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The Open-Ended Eritrean National Service: The Driver of Forced Migration

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Background

All Eritreans—women and men—between 18 and 40 are required to perform national service.¹ According to Proclamation No. 11/1991, the first proclamation on national service in the country, only few citizens, particularly the unemployed youth were targeted. There were a number of categories exempted from NS. These were people who were engaged in industrial, agricultural and pastoral production;² licensed self-employed traders, except those who work in liqueur houses (*biet meste*), bars, hotels and nightclubs;³ women who are in gainful employment, self-employment or who make a living by employing others are exempt from the obligation;⁴ married women and single mothers;⁵ sole breadwinners in families;⁶ and couples in honeymoon, i.e. until the honeymoon ends.⁷ This indicates that initially, the ENS was not conceived as being universal.

Proclamation No. 11/1991 on NS was repealed and replaced by Proclamation 82/1995. According to the latter, all Eritreans, except the veterans of the 30 years' war of independence and the physically and mentally infirm are required to take part in the ENS regardless of family responsibility and gender. There is no other exemption. Even conscientious objectors, such as the Jehovah's Witnesses are forcibly recruited against the canons of their faith.⁸

Although the first proclamation on NS was promulgated in 1991, military training was implemented for the first time in 1994. Prior to 1994, students, especially at university and secondary levels performed youth development work without taking military training. National service consists of six months military training at the Sawa Military Camp and 12 months development work under the auspices of the Ministry of Defence or other ministries, regional administrations or the firms of the ruling party, the Eritrean People's Front for Democracy and Justice (EPFDJ). During the first six months, all conscripts of the Eritrean National Service (ENS) receive the same kind of intensive military and physical training. Conscripts also receive rigorous political socialisation and indoctrination.

¹ See Article 2 of the National Service Proclamation 11/1991; Article 8 of the National Service Proclamation 82/1995.

² See Article 4 of the National Service Proclamation 11/1991.

³ Article 5 in *Ibid.*

⁴ Article 6 in *Ibid.*

⁵ Article 7 in *Ibid.*

⁶ Article 8 *Ibid.*

⁷ Article 9 in *Ibid.*

⁸ Amnesty International (2004) ERITREA 'You have no right to ask' Government resists scrutiny on human rights. Available in <http://web.amnesty.org/library/Index/ENGAFR640032004> (accessed 1 August 2006); UNHCR, Draft Evaders in Eritrea, PRL23.1/Eritrea/RB, 11 March 2005.

The aim of the latter is to socialise the conscripts of the ENS into the values of the liberation struggle, such as commitment to public causes, patriotism, sacrificial nationalism and obedience to authority.

In the process, conscripts of the ENS are said to develop dense networks that enable them to interconnect across the social cleavages of religion, ethnicity and region. The architects of the ENS believe that this would foster common national Eritrean identity and commitment to the project of national unity and nation building. There is a well thought out philosophy underpinning this approach. Nine disparate ethno-linguistic groups inhabit Eritrea in spite of its small size both in terms of geography and population. Although the colonial experience under Italy (1890-1941), British Military Administration (1941-1951) and Ethiopian occupation (1962-1991) had brought the disparate ethno-linguistic and faith groups closer to each other and this was further deepened during the thirty years war of independence fought against a common enemy, the protracted process of nation-building and common national identity construction were considered far from being completed. The ENS is therefore conceived as a critical instrument of national Eritrean identity construction and nation-building.

The aim of the ENS is, *inter alia*, to transmit the values of the liberation struggle to the present and future generations in order to build a strong defence and fighting capability with large pool of reserves but also to create a new breed of patriotic citizens who reject ethnic, religious and region-based allegiances and to particular identities in favour of national Eritrean secular identity. Given the disparate religious and ethnic backgrounds of the Eritrean people and the obsession of the ruling party—the PFDJ—and the government with the project of creating a homogenous and secular society, they believe those who receive military training and political socialisation at Sawa and after would play indispensable role in the process of nation-building and (re)-construction of the country's war-torn economic, social and physical infrastructure. In the process, the conscripts of the ENS are also expected to undergo fundamental change and transformation.

The Head of State repeatedly underscores these goals in the graduation ceremonies that he presides over at Sawa Military Camp every year. For example, in the Fifth Youth Festival held on 13 July 2012, he said, 'over the past 21 years they [the conscripts] have lived up to the high responsibility entrusted them in line with the supreme duty of honouring the trust of the martyrs, and safeguarding the nation's sovereignty, in addition to laying firm ground for the nation-building process.'⁹

⁹ 5th National Youth Festival opened today in coincidence with commencement of 25th round National Service, 13 July 2012. Available at http://www.dehai.org/archives/dehai_news_archive/jun-dec12/0424.html

General Misperceptions of the ENS

Many people wrongly assume that the first six months conscripts of the ENS spend in Sawa receiving military training represents a military service. The remaining 12 months they spend taking part in development activities is also wrongly seen as constituting a separate civil service. This confusion does not emanate from the particular experience of Eritrea but rather from the experiences of other countries that have a policy of military service. What people do not realise is that in Eritrea, there is no military service. There is only *hagerawi agelglot* (national service) which is much more ambitious and broader than common military service. The Eritrean authorities never refer to the national service as *wotehaderawi agelglot* (military service). This concept is totally absent in the government's discourse. *Wotehaderawi tealim* (military training) in the Eritrean context is completely different from *wotehaderawi agelglot* (military service). The national service comprises six months military training (it is important not to confuse this with military service) and 12 months development work. The two aspects of the national service—namely, the military training and the simultaneous ideological indoctrination at Sawa Military Camp and the 12 months development work represent a continuum rather than a dichotomy. They are indivisible. They are two sides of the same coin—the coin being the ENS.

