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Eritrea Country Report on Human Rights Practices for 1996

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ERITREA

Eritrea became an independent state in May 1993, following a U.N.-supervised referendum in which citizens voted overwhelmingly for independence from Ethiopia. The Eritrean People's Liberation Front (EPLF), which led the 30-year war for independence, has been in control of the country since it defeated Ethiopian army forces in 1991, and its leader, Isaias Afwerki, serves as the President. The EPLF, renamed the People's Front for Democracy and Justice (PFDJ), has outlined an ambitious program for transition to a democratically elected government by 1997. In April 1994, the National Assembly, partly appointed by the PFDJ leadership and partly elected, created a 50-member National Constitution Commission to draft a constitution by mid-1996. The Commission presented a draft to the public in September and debate continued through the end of the year. The draft constitution provides for democratic freedoms, including the rights of free assembly, free speech, and free association.

The Government made a sustained effort to reduce the armed forces, over 95,000 strong by the end of the war for independence, to its current 47,000 strength. The police are generally responsible for maintaining internal security, although the Government may call on the army, the reserves, and demobilized soldiers in times of internal disorder. The army is responsible for external and border security. Since 1993 the army has been forced to deal with the Eritrean Islamic Jihad (EIJ), a small, Sudan-based insurgent group that has mounted sporadic terrorist attacks in western Eritrea.

Eritrea underwent a transition from a centrally planned economy introduced by the former Ethiopian military dictatorship to a free-market economy introduced through the recent privatization of state-owned enterprises and liberalization of investment and trade. The economy is largely based on subsistence agriculture, with over 70 percent of the population of 3.6 million involved in farming and herding. The small industrial sector consists mainly of light industries with outmoded technologies. International economic assistance accounts for a significant portion of external revenues. The country is extremely poor, with an annual per capita income of less than \$150.

The Government continued to enjoy strong public support and generally respected the rights of its citizens with the exception of Jehovah's Witnesses. Because of their refusal to vote or to participate in certain aspects of national service for religious reasons, the Government has

imposed economic, employment, and travel restrictions on all Jehovah's Witnesses. A government proclamation issued in May requires that all ~~private and nongovernmental~~ organizations (NGO's) hire those who have completed their national service tour, demonstrating the Government's resolve to establish a national service program as a legal obligation of all citizens regardless of their religious beliefs. The Government has yet to permit prison visits, and an unknown number of persons suspected of association with the Ethiopian Mengistu regime, radical Islamic elements, or terrorists organizations remain in detention. The undeveloped judicial system limits the provision of speedy trials. There are no domestic human rights organizations. Despite the Government's efforts to support rights of women, they generally have a lower status than men, and female genital mutilation (FGM) remains widespread.

RESPECT FOR HUMAN RIGHTS

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

a. Political and Extrajudicial Killing

There were no reports of political or other extrajudicial killings.

b. Disappearance

There were no reports of politically motivated disappearances.

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

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

Prison conditions are Spartan but generally not inhuman. The Government does not permit prisoners to correspond with family and friends and restricts visitation privileges. There were no confirmed reports that prisoners were beaten or may have died due to lack of proper medical care. The Government does not permit independent monitoring of conditions in detention facilities.

d. Arbitrary Arrest, Detention, or Exile

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

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

e. Denial of a Fair Public Trial

The judiciary is independent, and there were no known incidents of executive interference in the judicial process over the past year. The undeveloped judicial system, however, suffers from a lack of trained personnel, resources, and infrastructure that in practice limits the State's ability to grant accused persons a speedy trial. At independence Eritrea chose to retain the Ethiopian legal system based on the Napoleonic Code, until the new constitution is promulgated, which is expected in late 1997. Under this Code, simple crimes are brought to the lower court and are heard by a single judge. Serious crimes are tried publicly by a panel of three judges, and defendants have access to legal counsel, usually at their own expense. Although there is no formal public defender's office, the Government has successfully requested that attorneys work without fee to represent defendants accused of serious crimes who are unable to afford legal counsel. Defendants may appeal verdicts to the Appellate Court, which is composed of a president and five judges.

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

Crimes committed by members of the military are handled by military courts.

There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

Under the law, warrants are required before the Government can monitor mail, telephones, or other means of private communication. Warrants also are required in routine searches and seizures, except in cases where authorities believe individuals may attempt to escape or destroy evidence. There is no indication that the Government monitored private mail or telephone service.

The Government may ban any foreign publication from entering the country, and the press proclamation forbids the local reprinting of articles from banned publications.

