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High Commissioner and the Secretary-General**

Situation of human rights in Eritrea

Report of the Special Rapporteur on the situation of human rights in Eritrea, Mohamed Abdelsalam Babiker*

Summary

The present report is submitted pursuant to Human Rights Council resolution 50/2, in which the Council extended the mandate of the Special Rapporteur on the situation of human rights in Eritrea for one year and requested the mandate holder to present a report on the implementation of the mandate to the Council at its fifty-third session.

In the report, the Special Rapporteur describes the human rights situation in Eritrea, with a focus on the indefinite national/military service and its impact on the economic, social and cultural rights of Eritreans, on the state of the rule of law and the administration of justice, and violations of civil and political rights, including prolonged and arbitrary detentions and enforced disappearances. In his report, the Special Rapporteur highlights the situation of the Eritrean Afar Indigenous communities who continue to be subjected to discrimination, persecution and interference in their traditional means of livelihood. He also outlines persisting challenges in the protection of Eritrean refugees and asylum-seekers in the region and beyond. The report concludes with recommendations to the Government of Eritrea and to the international community.

* Agreement was reached to publish the present report after the standard publication date owing to circumstances beyond the submitter's control.



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I. Introduction

1. The present report is submitted pursuant to Human Rights Council resolution 50/2, in which the Council extended the mandate of the Special Rapporteur on the situation of human rights in Eritrea for one year and requested the mandate holder to present a report on the implementation of his mandate to the Council at its fifty-third session. The report covers the period from 23 April 2022 to 24 April 2023.
2. There were no signs of progress in the human rights situation in the country during the reporting period. On the contrary, in recent years, the Special Rapporteur has observed a deterioration in a number of areas.
3. In the present report, the Special Rapporteur highlights the human rights impacts of national/military service, as well as of the intensification of military conscription across the country, the lack of rule of law and challenges in accessing justice in Eritrea, and violations of civil and political rights. The Special Rapporteur also draws attention to the situation of the Afar people in Eritrea and raises the need to strengthen the protection of Eritrean refugees globally.
4. The Special Rapporteur proposes recommendations to the Government of Eritrea and to the international community. He urges Eritrea, as a member of the Human Rights Council, to uphold the highest standards in the promotion and protection of human rights and to fully cooperate with the Council and its mechanisms. Non-cooperation puts the credibility and integrity of the Human Rights Council and the United Nations human rights system as a whole in question.

II. Methodology

5. The Special Rapporteur could not conduct a visit to the country to gather first-hand information or exchange information with Eritrean authorities on the human rights challenges facing the country consequent to the continuing lack of cooperation and denial of access by the Government of Eritrea.
6. As a result, the present report is based on first-hand information gathered by the Special Rapporteur through interviews with victims and witnesses of human rights violations, Eritrean refugees and Eritreans in the diaspora, and other confidential sources. The Special Rapporteur also monitored the human rights situation through engagement with a wide range of actors who provided valuable information and support, including civil society organizations, United Nations agencies, members of the diplomatic community, human rights defenders, academics, researchers and other experts. The Special Rapporteur is grateful to all the individuals and organizations that cooperated with his mandate, and especially to the victims and witnesses who shared their experiences and life stories with him.
7. The findings presented in this report have been documented and corroborated in strict compliance with the Code of Conduct for Special Procedure Mandate Holders of the Human Rights Council and the Manual of Operations of the Special Procedures of the Human Rights Council. The Special Rapporteur exercised due diligence in assessing the reliability of sources and carried out an independent verification and impartial analysis of the information collected. The Special Rapporteur ensured informed consent from all sources interviewed and took appropriate measures to guarantee confidentiality, including the anonymization and careful selection of the information presented in this report in order to protect victims and witnesses and observe the principle of “do no harm”.
8. A draft report was shared with the Government of Eritrea in order to provide it with the opportunity to comment on the observations and findings of the Special Rapporteur. Consistent with its practice, the Government of Eritrea did not provide comments on the report, nor did it respond to the requests for information or for meetings to exchange views on the situation of human rights in the country.

III. Activities

9. During the reporting period, the Special Rapporteur met with victims, witnesses, members of civil society, United Nations agencies, public institutions, and diplomats and government officials representing various interested States, to discuss the human rights situation in Eritrea and exchange views about initiatives and actions to promote the rights of Eritreans, both inside the country and abroad.

10. The Special Rapporteur visited the United Kingdom of Great Britain and Northern Ireland from 1 to 10 December 2022. During the visit, he met with a variety of stakeholders and institutions to discuss the human rights situation in Eritrea, as well as the protection of refugees in the country. The Special Rapporteur expresses his sincere appreciation to the Government of the United Kingdom for the cooperation and support provided during his visit.

11. On 10 October 2022, the Special Rapporteur briefed the Inter-Parliamentary Union Committee on the Human Rights of Parliamentarians at a hearing regarding the case of the 11 disappeared Eritrean Members of Parliament. The objective of the hearing was to raise awareness among the global parliamentary community and to call upon the international community to act.

12. On 27 October 2022, the Special Rapporteur participated in an interactive dialogue of the Third Committee, which was held during the seventy-seventh session of the General Assembly. On 6 March 2023, he participated in an enhanced interactive dialogue with the Deputy High Commissioner for Human Rights and a civil society activist from Eritrea, as well as representatives of member States and civil society at the fifty-second session of the Human Rights Council. A representative of the Government of Eritrea participated from the floor, as the country concerned.

13. On 27 May and 29 July 2022, the Special Rapporteur submitted letters to the Government of Eritrea requesting to meet with its representatives and to visit the country. However, the Special Rapporteur has not received a response.