Methods of Conscription into the ENS

Before the deterioration of the ENS into forced labour,¹⁰ there were four methods of conscription. In a survey conducted by the author in 2012 among Eritrean refugees and asylum-seekers in the UK, Switzerland, Sweden, Norway, South Africa and Sudan who deserted and fled Eritrea after serving on average six years reported that 23 per cent went to Sawa to join the ENS voluntarily before receiving call up papers. Among the 190 respondents, 38 per cent went to Sawa after receiving call up papers. Another 20 per cent were conscripted through the Warsai School at Sawa at the end of 11th grade. The remaining 16 per cent were rounded up and forcibly taken to Sawa to join the national service. Among the total 190 respondents, 35 per cent were conscripted before the ENS became indefinite and all those who said they were rounded up joined the ENS after it became open-ended which suggests that the propensity to join voluntarily ceased as a result. During the border war, there were conscripts who joined voluntarily before receiving call up papers but not after the introduction of the WYDC, which turned the ENS into indefinite obligation and modern form of slavery.

¹⁰ See Gaim Kibreab, "Forced Labour in Eritrea" *Journal of Modern African Economy*, Vol. 47, No. 1:

Currently, the main mechanism of conscription is through the Warsai School at Sawa in which all secondary school students at the end of 11th grade are automatically transferred to Sawa to complete 12th grade under military discipline in combination with military training. A considerable number of citizens conscripted through varieties of ways also receive military training at Meiter military camp in the Southern Red Sea Region. These include draft evaders; individuals absconding from active national service, rounded up people and individuals caught either planning to flee or actually crossing the borders. Draft evaders sent to Meiter receive military training after being subjected to severe punishment for a couple of weeks or even months. However, draft dodgers who mainly comprise people who overstay authorised period of absence are often subjected to torture and indefinite detention in metal containers or underground cells. The worst punishment is meted out to people captured fleeing the border. The authorities perceive these acts as subversion. Underground detention and torture can last up to several years for some.

Exceptions and Exemptions

In Eritrea, there are no citizens that are *excepted* from the duty of performing national service in terms of being outside the purview of the ENS at all. This concept is foreign to the Eritrean reality. The principle of conscious objection is also equally foreign to the ENS. Although the proclamation on the ENS specifies the different categories that can receive exemption, with few exceptions, exemptions are granted on temporary basis until the condition of the individual concerned change. Citizens who performed national service prior to the promulgation of the Proclamation on National Service,¹¹ combatants and peasants who fought in the national liberation struggle are exempted.¹² Citizens declared unfit for the military by the board are exempt from undertaking military training but undertake 18 months in national service in different ministries and departments in a manner that is commensurate with their capability and skills. After completing the 18 months of national service, they are compelled to serve according to their capacity until the expiry of 50 years of age.¹³ These exemptions are not permanent. Even those who have been declared unfit by the board on health grounds may be called for national service if their health situation improves before the expiry of 50 years.¹⁴ Students in regular daily course were also exempted before 2003 provided they were not dismissed or dropped out for any reason. Certificates, diplomas and degrees were only awarded upon completion of national service.¹⁵ The provisions in Art. 14 (b, c) are superseded by the decision of the government to transfer students in regular daily attendance to Sawa to join national service at the end of

¹¹ Art. 12 (1) Proc. No. 82/1995

¹² Art. 12 (2) in *Ibid.*

¹³ Art. 13 (1) and (2) in *Ibid.*

¹⁴ Art. 14 (a) in *Ibid.*

¹⁵ Art. 14 (b, c) in *Ibid.*

11th grade. The common feature of these exemptions is that they are all temporary and the affected can be called for national service. The only exceptions are 'citizens who suffer from disability such as invalidity, blindness, psychological derangement.'¹⁶ In the course of conducting research in Eritrea, I have seen many citizens who were invalid, but also participating in national service without carrying guns or taking part in military training.

What happens to the conscripts who serve 18 months as required by the Proclamation on National service? Do they get demobilised?

This question was briefly addressed in the preceding sections. Nevertheless, in the following an attempt is made to show that since the border war broke out and the introduction of the WYDC, there has been no demobilisation of members of the national service. This is in spite of the government's repeated promises. On 12 December 2000, the Eritrean and the Ethiopian governments signed a peace agreement in Algiers under the auspices of the African Union and to some extent the United Nations, the European Union and the government of the United States. In the immediate post-Algiers peace agreement, the Eritrean government established a National Commission for the Demobilisation and Re-integration Programme (NCDRP) and a phased demobilisation programme of some 200,000 combatants was formulated. In the first phase, some 70,000 soldiers comprising of the old combatants (Yikealo)¹⁷ and conscripts of the ENS and the WYDC referred to by the government as Warsai¹⁸ were expected to be demobilised by the end of January 2003. These were going to be mostly women, people with scarce skills, family needs and sicknesses. In the second phase 60,000 combatants were expected to be demobilised by the end of July 2003. Due to uncertainties concerning funding, the government did not specify the exact time when the remaining 70,000 soldiers would be demobilised.¹⁹ The main funder of the planned disarmament, demobilisation and reintegration (DDR) was the World Bank.²⁰

