that such persons had been given a huge favour and so were expected to be ardent supporters of the regime. The government suspected expatriates of betrayal and disloyalty. He did not know of any such persons having returned except for the few cases he recorded in his report and such cases strongly suggested that persecution was the norm." (ibid)

Paragraph 46 quotes an e-mail from the Horn of Africa team leader for Human Rights Watch dated 23 February 2011 which states:

> "There is much anecdotal evidence of people being detained and tortured or mistreated upon return to Eritrea but such cases are extremely hard to document because of the impossibility of doing research inside Eritrea, the extremely secretive nature of the prison network in Eritrea, the paranoia of the citizens remaining there and the surveillance by the state of most communication with the outside world. A lack of public record of violations of persons who have been returned should in no way be taken to mean that persons returned to Eritrea are not at risk. The presumption should be very much the other way around: anyone returned to Eritrea is at a very high risk of mistreatment and torture in our view." (ibid)

A 2009 Human Rights Watch report, in "Part 3: The Experience of Eritrean Refugees", states:

> "Eritrea is currently among the top refugee-producing nations in the world. Fleeing the country is truly a last resort because the conditions facing refugees abroad are appalling and the punishments inflicted on asylum seekers who are forcibly returned are terrible, including torture and death. The Eritrean government considers leaving the country without a valid exit visa a crime, and absconding from national service is viewed as tantamount to treason." (Human Rights Watch (16 April 2009) *Service for Life: State Repression and Indefinite Conscription in Eritrea*, p.65)

A 2009 UN High Commissioner for Refugees eligibility guidelines document, in a section titled “Forcible return to Eritrea”, states:

> “Eritreans who are forcibly returned may, according to several reports, face arrest without charge, detention, ill-treatment, torture or sometimes death at the hands of the authorities. They are reportedly held incommunicado, in over-crowded and unhygienic conditions, with little access to medical care, sometimes for extended periods of time. According to credible sources, 1,200 persons were forcibly returned from Egypt to Eritrea in June 2008, where the majority was detained in military facilities. UNHCR is aware of at least two Eritrean asylum-seekers who have arrived in Sudan having escaped from detention following deportation from Egypt in June 2008. Eritreans forcibly returned from Malta in 2002 and Libya in 2004 were arrested on arrival in Eritrea and tortured. The returnees were sent to two prisons on Dahlak Island and on the Red Sea coast, where most are still believed to be held incommunicado. There are also unconfirmed reports that some of those returned from Malta were killed. In another case, a rejected asylum-seeker was detained by the Eritrean authorities upon her forcible return from the United Kingdom. On 14 May 2008, German immigration authorities forcibly returned two rejected asylum-seekers to Eritrea. They were reportedly detained at Asmara airport upon arrival and are being held incommunicado, and believed to be at risk of torture or other ill-treatment.” (UN High Commissioner for Refugees (April 2009) *UNHCR Eligibility Guidelines for Assessing the International Protection Needs of Asylum-Seekers from Eritrea*, pp.33-34)

For further information on the two individuals referred to above see 2011 Amnesty International annual report for Eritrea which states:

> “Yonas Mehari and Petros Mulugeta returned to Germany and were granted asylum in 2010. The two men were asylum-seekers forcibly deported by the German authorities to Eritrea in 2008. They were detained after their return, Yonas Mehari in an overcrowded underground cell and Petros Mulugeta in a shipping container. Both men recounted inhumane conditions, including disease, insanity and death among fellow detainees.” (Amnesty International (13 May 2011) *Annual Report 2011 – Eritrea*)

A report published by the Refugee Council (UK) states:

> “The Eritrean government views refused asylum seekers who return to the country as enemies of the state and is responsible for the mistreatment and persecution of people who have returned, whether voluntarily or involuntarily. According to Amnesty International and Human Rights Watch, refused asylum seekers who are forcibly returned to Eritrea face arrest without charge, detention, ill-treatment, torture, and death at the hands of the authorities. The US government's Country Report for Eritrea (2011) states that refugees and asylum seekers repatriated from other countries during 2010 had disappeared. Eritrean authorities detained the majority of the 1,200 asylum seekers forcefully returned from Egypt in June 2008, in military facilities. Similarly, asylum seekers who were forcibly returned from Malta in 2002, Libya in 2004, and the UK and Germany were either killed, arrested on arrival, tortured, and sent to prisons where most are still believed to be held with no access to the outside world.” (Refugee Council (UK) (10 December 2012) *Between a rock and a hard place: the dilemma facing refused asylum seekers (Eritrea excerpt)*)

See also public statement from Amnesty International which states:

> "Seeking asylum abroad is considered by the Eritrean government to be an act of treason. Asylum seekers should not be returned to Eritrea, because they will be at grave risk of serious human rights violations. Eritreans forcibly returned to Eritrea face a real risk of being subjected to violations, including incommunicado detention, torture and other forms of serious ill-treatment. In addition, detention conditions in Eritrea are appalling, and in themselves amount to cruel, inhuman or degrading treatment." (Amnesty International (15 August 2012) *Sudan must end forced returns of asylum seekers to Eritrea*)

The most recent UN High Commissioner for Refugees eligibility guidelines document, in a section titled "Potential Risk Profiles" (sub-section headed "Military/National Service"), refers to the situation for Eritrean citizens who have never actually lived in Eritrea as follows:

> "Since the obligation to undertake military service applies to all citizens, Eritreans living abroad since childhood and those born in exile are not exempt from military service. Hence, Eritreans who are forcibly returned, or who return voluntarily, will be subject to conscription in the military service if they satisfy the age criteria and are medically fit." (UN High Commissioner for Refugees (20 April 2011) *UNHCR Eligibility Guidelines for Assessing the International Protection Needs of Asylum-Seekers from Eritrea*, p.10)

This section also states:

> "Those who fled abroad specifically to avoid military service and who did not return to undertake military service before the age of 40 are subject to five years' imprisonment. Rights to own land, to obtain an exit visa, to work and other 'privileges' can also be suspended. In addition to the penalties imposed under the Proclamation on National Service, the penalties stipulated in the Eritrean Transitional Penal Code also cover military violations, including failure to enlist, or re-enlist, seeking fraudulent exemptions, desertion, absence without leave, refusal to perform military service and infliction of unfitness (injury to avoid service). The punishment ranges from six months' to 10 years' imprisonment depending on the gravity of the act. During emergencies or mobilizations, the penalties are significantly more severe." (ibid, pp.10-11)

In a sub-section headed "Draft Evaders and Deserters" this document states:

> "Individuals of draft age, who left Eritrea illegally, may be perceived as draft evader upon return, irrespective of whether they have completed active national service or have been demobilized." (ibid, p.16)

A Human Rights Watch on the return of asylum seekers from Sudan states:

> "Eritrea, ruled by an extremely repressive government, requires all citizens under 50 to serve in the military for years. Anyone of draft age leaving the country without permission is branded a deserter, risking five years in prison, often in inhumane conditions, as well as forced labor and torture. UNHCR considers that in practice the punishment for desertion or evasion is so severe and disproportionate, it constitutes persecution." (Human Rights Watch (25 October 2011) *Sudan: End Mass Summary Deportations of Eritreans*)

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This response was prepared after researching publicly accessible information currently available to the Research and Information Unit within time constraints. This response is not and does not purport to be conclusive as to the merit of any particular claim to refugee status or asylum. Please read in full all documents referred to.

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