IV. Cooperation and engagement with international and regional human rights mechanisms

14. During the period under review, the cooperation and engagement of Eritrea with the universal and regional human rights mechanisms continued to be limited. Eritrea has several overdue reports for submission to the United Nations treaty bodies, including the Committee on Economic, Social and Cultural Rights, the Committee on the Elimination of Racial Discrimination and the Committee against Torture. Eritrea also failed to submit a report to the Human Rights Committee in 2019. Most of the recommendations issued by human rights mechanisms, including those emanating from the special procedures, treaty bodies and the universal periodic review in 2019, remain unimplemented.¹

15. As of April 2023, Eritrea has not yet ratified three core international human rights treaties and seven optional protocols.² In its voluntary national review of progress towards the Sustainable Development Goals, published in July 2022, the Government of Eritrea

¹ Eritrea accepted 131 of the 261 recommendations that ensued from the third cycle of the universal periodic review. A full list of recommendations is available at: www.ohchr.org/en/hr-bodies/upr/er-index.

² The International Convention for the Protection of All Persons from Enforced Disappearance; the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families; the Convention on the Rights of Persons with Disabilities and its Optional Protocol; the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights; the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women; the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; the Optional Protocol to the Convention on the Rights of the Child on a communications procedure; and the two optional protocols to the International Covenant on Civil and Political Rights.

claimed to be in the process of preparing to accede to the remaining core international human rights treaties.³ However, as at the date of drafting the present report, Eritrea has not adopted any additional human rights instruments.

16. Eritrea also has a mixed record of cooperation with the African Commission on Human and Peoples' Rights. The Special Rapporteur is particularly concerned about the failure of Eritrea to comply with the decisions of the Commission regarding the incommunicado detention of political opponents and journalists.⁴ The Special Rapporteur stresses the importance of regional human rights mechanisms for the advancement of human rights and encourages Eritrea to cooperate with the Commission and abide by its decisions.

17. The Government of Eritrea continued to reject the mandate of the Special Rapporteur and to refuse him access to the country. Visit requests by thematic special procedures, including by the Working Group on Arbitrary Detention, the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment and the Special Rapporteur on the rights to freedom of peaceful assembly and of association, have also gone unanswered. Since his appointment, the Special Rapporteur has repeatedly expressed his sincere willingness to engage constructively with the Government of Eritrea, including through written communications and during his oral statements at the Human Rights Council and the General Assembly.⁵ However, he has not yet had the opportunity to meet with representatives of the State. The Special Rapporteur reiterates his interest in and commitment to establishing a dialogue with the authorities with the objective of supporting the advancement of human rights in the country.

18. The Special Rapporteur emphasizes that, as a member of the Human Rights Council, Eritrea has a duty to uphold the highest standards in the promotion and protection of human rights and to fully cooperate with the Council. This includes cooperation with its special procedures, including the Special Rapporteur on the situation of human rights in Eritrea. The Special Rapporteur urges Eritrea to strengthen cooperation and engagement with human rights mechanisms, institutions and organizations, including with the African Commission on Human and Peoples' Rights and with the Office of the United Nations High Commissioner for Human Rights (OHCHR).

19. In a statement before the Human Rights Council, the Deputy High Commissioner for Human Rights stated that, following engagement with the State authorities and two visits to the country by OHCHR, five areas had been identified for potential technical cooperation. However, the Deputy High Commissioner regretted that the Eritrean authorities had not responded to the follow-up by OHCHR regarding its offer to provide technical assistance, nor relating to the country's involvement in the conflict in Tigray.⁶

V. Regional developments

20. The Special Rapporteur welcomes the signing of a peace agreement between the Government of Ethiopia and the Tigray People's Liberation Front on 2 November 2022, whereby both parties agreed to a permanent cessation of hostilities. The agreement is a crucial step forwards towards ending the Tigray conflict in Ethiopia, which lasted two years and had devastating consequences with the loss of hundreds of thousands of lives and the commission of grave human rights violations.

³ Eritrea, Ministry of Finance and National Development, *Eritrea and the 2030 Agenda: Voluntary National Review of Progress Towards the Sustainable Development Goals* (Asmara, 2022).

⁴ *Zegveld and Ephrem v. Eritrea*, communication No. 250/2002, Decision, November 2003; *Article 19 v. Eritrea*, communication No. 275/2003, Decision, May 2007; and *Isaak v. Eritrea*, communication No. 428/12, Decision, February 2016.

⁵ The Special Rapporteur submitted additional letters to the Government of Eritrea requesting to meet with its representatives and to visit the country on 27 May and 29 July 2022.

⁶ Statement by the Deputy High Commissioner for Human Rights on 6 March 2023, during the enhanced interactive dialogue on human rights in Eritrea, at the fifty-second session of the Human Rights Council.

21. Since the conflict broke out in November 2020, the Special Rapporteur has repeatedly raised the alarm over the grave human rights violations committed by Eritrean troops in the context of the Tigray conflict, including the participation of the Eritrean Defence Forces in large-scale massacres, sexual and gender-based violence, looting, obstruction of humanitarian assistance, destruction of civilian infrastructure and refugee camps, and kidnapping and targeted attacks against Eritrean refugees.⁷ The Special Rapporteur has also brought to the fore the situation of Eritrean refugees in Ethiopia, and the severe human rights impacts of the involvement of Eritrea in the war on the human rights situation in the country.⁸ As detailed in section VI of the present report, as well as in previous reports of the Special Rapporteur, the Eritrean authorities have conscripted thousands of citizens to participate in the conflict through force and coercion, including children, older persons and returned refugees.

22. Despite its central role in the conflict, Eritrea was absent from the peace talks and the agreement for the cessation of hostilities makes no mention of Eritrea. However, the agreement states that the Ethiopian National Defence Forces “shall be deployed along the international boundaries of Ethiopia ... [and] safeguard the sovereignty, territorial integrity and security of the country from foreign incursion and ensure that there will be no provocation or incursion from either side of the border”.⁹ Furthermore, a declaration signed on 12 November in Nairobi by Ethiopian and Tigrayan military officials, setting out the details for the implementation of the agreement, provided that the Tigrayan disarmament process “will be done concurrently with the withdrawal of foreign and non-[Ethiopian National Defence Forces] from the region”, without specifically referring to Eritrean forces.¹⁰

23. However, and despite the progress made since November, with the withdrawal of Eritrean forces from several key towns, the Special Rapporteur has continued to receive information regarding the presence of the Eritrean Defence Forces in the Tigray region of Ethiopia. The Special Rapporteur received information as late as March 2023 indicating that Eritrean forces were present in some areas of northern, western and central Tigray. The Special Rapporteur is gravely concerned that the prolonged and continued presence of Eritrean Defence Forces in Tigray could derail the peace process in Ethiopia, pushing the country into renewed conflict.