However, none of these phased demobilisation programmes were implemented. The only exception was the pilot scheme under which about 5,000 soldiers the large majority of whom were disabled during the border war and a few members of the Yikaalo (individuals who fought in the war of independence) who were old and individuals with long-term illnesses—diabetics, asthmatics, etc. The latter were individuals who were demobilised between 1993 and 1994 due to advanced age and

¹⁶ Art. 15 (1) in Ibid.

¹⁷ Yikealo is the term used to refer to the men and women who fought in the war of independence. The term means someone who is capable of doing anything against all odds, even a miracle.

¹⁸ Warsai in Tigrinya means inheritor. Someone who inherits and carries on the legacy of heroism, responsibility and commitment to public cause—the nationalist cause.

¹⁹ International Monetary Fund, Country Report No. 03/1965, June 2003, p. 12.

²⁰ See World Bank, Technical Annex for a Proposed Credit of SDR 48.1 million (US \$ 60 million equivalent) to the State of Eritrea for an Emergency Demobilisation and Reintegration Project, 22 April 2002.

illnesses, but were re-enlisted between May 1998 and just before the beginning of Ethiopia's Third Offensive which took place in May 2000.

It was under desperate circumstances the government re-enlisted these individuals and when the peace agreement was signed and consequently some funds were made available, it wanted on the one hand, to appear to be doing something about demobilisation and on the other, to get rid of the individuals who were, *de facto*, redundant due to injuries, old age and poor health. Although theoretically the pilot scheme was implemented to provide lessons of good practice for large-scale phased programme of demobilisation, hitherto no such demobilisation has taken place.

Not only did the Eritrean government fail to demobilise the 200,000 soldiers as agreed with international donors, but as seen before, it also extended the obligation to perform national service indefinitely under a new label known as WYDC. This was contrary to the terms of the National Service Proclamation 11/1991 and its replacement Proclamation No. 82/1995, which limit the requirement of the service to 18 months.²¹ However, the proclamation on national service was overridden by the events that unfolded in connection with the border war and the introduction of the WYDC in May 2002. The breakout of the border war, Ethiopia's refusal to be bound by the decision of the Eritrean-Ethiopian Border Commission, the introduction of the WYDC in May 2002 and Eritrea's propensity to use the real or perceived threat of war as a pretext to militarise Eritrean society and to stifle the demand for democratic change have nullified the temporal limitation of the ENS.

Towards the end of 2004, the government stated that it would demobilise 65,000 conscripts. These were supposed to be people with scarce skills. However, notwithstanding the fact that some of the 65,000 were issued demobilisation ID cards, they were ordered to remain in their respective assignments for an additional two years without remuneration, i.e. until the end of 2006, but the government has not until this day demobilised them in spite of its promise. The official reason the government gives every time it reneges on its promise to demobilise is the unresolved border conflict with Ethiopia. There is yet no sign of a resolution of the problem and, therefore, there is no reason to believe that the government would demobilise the 65,000 soldiers or others. Consequently, the national service has become open-ended and consequently degenerated into forced labour or modern form of slavery.

The ENS in the Aftermath of the May 1998-June 2000 Border War and the Introduction of the Warsai-Yikealo Development Campaign (WYDC)

Although the proclamation on the ENS stipulates the duration as being

²¹ According to Proclamation 11/1991, the Minister (Secretary at the time) of Defence was given the discretion to determine the duration of the obligation of individual or groups of draftees within the range of 12 and 18 months.

18 months and the government strictly abided with the limitation prior to the border war, when war broke out in May 1998, the three cohorts of conscripts that were demobilised after completing 18 months were remobilised and those who were mobilised after May 1998 have never been demobilised on the grounds that war may break out against Ethiopia at any time. A study conducted by the author in different European and several African countries among deserters from the ENS also shows that on average the respondents had served 6 years on before the fled the country.

In May 2002, the government introduced the WYDC, which required those who were in the ENS to carry on serving indefinitely. The main reason the ENS has ostensibly become open-ended is because of the state of “no war no peace’ permeating the relationship between Eritrea and Ethiopia. For example, the US State Department’s report on human rights in Eritrea states, “National service obligations are effectively open-ended although the government does not acknowledge this circumstance.”²² Human Rights Watch in its comprehensive report titled **Service for Life: State Repression and Indefinite Conscription in Eritrea**²³ states, “Some citizens were reportedly enlisted in the national service for many years with no prospective end date.”²⁴ The report further states, “The government justifies its open-ended drat on the basis of the undemarcated border with Ethiopia.”²⁵

In the WYDC, the majority of conscripts of the ENS are assigned to the Eritrean Defence Forces (EDF) and those who are not assigned to the armed forces are regimented into different units and participate in productive activities as groups and/or individuals, such as urban housing development, construction of dams, roads, bridges, clinics, health centres, hospitals, schools, etc. They also work in state and PFDJ owned banks, commercial farms, construction sites and others. Regardless of the specific assignments, conscripts are allocated to; they are all within the purview of the ENS.

The Ministry of Defence also hires out conscripts of the ENS to private firms in which the latter pay their wages/salaries to the Ministry of Defence. Conscripts whether they are assigned to the defence forces, ministries, departments, PFDJ firms, state or private firms are paid uniform pocket money.

²² US State Department, 2010 Human Rights Report: Eritrea, BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR [2010 Country Reports on Human Rights Practices](http://www.state.gov/j/drl/rls/hrrpt/2010/af/154345.htm)

Report, April 8, 2011. Available at <http://www.state.gov/j/drl/rls/hrrpt/2010/af/154345.htm> (accessed 24 Oct. 14)

²³ Human Rights Watch, *Service for Life: State Repression and Indefinite conscription in Eritrea*, April 16, 2009, p. 83. Available at <http://www.hrw.org/reports/2009/04/16/service-life-0> (accessed 25 October March 2014)

²⁴ Ibid.

²⁵ Ibid.

When conscripts of the ENS are hired out to the private sector and the voluntary sector, the latter are required to pay their salaries to the bank account of the Ministry of Defence in accordance with the government's salary scale based on the academic and professional qualifications of the conscripts concerned. Regardless of whether conscripts are assigned to serve in the army or in the civil sector, they remain *abalat hegerawi agelglot* (members of the ENS).

In most cases, conscripts with low level or no education and vocational qualifications are assigned to serve in the army. Those with academic, professional and vocational qualifications are often assigned to work for the ministries, departments, regional governments, banks, modern farms owned by the state and/or the ruling party, the PFDJ within the framework of the national service.

Militarisation of Education

Present day Eritrea is among the most militarised countries in the world. Even the educational system is militarised. After the ENS became open-ended and consequently militarisation affected all aspects of life in the country, the unpopularity of the ENS among citizens within and/or approaching the age of conscription increased dramatically. This was reflected on the one hand, in the large number of people fleeing the country, and on the other, hiding within the country to avoid conscription. In an attempt to pre-empt this trend, in 2003 the government decided to increase the duration of secondary education by one year and relocated the final year students to Sawa where they combine military training with academic studies in which the former is prioritised.²⁶ After they complete 12th grade, the students who pass the matriculation tests join the different colleges to pursue post-secondary education, others are assigned to perform national service in different ministries, regional governments and PFDJ firms whilst the vast majority are assigned to the armed forces—the army, navy, air force and people's militia. Students who drop out for any reason or fail their exams are automatically sent to the armed forces. No student can graduate without completing the final year secondary school and military training at Sawa.

The post-secondary school colleges are also fully militarised. Those who are transferred to the colleges after completing 12th grade at Sawa are regimented in military units, companies, platoons, battalions and divisions and are headed by military commanders, as was the case in Sawa, as well as in the Eritrean military. This indicates the extent to which education is militarised in the country.

The Magnitude of the ENS/WYDC

²⁶ BBC, *Eritrea rapped for 'military' schooling*, 11 January 2004, available at <http://news.bbc.co.uk/2/hi/africa/3386965.stm>.

When considered in the context of Eritrea's small population size, which was estimated in 2011 at 5,415,000,²⁷ the proportion of nationals who have been participating in the ENS is significant. Statistics on the exact total number of conscripts are difficult to come by. However, during the 23rd Round National Service Graduation and 4th Eri-Youth Festival held at Sawa on 13-15 July 2010, the commander of the Sawa military training, Colonel Ezra Wodegebiel, said that the total number of conscripts during the last 16 years, namely, between July 1994 and July 2010 was 400,000.²⁸ This suggests that on average, 25,000 are conscripted per year. Since 2010, there have been four rounds. Between July 1994 and July 2013, there have been 475,000 conscripts in the ENS who have graduated from Sawa. The cohorts in the ENS in the 27th round graduated in July 2014. This brings the total to 500,000. During the 6th Youth Festival and 27th round national service graduation held on 18 July 2014, in a report he presented, the commander of the Sawa military training centre, Colonel Debesai Gide, stated, that the participants of the 27th round were from 83 secondary and 7 technical schools across the nation.²⁹ He also stated that they received the set military and academic training, in addition to development activities. Col. Debesai also stated that about 500 thousand youths have participated in national development and national resistance tasks over the past 20 years since the launching of the NSP [ENS].³⁰ Without taking into account the substantial number of the *agelglot* (conscripts) who have been fleeing the country, 9.2 per cent of the total population has been conscripted over a period of 20 years (1994-2014). It is not clear these statistics include the number of conscripts that received military training at Meiter and Kiloma military training camps.

Women in the ENS

The most contentious aspect of the ENS has always been women's participation. Many communities resisted the conscription of women from the outset.³¹ Although initially there were some differences in the intensity of the level of resistance of the different ethno-linguistic groups in the country, this aspect of the programme was deeply resented by all communities regardless of religion and ethnicity. The requirement to serve in the ENS applies to both men and women equally, but in the beginning there was some degree of public resentment to women's

²⁷ WHO (2013) Country Cooperation Strategy. Available at http://www.who.int/countryfocus/cooperation_strategy/ccsbrief_eri_en.pdf

²⁸ Shabait.com (2010) Eritrea Youth Festival in Sawa – 13th – 15th July 2012 Eritrean News, 16 July 2010. Available at <http://allafrica.com/stories/201007191567.html> (accessed 26 April 2012)

²⁹ Members of 27th National Service Students back home to their families. Available at <http://www.shabait.com/news/local-news/17601-members-of-27th-national-service-students-back-home-to-their-families>

³⁰ Ibid.