24. The Special Rapporteur commends the African Union for its leadership in the peace process and highlights the important role of the Joint Committee for the implementation of the agreement and of the Monitoring, Verification and Compliance Mechanism established by the African Union. However, the Special Rapporteur notes that the peace agreement does not foresee any accountability mechanism or measures to promote access to justice. It is silent on the responsibility of Eritrea for the grave violations committed by its defence forces and fails to recognize the death and destruction endured by Eritrean refugees and asylum-seekers during the war and to call for their protection.

25. The Special Rapporteur has not received any information regarding criminal investigations or judicial processes initiated against members of the Eritrean Defence Forces or Eritrean authorities for their alleged roles in the commission of grave human rights and humanitarian law violations in Ethiopia. He urges the Ethiopian and Eritrean authorities to take all steps necessary to address impunity for human rights violations committed by the Eritrean Defence Forces and to ensure victims’ access to justice, reparations and non-repetition guarantees.

⁷ A/HRC/50/20, paras. 17–19 and 68 and 69; and A/HRC/47/21, paras. 14–23.

⁸ A/HRC/50/20, paras. 66–74; and A/HRC/47/21, paras. 63–76.

⁹ Article 8 of the agreement for lasting peace through a permanent cessation of hostilities between the Government of the Federal Democratic Republic of Ethiopia and the Tigray People’s Liberation Front, Pretoria, 2 November 2022.

¹⁰ Article 2 (d) of the declaration of the senior commanders on the modalities for the implementation of the agreement for lasting peace through a permanent cessation of hostilities between the Federal Republic of Ethiopia and the Tigray People’s Liberation Front, Nairobi, 12 November 2022.

26. Since 2018, there has been a diplomatic rapprochement between Eritrea and Djibouti.¹¹ However, and despite the efforts of the Secretary-General and the support of the Security Council, there has been no noticeable progress on the outstanding issues between them.¹² Crucially, despite repeated requests by Djibouti and by international mediators, Eritrea has continued to refuse to provide information about the fate of the 13 Djiboutian prisoners of war that remain unaccounted for since June 2008, and has denied having any Djiboutian prisoners of war in its custody. The matter of the Djiboutian prisoners of war has been raised by the Special Rapporteur and his predecessors in several reports.¹³ Djibouti submitted a communication about the prisoners to the African Commission on Human and Peoples' Rights,¹⁴ which the Commission declared admissible in February 2019. However, it was withdrawn by Djibouti on 24 May 2021.

VI. National/military service

27. Eritrea has a policy of indefinite national service, which includes a civil service component and a compulsory military service component. Despite the numerous recommendations made by human rights bodies, the commission of inquiry on human rights in Eritrea and the Special Rapporteur¹⁵ and the recommendations ensuing from the 2019 universal period review,¹⁶ no progress has been made towards reforming national service, ensuring that the legal limits for its duration are respected or protecting the rights of citizens serving in the programme.

28. While Eritrea maintains that national service is unfairly judged, the Special Rapporteur continues to receive numerous and credible reports of grave human rights violations in the context of forced national/military service. The Special Rapporteur continued to document accounts of Eritrean refugees and asylum-seekers who escaped or survived national service. They recounted their lived experiences of torture or inhuman or degrading treatment, sexual and gender-based violence, forced labour and abusive conditions. The right to conscientious objection is not recognized in Eritrea, and deserters and draft evaders continued to be subjected to arbitrary detention in highly punitive conditions, enforced disappearance and torture.

29. Eritrean asylum-seekers and refugees interviewed by the Special Rapporteur continued to point to national service as the main driver of forced migration from Eritrea. The national service programme, which was ostensibly put in place for the furtherance of national development, is in practice undermining development by forcing young persons to leave the country.

A. Forced conscription into national service

30. The patterns of conscription outlined by the Special Rapporteur in 2021 and 2022, as a result of the involvement of Eritrea in the war in Tigray, continued and intensified during the reporting period. The Special Rapporteur identified an upsurge in forced recruitment between mid- and late 2022, as well as the use of increasingly coercive practices to mobilize the population and force individuals to participate in military action in Ethiopia.

31. Until November 2022, the war in Tigray, which commenced in November 2020, was still ongoing, as was conscription for deployment to the warfront. The Eritrean army conducted large-scale conscription operations across the country. The Special Rapporteur

¹¹ S/2021/695 (letter from the Secretary-General to the President of the Security Council); and Security Council resolution 2662 (2022), para. 49.

¹² Security Council resolution 2662 (2022), para. 49.

¹³ A/HRC/47/21, A/HRC/44/23 and A/HRC/41/53.

¹⁴ *Republic of Djibouti v. the State of Eritrea*, communication 478/14.

¹⁵ Previous reports of the Special Rapporteur have dealt extensively with human rights violations in the context of national/military service. See also A/HRC/50/20, paras. 21–35; A/HRC/47/21, para. 82; A/HRC/32/47, para. 121; and A/HRC/29/42, paras. 92 and 93.

¹⁶ Eritrea did not accept any of the 21 recommendations on national service during the third cycle of the universal periodic review in 2019.

received information about heavy round-ups, or “giffa” in Tigrinya, which escalated in August 2022.