³¹ Last, A. (2002) *Eritrea cracks down on draft dodgers* BBC, July 18. Available at <http://news.bbc.co.uk/1/hi/world/africa/2135860.stm>

participation. When the first round of conscripts were about to be sent to Sawa to receive six months military training, the President held a public meeting with about 2,000 residents of Asmara. He was told by elders in the meeting, 'Some women do not want to leave their homes...'. He told the assembled in unequivocal terms, 'Whether they like it or not they will have to do so when they are called up.'³² Public objection to women's conscription persisted and the President repeated the same point in 2003 by observing, 'There cannot be different laws for men and women.'³³

The plea of Muslim elders concerning Muslim women's exemption from the ENS on the grounds of their faith and cultures was also adamantly rejected by the President who stated that the policy will apply equally to all Eritrean women regardless of their cultural or religious affiliation. His justification was: 'There cannot be different laws for different people in one country' (*Ibid.*). Public objection to Muslim women's participation was also equally dismissed by the former Minister of Local Government, Mahmoud Sherifo, as being a parochial idea espoused by individuals who either do not understand the meaning of religion or who want to use religion for other ends. 'These people,' he said 'do not want women to be educated, work and be equal to men.' He further stated, 'In countries, such as Iraq, Sudan and other Arab countries, women hold kalishnikovs, wearing their black [*hijab*] dresses.'³⁴ The Minister of Defence, Sibhat Ephrem, also dismissed the objection to women's participation as being a petty pre-occupation. 'We should not overstate secondary issues of women...which are practically insignificant when compared with our big national challenges.'³⁵

How about pregnant women and mothers? There is a tendency among immigration authorities and adjudicators to equate the national service to military service. Although there is no policy that exempts married women from serving in the military within the framework of the national service, under some circumstances, a married woman, especially women with children may be assigned to perform national service within the civil sector. This does not however mean that they are exempted from national service. After being married, depending on the arbitrary discretion of their commanders, women may not be required to serve in the army. But they are most likely to be required to perform national service in the civil sector. In the course of conducting research in Eritrea, the author saw hundreds of married women some of them mothers and pregnant working in government offices as secretaries, typists, word processors, janitors, cleaners and making coffee and tea for civil servants and military officers. The only difference between these female

³² *Eritrea Profile* (1994) "National Service—the facts," 4 June.

³³ TVERI (2003) Interview with President Isaias Afwerki, October 13.

³⁴ Mahmoud Sherifo (1995) Interview with Eritrean Television. Printed in *Eritrea Profile*, 28 January.

³⁵ Sibhat Ephrem (1995) "Precedence to National Sovereignty," *Eritrea Profile*, 18 November.

conscripts and other conscripts was that they lived with their families at home. The US Department of State's 2008 report released on February 25, 2009 states: 'The government required all men between the ages of 18 and 50 and women between the ages of 18 and 47 to participate in the national service program, which included military training and civilian work programs.'

Penalties for Desertion or Draft Evasion

The Proclamation on NS sets out the penalties for failure to abide by the rules, including draft evasion by 'deceit or self-inflicted mutilation, escape from, and flight from active national service or registration.'³⁶ Formally, the standard sanction is a fine of 3,000 Birr and/or two years' imprisonment. Those who flee abroad with the intention of avoiding national service and who fail to return to the country before the age of 40, the punishment increases to five years' imprisonment or until the person concerned reaches 50 years of age. Whoever fails to perform national service loses the right to own land, to obtain an exit visa to travel abroad, to work or to become self-employed. In short failure to perform national service leads to loss of full citizenship rights.

In addition to the penalties imposed under the Proclamation on National Service, the penalties stipulated in the Eritrean Transitional Penal Code (ETPC)³⁷ 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. Desertion is the most severely sanctioned and entails imprisonment for up to five years, but in times of mobilization or emergency this can increase from five years to life, or, in the gravest cases, death, for desertion from a unit, post or military duties or for failure to return to them after an authorized period of absence.³⁸ Since military courts are not operative, punishment for military offences is carried out extrajudicially. For example, those who resist being captured while border-crossing may be shot to death in accordance with the government's "shoot to kill" policy at both sides of the Eritrean border. Human Rights Watch, for example, states, 'Eritreans flee the country by the thousands despite "shoot-to-kill" orders for anyone caught crossing the border.'³⁹ It may be worth stating that it is not all people caught crossing borders that are killed. Only those who resist being caught by running away at the border are shot at with the intention to kill or to disable. Those who surrender voluntarily are not killed. They are often subjected to torture and long periods of

³⁶ See Art. 37 of the Proclamation on National service.

³⁷ *Eritrea Transition Penal Code (Proclamation No. 158 of 1957)*, 23 July 1957, available at <http://www.unhcr.org/refworld/docid/49216a0a2.html> (hereafter "ETPC").