32. Eritrean conscripts continued to be forced to participate in national/military service under threat of severe punishment to themselves and their families. The authorities compelled families to hand over family members, including children, for conscription into national service or deployment to Tigray. The Special Rapporteur was told by many witnesses about the increasing pressure placed on the families of draft evaders, and of collective punishment of entire families or of individual family members, in order to force those who try to avoid conscription to report for duty.¹⁷

33. In some cases, families were forcibly evicted from their homes. Security forces carried out round-ups and door-to-door searches in efforts to identify persons that they considered to be draft evaders. However, at times, the authorities found that the concerned individuals had already fled, often seeking refuge in forests and woodlands. Witnesses reported that, while families were initially fined for failing to produce their relatives for conscription, since mid-2022 the Government had resorted to evicting families from their homes, including children, pregnant women and older persons, locking in their belongings, confiscating their livestock and even detaining family members. Moreover, if neighbours attempted to assist or house those evicted, they were threatened by the authorities. As a result, families were left destitute and were forced to erect makeshift shelters to protect themselves from the elements. Family members were also arbitrarily detained in order to force their relatives to report for duty.

34. According to information received by the Special Rapporteur, in the second week of August, Eritrean soldiers rounded up, ill-treated and detained residents of five villages, Akrur, Adi-Finie, Hebo, Adi-Qontsi and May-Ela, situated in the Segeneiti subregion, and in the neighbouring villages of Ma’ereba and Adi-Abu’ur in the Hadegeti subregion. Reportedly, the families of draft evaders were targeted: they were tortured, evicted from their homes and had their farming equipment, livestock, grain and vegetables confiscated. In September 2022, reservists over 50 years of age, and according to reports up to 70 years old, were called upon to serve in Tigray and in the border areas with Ethiopia. Similar incidents were reported in Megaila, Digsä, Brahaketi and some parts of Asmara, which took place around August 2022.

B. National/military service and its impact on economic, social and cultural rights

35. National service continued to have negative impacts on economic, social and cultural rights, including on the rights to quality education, decent work, an adequate standard of living, including adequate housing, and private and family life.

36. The Special Rapporteur acknowledges efforts by the Government to improve the quality of and access to education in the country, including through technical support provided by United Nations agencies, with the training of 2,611 teachers, enabling approximately 80,000 students to benefit from better teaching, and the completion of school construction projects to benefit lower-secondary students, among other initiatives.¹⁸ However, the Special Rapporteur emphasizes that without a significative reform of national service, these efforts will continue to be thwarted by a system that deprives young Eritreans of hope in a better future and pushes children to make desperate, perilous journeys out of fear of being subjected to human rights violations.

37. The increase in widespread and indiscriminate round-ups resulted, among other things, in a significant number of school-age children being removed from school and conscripted into the military. Furthermore, in order to avoid conscription, children are abandoning their studies to go into hiding and/or flee the country at an ever-younger age.

38. The requirement that all young boys and girls undertake their last year of secondary education at Sawa military academy to complete military training also continued to

¹⁷ See also Human Rights Watch, “Eritrea: crackdown on draft evaders’ families: collective treatment over forced conscription campaign”, 9 February 2022.

¹⁸ United Nations Country Team Eritrea, *2022 UN Annual Results Report* (Asmara, 2023), p. 27.

discourage students from finalizing their studies. Witnesses told the Special Rapporteur that the quality of the education that students receive at Sawa is inadequate and the majority of students do not attain the necessary grades for further education. As a result, they are recruited directly into national/military service. Persistent ill-treatment of students by Sawa military officials, including instances of sexual harassment and sexual violence against women and girls, have a negative impact on their right to receive education in a secure and conducive environment.¹⁹

39. The University of Asmara was closed in 2006 and higher learning was replaced by colleges. However, their qualifications are not internationally recognized. As a result, young Eritreans who flee the country face difficulties in having their studies recognized. The Eritrean authorities also retain graduates' certificates, in order to confine young, educated Eritreans within the country's borders by restricting their prospects for success abroad.

40. Forced conscription has changed life in Eritrea in a fundamental way. Family life has been severely affected. Forced conscription has generated an environment of fear and destroyed the Eritrean social fabric. Eritreans conscripted into the military often go for years without seeing their families, and children grow up with absent fathers. It was reported to the Special Rapporteur that women and girls often become pregnant at a young age to avoid military service. Young boys and men forced to flee the country are also torn apart from their families. Draft evaders face arrest, detention and enforced disappearance. Witnesses interviewed by the Special Rapporteur highlighted the psychological toll on Eritrean families, especially on mothers, as children are usually removed from their custody while the male members of the family are not present as they are usually already performing national service. A witness told the Special Rapporteur: "When you build a house, they take it, when you have children, they take them."

41. Mothers often have to raise children by themselves, placing a heavy burden on Eritrean women. The low wages received by conscripted individuals, both in the military and civilian national service, create dire financial challenges for families. This situation severely affects the right of Eritreans to an adequate standard of living for themselves and their families, including the rights to adequate food, clothing and housing, and to the continuous improvement of living conditions.

VII. Rule of law and the administration of justice

A. Institutional framework

42. April 2023 marked 30 years since President Isaias Afwerki came into power in Eritrea. President Afwerki has since refused to implement the Constitution of 1997; he governs the country without the rule of law, a division of powers and any checks, balances or constraints on his power.

43. Eritrea lacks a minimum institutional infrastructure for the administration of justice and the protection of human rights. The justice system lacks independence and follows the directives of the presidency. Due process rights continue to be systematically violated. Impunity for human rights violations is entrenched. Not only has the Government failed to provide access to justice and redress to victims of human rights violations, but it also has not revised the relevant policies or practices that lead to the commission of such violations. The Special Rapporteur notes that the lack of access to independent justice institutions that Eritreans can resort to and seek redress has contributed to generating a perpetual human rights crisis, with the continued commission of human rights violations, some of which amount to crimes against humanity.

¹⁹ See previous reports of the Special Rapporteur: A/HRC/50/20, paras 22 and 35; A/HRC/47/21, para. 38; A/HRC/44/23, para. 38; and A/HRC/41/53, para. 29. See also CCPR/C/ERI/CO/1 and CEDAW/C/ERI/CO/5.