³⁸ Articles 296 to 302 of the ETPC, above footnote 71.

³⁹ Human Rights Watch, World Report, 2009 events of 2008, P. 67. Available at http://www.hrw.org/sites/default/files/reports/wr2009_wb_1.pdf

incarceration without being charged.

Draft evaders/deserters are routinely subjected to torture and detention under severe conditions. In reality, punishment for desertion or draft evasion is extremely severe and is considered as disproportionate constituting persecution. For example, the landmark decision of the UK Asylum and Immigration Tribunal stated, 'a person who is reasonably likely to have left Eritrea illegally will in general be at real risk on return if he or she is of draft age, even if the evidence shows that he or she has completed Active National Service [...]. By leaving illegally while still subject to National Service, (which liability in general continues until the person ceases to be of draft age), that person is reasonably likely to be regarded by the authorities of Eritrea as a deserter and subjected to punishment which is persecutory and amounts to serious harm and ill-treatment. [...] Illegal exit continues to be a key factor in assessing risk on return.'⁴⁰ Another UK Upper Tribunal Immigration and Asylum Chamber in MO (illegal exit-risk on return) Eritrea CG [2011] UKUT 001190 (IAC) also reached a similar decision on 27 May 2011.⁴¹

The severity of punishment meted to citizens who refuse to perform national service can be indicated from the harsh treatments members of the Jehovah's Witnesses having been receiving at the hands of the Eritrean authorities. Jehovah Witnesses are forcibly conscripted against the canons of their faith and those who refuse are subjected to indefinite incarceration. There are members of the faith who have been in detention without being charged since 1994. In October 1994, a presidential decree barred them from government employment and from access to business licence or identification papers in reaction to their refusal to participate in the 1993 national referendum and national youth service, which preceded the ENS. It is not only Witnesses who fail to participate in the ENS that lose citizenship rights. Whoever refuses or fails to participate in the ENS loses citizenship rights, such as the right to own or cultivate land, to work or be self-employed, and gain access to travel documents and exit visa. In other words, whoever does not perform national service is stripped off all forms of citizenship rights. In fact, over time, refusal or failure to perform national service can result in indefinite incarceration and in exceptional cases to loss of life.

There have been incidents in which individuals have lost their lives resisting being captured during the notorious *giffas* (round ups) and when trying to cross the Eritrea-Sudan or Eritrea-Ethiopia borders to flee the country. For example, *Sudan Tribune* on 22 August 2014 reported, 'Eritrean border guards have allegedly shot dead 10 Eritrean citizens as they attempted to cross into Ethiopia, a recent escapee told Sudan

⁴⁰ See, for example, UK Asylum and Immigration Tribunal, MA (*Draft Evaders – Illegal Departures – Risk*) Eritrea CG [2007] UKAIT 00059. Available https://moj-tribunals-documents-prod.s3.amazonaws.com/decision/pdf_file/37868/00059_ukait_2007_ma_eritrea_cg.pdf

⁴¹ Available at <http://www.casecheck.co.uk/CaseLaw.aspx?EntryID=17280>

Tribune on Friday.⁴² Samuel Gedion said he was among a group of 18 Eritreans who were trying to flee to Ethiopia two weeks ago. 'Ten of them were killed, while three of us made it to Ethiopia. I am not sure on the fate of the remaining five,'⁴³ he said. This is one of many incidents that resulted in loss of lives.

Does it make a difference whether a person absconds within 18 months or after?

Whether one is assigned to the military or to the ministries, departments, banks, regional administrations, firms owned by the party or one is hired out to the private sector in the post-18 months duration of the national service does not change the fact that one is a conscript (*age/glot*). After May 1998, regardless of the nature of one's assignment, one is a member of the national service and is consequently under the auspices of the Ministry of Defence and military discipline. All members of the national service and the WYDC regardless of the length of time and nature of work they perform are considered to be in national service. They are all bound by the rules and regulations that regulate the national service. Therefore, whether one absconds within the 18 months or after constitutes a desertion. It does not also matter whether one absconds during the first six months of military training, during the subsequent 12 months, after 18 months or ten years in the service. Whoever deserts from the open-ended national service whether one is assigned to work as a soldier, a teacher, a banker, engineer, lawyer, nurse, medical doctor, bricklayer, mason, truck driver, manual worker, policeman, archivist, etc. is a deserter and is dealt with severely by the authorities.

The Extent to which the ENS is an Important Driver of Forced Migration

When Eritrea won its independence against all odds, Eritreans and regional and international observers thought that the conditions that force Eritrean nationals to flee in search of international protection were relegated to the dustbin of history for good. As history is rarely made to order, not only has independence failed to stem the flow, but the misfortune befalling post-independence Eritrean asylum-seekers and refugees are far worse than the ones faced by their compatriots during the liberation struggle. Hundreds of thousands have been fleeing post-independence Eritrea. The overwhelming majority of whom are deserters and draft evaders. In the course of attempting to reach safety, a large number suffer unimaginable tragedies at the Eritrea-Sudan and

⁴² 'Eritrean border guards shoot dead 10 civilians trying to flee', 22 August 2014. Available at <http://www.sudantribune.com/spip.php?article52134> (accessed 28 Sept. 2014).

⁴³ Ibid in Ibid.

Eritrea-Ethiopia border crossings where there is a “shoot to kill” policy.⁴⁴ There is also an imminent risk of being kidnapped in eastern Sudan⁴⁵ and in the Sinai (Egypt) where hundreds of Eritreans en route to Israel are taken hostages by heartless network of Bedouin criminals who demand enormous amounts of ransom for their lives.⁴⁶ Unknown but large numbers of lives are also wasted in the Sahara desert, the Red Sea and the Mediterranean Sea. Many Eritreans have also been languishing in different detention centres, police stations and the like in different countries, such as Libya,⁴⁷ Egypt.⁴⁸ and Israel. Many female conscripts en route to safety have also been subjected to gruesome sexual violence at the hands of ruthless smugglers, traffickers, corrupt military officers in Eritrea, Sudan, Egypt and Libya.⁴⁹

The question that arises therefore is why are so many young men and women fleeing to face death, uncertainty, suffering, deprivation and sexual violence from a country that fought a bloody thirty year war, *inter alia*, to bring to an end the conditions that previously (during the thirty year war) forced hundreds of thousands of Eritreans to flee in search of international protection elsewhere? Although the ultimate cause of forced migration in post-independence Eritrea is due to interplay between deeply entrenched and inextricably interconnected patterns of economic, social, political, environmental and human rights violations, as well as the pervasive inequalities that characterise the global North-South divide in living standards reinforced by the dense transnational networks that interconnect Eritreans world-wide; since 2002, the single most important driver of forced migration has been the open-ended ENS, its concomitant the WYDC and the resulting devastating social and economic consequences that have undermined the long-standing

⁴⁴ Human Rights Watch, World Report, 2009 events of 2008, P. 67. Available at http://www.hrw.org/sites/default/files/reports/wr2009_wb_1.pdf

⁴⁵ See Rachel Humphris, Refugees and the Rashaida: human smuggling and trafficking from Eritrea and Sudan and Egypt. Research Paper No. 254, New Issues in Refugee Research, UNHCR. Available at <http://www.unhcr.org/51407fc69.pdf>

⁴⁶ See Mirjam van Reizen, Meron Estifanos and Nonny Rejken, Human Trafficking in the Sinai: Refugees between Life and Death, Brussels, October 2012. Available at http://www.eepa.be/wcm/dmdocuments/publications/Report_Human_Trafficking_in_the_Sinai_Final_Web.pdf

⁴⁷ Human Rights Watch (2006) Libya: Stemming the Flow Abuses Against Migrants, Asylum Seekers and Refugees Part III of Three Parts Series, Vol. 18, No 5 (E). Available at <http://www.hrw.org/reports/2006/libya0906/libya0906webwcover.pdf>

⁴⁸ MacNeish, H. (2013) Eritrean Refugees Tortured for Ransom in 'Silent Tragedy'. Voice of America, April 24. Available at <http://www.voanews.com/content/eritrean-refugees-tortured-for-ransom-in-silent-tragedy/1648056.html> (accessed 04 May 4, 2013)

⁴⁹ See Gaim Kibreab, “Rape and Sexual Abuse in the Eritrean Army and National Service,” 2014 (forthcoming).

tenuous livelihood systems in the country. The indefinite ENS like a cancerous growth has been eating into the Eritrean polity.

Nearly all post-independence Eritrean asylum seekers and refugees are national service deserters and draft evaders. The latter include children who flee even at an early age to avoid the scourge of future conscription. Some among the asylum-seekers and refugees are members of minority Christian churches, such as the Pentecostals. The results of a survey in the UK conducted by the author in 2008 show that 27 per cent, 66 per cent and 5 per cent, respectively were draft evaders, deserters and members of the minority churches. The members of the minority churches were also at the same time either draft evaders or deserters. The results of another more comprehensive survey conducted by the author in 2012 in the United Kingdom, Switzerland, Sweden, Norway, South Africa and Kenya show that among the 190 respondents, 98 per cent had served in the ENS and the WYDC when they fled Eritrea. About 2 per cent are draft evaders. Although the overwhelming majority of post-independence Eritrean refugees and asylum seekers in Sudan and Ethiopia (and consequently everywhere else in the world) are deserters and draft evaders and members of the prohibited minority churches, there are a few former combatants who are not demobilised even though the cause they volunteered to fight for had come to an end *de facto* in May 1991 and *de jure* in May 1993.

The ENS, which was initiated as a legitimate policy of promoting nation-building, social cohesion and development of common Eritrean national identity, as well as economic development has, due to its indefinite and compulsory nature, degenerated into forced labour.⁵⁰ One of its many negative consequences has been depletion of the country's invaluable human resources and endangerment of the lives of many young men and women. The fact that the ENS and its detrimental effect on the social fabric and livelihood systems of Eritrean society are the major drivers of forced migration in the post-independence period can be indicated from the fact that In 1998, there were only four people who sought asylum in the Sudan. The corresponding figures for 1999 and 2000 were zero and 121, respectively. The total number of asylum-seekers who came to Sudan in 2003 was only 247. After the introduction of the WYDC, which rendered the ENS open-ended, the figures began to swell gradually reaching nearly 20,000 per year in 2009. At present, up to 2,000 Eritreans are arriving in Sudan every month, i.e. 24,000 per year. According to UNHCR estimates between 800-1000 new arrivals from Eritrea arrive at the camps in north western Tigray region every month.⁵¹ In Ethiopia, the statistics on post-independence Eritrean