B. Arbitrary detention and enforced disappearance

44. Thousands of persons continued to be arbitrarily detained in the framework of the Government's policy of a permanent crackdown on dissent. Eritrea continued to target and imprison real or perceived government critics and opponents without any access to due process rights, such as access to a lawyer, judicial review of the legality of the detention and without any legal process. Journalists, political opponents or politically active individuals, artists, people of faith, draft evaders and returned asylum-seekers continued to be arbitrarily detained, in many cases for prolonged periods of time.

45. Conditions of detention in Eritrea violate human rights standards and human dignity. Detainees are held in extremely overcrowded and unsanitary conditions, without access to health care, water, sanitation or sufficient food. Torture and inhuman or degrading treatment are widespread practices in the context of detention.

46. The Special Rapporteur is gravely concerned by the situation of many Eritreans who remain disappeared. The majority of them have been disappeared for years, or even decades, leaving their families in a state of permanent uncertainty and unresolved grief. In many cases, relatives believe that the victims remain in incommunicado detention, held in undisclosed or secret locations, while in other cases those disappeared are believed to have been killed or to have died in detention.

47. Previous reports of the Special Rapporteur have documented cases of disappeared persons, including journalists, former members of the Government known as the "G-15" and even children. In all such cases, Eritrea has not acknowledged their deprivation of liberty and has concealed the whereabouts of the disappeared persons, hence placing them outside the protection of the law.

48. The widespread and systematic practice of enforced disappearance constitutes a crime against humanity as defined in applicable international law. The Special Rapporteur urges the Human Rights Council to exert maximum pressure on Eritrea to address the disappearance of dozens of Eritreans, spanning decades, by revealing their whereabouts and immediately releasing those held in arbitrary detention.

VIII. Civic and democratic space

A. Freedoms of expression and opinion and the right to participate in public affairs

49. Civic space continued to be completely closed in Eritrea. The People's Front for Democracy and Justice is the only authorized party and there is no space for the participation of civil society, the articulation of any form of political opposition, the expression of critical views or the free exchange of ideas and opinions.

50. Freedom of the press and the media continued to be non-existent. Independent as well as international media cannot operate in the country. The only media outlets are those directly controlled by the Ministry of Information. Eritrea is one of the countries with the most limited access to the Internet in the world, restricting Eritreans' right to seek, impart and receive information from various sources. In 2022, Reporters Without Borders named Eritrea the second most restrictive country as regards press freedoms.²⁰ Some 16 journalists, including Swedish-Eritrean journalist and poet Dawit Isaak, have been disappeared for more than 20 years, making them the longest detained journalists in the world. There is also no information regarding the 11 former members of the Government, the so-called G-15, who have been detained since 2001.

51. The widespread and systematic repression of the exercise of civil and political rights – including the rights to freedom of association, assembly, expression and opinion and to participate in public life – continued to have a chilling effect and to stifle attempts to organize

²⁰ See <https://rsf.org/en/country/eritrea>.

or to express any form of dissent. However, Eritreans in the diaspora continued to come together to advocate, denounce the situation and promote human rights and democracy in the country.

B. Freedom of religion or belief

52. The situation of freedom of religion or belief in Eritrea continued to deteriorate during the reporting period, with renewed waves of arrests of people of faith and continued restrictions on the right to worship and to manifest one's religion or belief, including through teaching, practice and observance. Sunni Islam, Eritrean Orthodox, Roman Catholic and Lutheran remained the only four government-authorized religious denominations in the country.

53. Hundreds of religious leaders and adherents of unrecognized denominations, primarily members of the Jehovah's Witnesses and the Pentecostal and Evangelical Christian faiths, remained in prolonged and sometimes incommunicado detention in inhuman and degrading conditions, without formal charges or access to legal recourse. According to civil society organizations, as of April 2023, an estimated 400 Christians and 27 Jehovah's Witnesses (18 men and 9 women) remained arbitrarily imprisoned.

54. According to civil society sources, in September 2022, 150 Christians were reportedly arrested at a gathering in the Godaif area of Asmara. While some women and children were released, 98 people remained in detention in Mai Serwa prison. The sources indicated that another 39 women and 5 men, all Christians, were arrested in raids in January 2023 and also sent to Mai Serwa prison. On 19 March 2023, 30 Christians who had gathered to worship in Keren were allegedly detained. There is no information about their whereabouts. The Special Rapporteur was also informed about the alleged arrest and imprisonment of 103 young Christians in mid-April 2023, for trying to record Christian music on YouTube.

55. The Special Rapporteur received credible information indicating that between February and March 2023, 11 Christians were released from Mai Serwa prison. Some of them had been incarcerated for periods of between 2 and 10 years. There are also unconfirmed reports about the release of five other Christians from a prison in Assab.

56. The Government's repression of freedom of religion also affected permitted denominations and religious leaders continued to be targeted. In recent years, and in spite of the highly controlled and repressive context, Catholic churches have played an important role in publicly voicing concerns about the situation of human rights in the country. As a result, the Government has sought to suppress the voice and influence of churches. The Special Rapporteur received information regarding the arrests of three Catholic priests in October 2022, who had been detained in Adi Abeito prison and released in late December 2022. On 15 February 2023, Yeneta Ezra, an Orthodox monk and strong supporter of the late Eritrean Orthodox Church Patriarch, Abune Antonios, was reportedly found dead in his monastery. The circumstances of his death remain unclear. Furthermore, at least 44 Orthodox monks were detained in April 2023. According to the allegations received, the monks were supporters of the late Patriarch, who passed away in February 2022, following 16 years of arbitrary detention under house arrest.²¹

57. The Special Rapporteur regrets the passing of Tesfay Seyoum, a Pentecostal pastor and founder of the Meserete Kristos Church. Mr. Seyoum had been detained in Mai Serwa prison for 10 years and died as a result of a brain haemorrhage. The Special Rapporteur is concerned about reports that, following his death, the authorities denied permission for a funeral and to bury Mr. Seyoum in the location chosen by his family and, consequently, his body remained unburied for several days.

²¹ A/HRC/50/20, para. 47.

IX. Situation of the Afar Indigenous communities

58. The Afar people are Indigenous to Eritrea. They live in the Dankalia Region, also known as the Southern Red Sea Region, a geopolitically strategic coastal area of Eritrea. The Afar are one of the most disenfranchised communities in Eritrea. For several decades, they have been subjected to discrimination, harassment, arbitrary arrests, disappearance, violence and widespread persecution.²² The Afar Indigenous ethnic group has also been prevented from carrying out their traditional occupation, namely fishing. These violations and abuses have interfered with their traditional means of livelihood, eroded their culture, caused displacement and threatened their way of life.²³ Indigenous Peoples' cultural life is indispensable to their existence, well-being and full development, and includes the right to the lands, territories and resources that they have traditionally owned, occupied or otherwise used or acquired.²⁴

59. The measures put in place by the Government of Eritrea, ostensibly as part of its response to the coronavirus disease (COVID-19) pandemic, caused the displacement of Afar Indigenous communities from their traditional territory of Dankalia. The main economic activities of the Afar are fishing and trading with neighbouring States – Djibouti, Ethiopia, and Yemen. According to multiple sources, the Government has blocked all access to Dankalia by sea and road since the onset of the pandemic, prevented the Afar from fishing and withheld humanitarian assistance, resulting in starvation in the region.

60. Over the years, the mandate of the Special Rapporteur has received numerous and credible allegations regarding the arbitrary detention and/or enforced disappearance of Afar fisherfolk. While some of them have been released, many remain unaccounted for, with no further information available on their fate. Those who are released, as well as the families of those detained, are instructed not to enquire about the goods and boats confiscated during the arrests. Those who attempt to recover their property from the Government are threatened with imprisonment and prohibitive fines into millions of nakfa.

61. On 28 August 2022, the Eritrean navy seized fishing boats and detained between 80 and 100 Afar fisherfolk off the coast of Bara'sole and took them to Assab prison. They were then handed over to the 38th Military Division, which was responsible for carrying out round-ups of conscripts in the Southern Red Sea Region, and taken to Ras Tarma, the Eritrean navy defence hub near Assab port. They were later transferred to Tehadiso prison, also in Assab, where they reportedly remain in detention. On 9 September 2022, the Eritrean navy captured several members of a family in Buri, when they were returning from Yemen, where they had sold their fish. Their boat and cargo were seized and they were taken to Galalu navy detention centre.

62. The Special Rapporteur has observed discriminatory treatment of the Afar Indigenous People by the authorities in the provision of fundamental services, such as education, access to decent work and livelihoods, health services and humanitarian assistance. The Afar Indigenous People's right to free, prior and informed consent in relation to the management and exploitation of their lands continues to be systematically violated, and they have little access to information to empower them to effectively participate in the matters that affect them.

X. Situation of Eritrean refugees and asylum-seekers

63. Eritrea continues to see its population draining out of its territory relentlessly. According to the Office of the United Nations High Commissioner for Refugees (UNHCR), in 2022, there were 501,677 Eritrean refugees and 76,071 asylum-seekers globally. Ethiopia

²² A/HRC/44/23, paras. 54–56; A/HRC/41/53, para. 51; and A/HRC/32/47, paras. 87 and 88.

²³ See article 15 of the International Covenant on Economic, Social and Cultural Rights on the right to culture; article 26 (3) of the United Nations Declaration on the Rights of Indigenous Peoples; and Committee on Economic, Social and Cultural Rights, general comment No. 21 (2009).

²⁴ United Nations Declaration on the Rights of Indigenous Peoples, art. 26 (1).

and the Sudan are the two countries hosting the largest populations of Eritrean refugees worldwide, followed by Germany, Sweden and the Kingdom of the Netherlands.²⁵

64. The right to leave and to enter one's own country continues to be highly restricted. Eritreans are still required to obtain an exit visa in order to leave their own country. The vast majority of Eritreans do not have access to an exit visa, as this requires justification for travel. They are often issued based on personal connections and they are denied to persons of conscription age, which in practice, in recent years, encompasses those aged between 15 and 70 years of age. Most Eritreans do not own a passport and its issuance also requires validation by the authorities.

65. The cessation of hostilities in Tigray has led to an improvement in humanitarian access and aid delivery and to a relative improvement in the conditions and security of Eritrean asylum-seekers and refugees in the region. However, the need for assistance continues to be high, affecting both Tigrayans and the large communities of Eritrean refugees residing in Tigray. Of note, the peace agreement does not contain any specific provisions about the protection of Eritrean refugees, whether in Tigray or in other regions of Ethiopia. In this complex context, the Special Rapporteur highlights the plight of Eritrean refugees and calls on the Ethiopian authorities to provide them with protection against refoulement, access to humanitarian assistance and basic services, and redress and reparations for losses that they have incurred in the camps during the armed conflict in Tigray.

66. Approximately 57,000 registered Eritrean Afar refugees are hosted in the Afar Region in Ethiopia. Witnesses interviewed by the Special Rapporteur raised concerns about the security in refugee camps in the area, highlighting several incidents at Asayita camp. Additionally, the Special Rapporteur received information from multiple sources indicating that Eritrean Afar refugees and asylum-seekers have been denied access to asylum procedures in Ethiopia. Witnesses complained about discriminatory treatment from officials of the Ethiopian Administration for Refugee and Returnee Affairs, allegedly due to their ethnicity. In practice, lack of access to asylum procedures and documentation result in a denial of access to shelter, food and medical care for Eritrean Afar refugees.

67. Furthermore, since 2015, many Afar asylum-seekers who arrived in Asayita have become homeless because requests for registration at the camp have not been efficiently processed by Ethiopian officials. According to information received by the Special Rapporteur, in August 2022, there were some 3,000 Afar refugees awaiting registration at the Asayita refugee camp in the Afar Region of Ethiopia.

68. The Special Rapporteur is concerned about the fate of 1,683 Eritrean refugees at the Markazi camp in Obock, Djibouti, where, according to camp residents, the registration of Eritrean refugees and asylum-seekers has been reportedly discontinued. There are also concerns that Eritrean Afar refugees and asylum-seekers who have arrived in Djibouti may be resettled to third countries in Africa. Representatives of Eritrean Afar refugees have informed the Special Rapporteur that they feel safe at the camp and would not wish to be resettled.