⁵⁰ See Gaim Kibreab, "Forced Labour in Eritrea" *Journal of Modern African Studies* 47, 1 (2009): 41-2

⁵¹ UNHCR (end 2011) *Population Levels and Trends*.
<http://www.unhcr.org/516286589.html> (accessed 04 May 2013)

refugees and asylum seekers are not broken down according to the reasons why they left Eritrea, but there is little doubt that they are not substantially different from those in Sudan and in the UK. For example, with the exception of the Eritrean Afar asylum-seekers and refugees, the other Eritreans in Adi Harush, Shimelba and Mai-Aini refugee camps are predominantly male as is the case with the refugees in Sudan.

What is to be Done?

Post-independence Eritrean refugees are predominantly male and young and relatively well educated.⁵² They are therefore highly mobile. Data collected from deserters currently residing in Norway, Sudan, United Kingdom, Sweden, South Africa and Switzerland show that when they left Eritrea, none of them ever intended to live in Ethiopia or Sudan. Those who are still in the neighbouring countries are temporary "stranded birds of passage." They are trapped there but are nevertheless determined to disentangle themselves from their entrapment in order to emigrate to the global North by any means. Many of the Eritreans who seek asylum in Ethiopia or Sudan do not stay there for long. Many interviewees in the United Kingdom reported that they first went to Ethiopia from Eritrea and then crossed into Sudan through the border town of Hamdait using the services of smugglers. Prior to the construction of the barrier wall which made Israel impenetrable, most Eritreans tried to emigrate to Israel or Western Europe by employing the services of ruthless smugglers who handed them over to brutal Bedouin and Rashaida kidnappers and traffickers. Greg Beals writing for UNHCR from Mai-Aini refugee camp in northern Ethiopia, for example, states, '*Officials of UNHCR have expressed alarm at the number of refugees that are attempting to make the perilous journey from Ethiopia to third countries. A recent report indicated that as many as 80 percent of new arrivals at Shagarab [refugee camp in eastern Sudan] had come from Ethiopia*'⁵³ (emphasis added). Meleku Gutema, a UNHCR protection assistant at Mai-Aini camp, told Beals, "[Some] people come to Ethiopia as a transit stop." "They are looking to go to a third country, either to reunite with other family members or to get better job opportunities abroad."⁵⁴ Migration to Israel through Sinai has dried up completely and the route via Libya-Mediterranean Sea-Italy and to some extent Malta is now the only one available to Eritrean asylum-seekers to reach Europe in search of protection and better life.

Notwithstanding the fact that most of the post-independence Eritrean refugees who initially seek asylum in Ethiopia and Sudan are no longer there, neither the two governments nor UNHCR update their statistics.

⁵² IRIN (2011) Eritrea-Sudan: Refugees battling for a better life. available at <http://www.irinnews.org/Report/93118/ERITREA-SUDAN-Refugees-battling-for-a-better-life>

⁵³ Greg Beals, *Fear of compulsory recruitment drives Eritrean teen to flee home, in Mai-Aini Refugee Camp, Ethiopia, 19 March 2012*. Available at <http://www.unhcr.org/4f6777426.html>

⁵⁴ Cited in Ibid.

In reality, the small number of post-independence Eritrean refugees and asylum-seekers, who are still in Ethiopia and Sudan represent a small fraction of those who were initially registered as asylum-seekers. The host governments' and UNHCR statistics on Eritrean refugees in Ethiopia and Sudan are therefore obsolete. The statistics are based on registration of new arrivals. If 80 per cent of those who cross into Ethiopia subsequently leave for Sudan en route to Israel and Western Europe, the actual number of Eritrean refugees in the country must be a small fraction of those who were registered in the camps initially.

Although statistics on those who perish en route are difficult to come by, there is not doubt that a considerable number of those who leave Sudan for Western Europe via the Sahara desert and the Mediterranean Sea perish in between. As Michael Owor, UNHCR's official in northern Ethiopia stated, 'many of the refugees just perish.'⁵⁵ (quoted in Beals 2012). Worse still the world knows nothing or very little about those who vanish in the thin air in between. The history of post-independence Eritrean refugees is the history of survivors.

As seen earlier, 24,000 Eritreans are fleeing the country every year as a result of the indefinite ENS and the inextricably associated factors, such government repression, economic hardship, indefinite incommunicado detention, extrajudicial killings, disappearances and torture. The destination of those who have left Eritrea and those who are planning to leave in the future is the global North. Trafficking and smuggling of Eritrean asylum-seekers is already a multi-million industry. There are already worldwide dense criminal networks involved in smuggling and trafficking of Eritreans. With the worsening conditions in Eritrea, the number of those determined to vote with their feet is likely to rise dramatically. Unless there is a political change that stems the flow at the source, not only are thousands of lives likely to be wasted en route to safety, but the number of asylum seekers who will knock at European countries' doors will rise dramatically. In view of the unexpected rise of right-wing political parties in the countries that have been receiving Eritrean refugees, such as Sweden, Norway and UK, the potential dangers cannot be understated.

⁵⁵ Quoted in Ibid.