69. The Special Rapporteur has observed policy, legislative and judicial developments in some host countries that affected Eritrean refugees and asylum-seekers. The continuing deportations of Eritrean asylum-seekers from Egypt to Eritrea are of particular concern to the Special Rapporteur. Despite his continued engagement with the Egyptian authorities, Egypt has continued to expel groups of Eritreans without conducting individual assessments of the risks, in violation of the principle of non-refoulement. As he has previously raised with the Government of Egypt, upon their return to Eritrea, deportees face the risk of persecution and of being subjected to human rights violations, including arbitrary detention, torture and inhuman or degrading treatment, forced labour and forced conscription.²⁶ Several deported Eritreans have not been seen or heard from since their return, and are believed to have been

²⁵ Data for 2022 are available up until the mid-year at: www.unhcr.org/refugee-statistics/download/?url=Py3Pei.

²⁶ Communication EGY 13/2021; and OHCHR, "Egypt: UN experts condemn expulsions of Eritrean asylum seekers despite risks of torture, arbitrary detention and enforced disappearance", 13 April 2022.

arbitrarily detained and/or forcibly disappeared, while others are forced to take part in hostilities. The Special Rapporteur is also alarmed about the detention of Eritrean asylum-seekers for months or years in inadequate and degrading conditions, and without access to a lawyer or to asylum procedures.

70. The Special Rapporteur is concerned about the situation of Eritrean asylum-seekers and refugees in the Sudan, where hundreds of Eritreans were arbitrarily arrested and detained during the reporting period. Between August 2022 and March 2023, the police and security services intensified immigration control operations targeting Eritreans in the capital, Khartoum. In the majority of cases, refugees were arrested during raids on their homes and workplaces, and detained on the grounds that they lacked identity documents, residence permits or valid permits to move outside the refugee camps in eastern Sudan. Eritreans were asked to pay high and disproportionate fines of 300,000 Sudanese pounds (approximately, \$500). Those who were unable to pay the fine were sent to prisons in Khartoum for an indefinite period, until relatives or friends could pay it. Vulnerable members of the Eritrean community in the Sudan informed the Special Rapporteur that the entire refugee population in the capital was living in an atmosphere of fear, in hiding and too afraid to leave their houses. The Special Rapporteur urges the Government of the Sudan to halt the arbitrary detention of refugees without due process of law, and to respect its national laws, including the 2014 Asylum Act, and its international obligations under the 1951 Convention relating to the Status of Refugees and the 1969 Organization of African Unity Convention Governing the Specific Aspects of Refugee Problems in Africa.

71. Courts in host countries played an important role in the protection of the rights of Eritrean refugees and diaspora communities, notably in Germany and the Kingdom of the Netherlands.²⁷ In July 2022, the highest administrative court of the Kingdom of the Netherlands, the Council of State, found that national military service in Eritrea constituted a violation of article 3 of the Convention for the Protection of Human Rights and Fundamental Freedoms (European Convention on Human Rights), regarding the prohibition of torture and inhuman or degrading treatment and, therefore, the risk of being subjected to military service constitutes grounds for granting asylum. In its decision, the Council of State referred to the reports and information provided by the Special Rapporteur through an amicus submission. The ruling is not only an important positive step towards enhancing protection for Eritreans in the Kingdom of the Netherlands, but it also represents a confirmation by the Council of the unlawful nature of Eritrean military service and its incompatibility with human rights standards.

72. The Special Rapporteur notes with concern some worrying trends that place Eritrean refugees and asylum-seekers in situations of increased vulnerability. In June 2022, the United Kingdom introduced changes to the asylum system in breach of the Convention relating to the Status of Refugees, with the adoption of the Nationality and Borders Act 2022.²⁸

73. The Act penalizes asylum-seekers who arrive in the country through irregular means and creates a two-tier system of refugee processing. “Group 1” refugees are those who have arrived in the United Kingdom directly from a country or territory where their life or freedom was threatened, and who presented themselves to the authorities immediately upon entry. Group 1 refugees have access to five years’ renewable status and access to family reunification. However, “Group 2” refugees, who do not fulfil the requirements mentioned above, have no right to family reunification and are granted a renewable temporary stay for 30 months. These provisions are of particular relevance to Eritreans, given that the requirement of an exit visa to leave the country renders it virtually impossible for Eritrean asylum-seekers to enter the United Kingdom lawfully or to travel into the country directly from Eritrea.

²⁷ The Federal Supreme Administrative Court of Germany ruled in October 2022 that Eritrean refugees and asylum-seekers must no longer be forced to obtain papers from the Eritrean Embassy in order to access German travel documents. The Court found that the requirement by Eritrean embassies that Eritreans sign a “declaration of repentance” in order to obtain a passport constituted coercion.

²⁸ See also Office of the United Nations High Commissioner for Refugees, *UNHCR Updated Observations on the Nationality and Borders Bill, as Amended: January 2022* (Geneva, 2022).

74. The Special Rapporteur welcomes the efforts made by several European States to protect Eritreans against coercion by Eritrean diplomatic missions and officials in host countries into paying the 2 per cent “recovery and rehabilitation tax”. The Special Rapporteur stresses that, while States are entitled to tax their nationals, including nationals residing abroad, the system for the exaction of the 2 per cent tax is inherently coercive and results in the abuse of vulnerable Eritreans. As previously documented by the Special Rapporteur, for Eritrean refugees and members of the diaspora, failure to pay 2 per cent of their global income results in the denial of access to all documentation, certificates and basic services necessary for Eritreans living in the diaspora, as well as their family members. As a result, Eritreans in the diaspora and their families in Eritrea are denied access to their fundamental human rights, which is conditional on the payment of the tax and the signing of a “regret form”. In some instances, the requirement to pay the tax is accompanied by threats and harassment. The Special Rapporteur encourages countries hosting Eritreans to adopt measures to protect them against this practice.

XI. Conclusions and recommendations

75. As described in this report, the situation of human rights in Eritrea remains a source of serious concern. While the agreement for the cessation of hostilities reached between the Government of Ethiopia and the Tigray People’s Liberation Front is a highly welcomed positive development, Eritrea is not mentioned in the agreement, and has not yet fully withdrawn from the Tigray region of Ethiopia, placing the stability of the region and the consolidation of peace in jeopardy. Furthermore, no progress has been made towards addressing related human rights issues, such as forced conscription, including of children and older persons, the practice of forced labour and the indefinite duration of national/military service, and the arbitrary detention and cruel or inhuman punishment of draft evaders. The issue of the lack of accountability and access to justice for victims, and the prevailing impunity for human rights violations committed by Eritrean forces in Ethiopia since the armed conflict erupted in Tigray in November 2020, are also of great concern to the Special Rapporteur.

76. National service continued to have negative impacts on the economic, social and cultural rights of Eritreans, including their rights to access quality education, to decent work, to an adequate standard of living, including to adequate housing, and to private and family life. Forced conscription has destroyed the Eritrean social fabric and torn families apart. Eritrean conscripts often go for years without seeing their families, children grow up with absent fathers, young boys are forced to flee the country and girls compelled to marry and start a family too young.

77. Rule of law continued to be non-existent in Eritrea, and civic space remained completely closed, allowing no expression of dissent, no free or independent dissemination of information and no civic or democratic participation. Hundreds of Eritreans continued to be arbitrarily detained for their real or perceived opposition to the Government and dozens remained disappeared, often for years or even decades.

78. The Afar Indigenous People continue to be subjected to discriminatory treatment, harassment, persecution, arbitrary arrest and interference with their traditional means of livelihood. While progress has been made in some countries of asylum, significant challenges remain for the protection of refugees and asylum-seekers in destination and transit countries.

79. The Special Rapporteur notes that the High Commissioner for Human Rights and human rights mechanisms, such as the Committee on the Elimination of Discrimination against Women and the universal periodic review, have outlined ways in which the human rights challenges of Eritrea can be addressed. However, the vast majority of the recommendations issued by these bodies remain unimplemented. The Special Rapporteur therefore reiterates these recommendations.

80. The Special Rapporteur recommends that the Government of Eritrea:

(a) Put an immediate end to human rights violations documented by the Special Rapporteur and the commission of inquiry on human rights in Eritrea, including the ongoing violations highlighted in the present report;

(b) Engage constructively with the mandate of the Special Rapporteur, as well as with other human rights mechanisms and organizations;

(c) Release immediately and unconditionally all those unlawfully and arbitrarily detained, including members of the political opposition, journalists, prisoners of conscience, people of faith and draft evaders and their families;

(d) End the practices of enforced disappearance and arbitrary detention, reveal the whereabouts of victims of enforced disappearance and establish an efficient and transparent system for the registration of detainees;

(e) Introduce adequate monitoring and accountability mechanisms to prevent torture and inhuman or degrading treatment;

(f) Ensure that all detainees are in official places of detention and are afforded due process rights;

(g) Ensure that persons deprived of their liberty are treated with humanity and dignity, in accordance with the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules);

(h) Investigate allegations of human rights violations in the context of military/national service, including of torture and rape and sexual violence at the Sawa military training camp, and bring perpetrators to justice;

(i) Develop effective rule of law institutions and ensure the administration of justice by independent, qualified and professional individuals, including an independent judiciary, attorney general and review bodies;

(j) Take steps towards creating a conducive environment in which the Eritrean people can participate freely in the conduct of public affairs of their country; independent media and civil society can operate without constraints or interference; and individuals and communities are free to practise their faith;

(k) Investigate the allegations of human rights and humanitarian law violations by Eritrean armed forces in the context of the conflict in Ethiopia since November 2020 and take measures to bring perpetrators to justice;

(l) Refrain from subjecting Indigenous communities to discriminatory practices, including arbitrary arrests, and respect and protect their traditional ways of life and means of livelihood;

(m) Immediately and completely withdraw any remaining Eritrean forces from Ethiopia.

81. The Special Rapporteur recommends that member States and international organizations:

(a) Keep Eritrea under close scrutiny until consistent, verified and tangible improvements have been made with regard to the human rights situation;

(b) Ensure that human rights issues remain at the core of all engagement with the country, and include human rights guarantees in the negotiation of development cooperation projects and investment in Eritrea;

(c) Exercise universal jurisdiction over alleged crimes against humanity and initiate legal proceedings against individuals responsible for the commission of international crimes and violations of human rights law and international humanitarian law, in accordance with the national legislation of member States;

(d) Exert maximum pressure on the Government of Eritrea to end the two-decade practice of enforced disappearance, torture, arbitrary and incommunicado detention and persecution of thousands of political opponents, journalists, critical voices, prisoners of conscience and people of faith;

(e) Urge the Government of Eritrea to develop and adopt concrete plans to address the country's significant human rights challenges, with specific actions, timelines and benchmarks;

(f) Urge the Government of Eritrea to fulfil its obligation as a member of the Human Rights Council to engage with the Council, as well as with its special procedures, and to uphold the highest standards in the protection and promotion of human rights in Eritrea and globally;

(g) Provide protection and assistance to Eritrean nationals fleeing the country due to a risk of persecution or of being subjected to human rights violations, in accordance with the provisions of international law governing asylum, and respect the principle of non-refoulement;

(h) Support Eritrean human rights defenders and civil society organizations in their efforts to promote human rights in Eritrea and to support Eritrean refugees and asylum-seekers in host countries, as well as Eritrean victims of human rights violations in their search for justice;

(i) Urge the Ethiopian and Eritrean authorities, as well as the Tigray People's Liberation Front, to take all steps necessary to ensure the consolidation of the November 2022 peace agreement, and to address impunity for the commission of grave human rights and humanitarian law violations. In particular, ensure that Eritrean refugees and asylum-seekers victims of human rights violations have access to justice and reparations for the crimes committed against them.