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The draft constitution, when enacted, will provide for freedom of speech and of the press, and citizens were generally free to express opinions in various forums. The Government controls all media, which include three newspapers, one radio station, and one television station. The

Government continued to restrict the rights of the religious media to comment on politics or government policies. In theory nonreligious print media are free to criticize the Government. Nonetheless, criticism tends to be limited and fairly mild. Although there is no formal censorship body, it is likely that the media practice at least some self-censorship.

The Government's press proclamation allows for individuals to publish newspapers, although there are no privately owned newspapers or magazines published. It does not allow for private ownership of any broadcast media. The proclamation requires that all newspapers obtain a license from the Ministry of Information before publication and that all reporters register with the Ministry. The Government may also punish "whosoever insults, abuses, defames, or slanders the Government or one of the constituted legislative, executive, or judicial authorities," and forbids the publication of any matter that contravenes general morality.

Once the constitution is ratified, it will become the law of the land and all proclamations that conflict with it will be annulled. The constituent assembly, once elected, is expected to ratify the new constitution by mid-1997.

Eritrea has one institution of higher education, the University of Asmara. All faculty members, including many from outside the country, are accorded full academic freedom.

b. Freedom of Peaceful Assembly and Association

The Government requires a permit from the Ministry of Internal Affairs for a public meeting or demonstration. In general permits are granted freely for nonpolitical meetings or gatherings, and although no political demonstrations have occurred, there were no reports that permits for political demonstrations were denied. The draft constitution states that every citizen shall have the right to form organizations for political, social, economic, and cultural ends. However, the PFDJ has stated its opposition to the formation of religiously or ethnically based parties.

c. Freedom of Religion

Although the draft constitution provides for freedom of religion, the Government has banned religious organizations from any involvement in politics. A July 1995 proclamation lists specific guidelines on the role of religion and religious affiliated NGO's in development and government, stating that development, politics, and public administration are the sole responsibility of the Government and people. As a result, religious organizations may fund, but not initiate or implement development projects. The proclamation also sets out rules governing relations between religious organizations and foreign sponsors.

The draft constitution provides for the "freedom to practice any religion and to manifest such practice." However, government persecution of the small community of Jehovah's Witnesses continued. In October 1994, the Government revoked the trading licenses of Jehovah's Witnesses

and dismissed those who worked for the civil service. This government action resulted in economic difficulties for the Jehovah's Witnesses, especially former civil servants and businessmen.

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

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

The proposed constitution would provide fully for the rights of movement and emigration. In general citizens may live where they choose and travel freely internally. Some areas are restricted for security reasons. In particular, clashes between government forces and Eritrean Islamic Jihad members have led the Government to restrict travel along much of the border with Sudan. Some areas remain heavily mined, a legacy of the war for independence, leading to additional travel restrictions.

Citizens are largely free to travel outside the country, although the Jehovah's Witnesses, former ruling party members, those who have not completed national service, and intending emigrants have been denied passports or exit visas and can only leave the country by traveling overland to Ethiopia. In general citizens are guaranteed the right to return. Instances in which citizens living abroad have run afoul of the law, contracted a serious contagious disease, or been declared ineligible for political asylum by other governments are considered on a case-by-case basis. A pilot refugee return program resulted in the successful repatriation of 25,000 refugees from Sudan in 1995. A further 100,000 of the 300,000 refugees in Sudan are scheduled to begin repatriation under the auspices of the U.N. High Commissioner for Refugees.

Section 3 Respect for Political Rights: The Right of Citizens to Change Their Government

Citizens do not currently enjoy this right, and credible reports suggest that authority within the Government is very narrowly held. The transitional government is dominated by the PFDJ.

The National Assembly in 1994 created a 50-member National Constitution Commission to draft a democratic constitution. The Commission completed a draft in July, and planned a series of public debates with presentation of a final draft to the National Assembly by year's end. The Constitution Commission also planned to finish drafting election laws. Elections for the constituent assembly are scheduled to take place by late 1997 or early 1998. Ratification of the constitution is expected to take place soon thereafter with elections for a new National Assembly in the summer 1997.

In an effort to encourage broader participation by women in politics,

the PFDJ named 3 women to the party's executive council and 12 women to the Central Committee. Women occupy seats on the Constitutional Commission and in the National Assembly and hold senior government positions, including the ministerial portfolios of justice and tourism. As part of a draft plan to establish regional legislatures, 30 percent of legislative seats would be reserved for women, who would also be able to compete for remaining seats.

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

The Ministry of Foreign Affairs and the Ministry of Internal Affairs are jointly responsible for handling human rights inquiries. All NGOs also must register with the Eritrean Relief and Refugee Commission. There are no domestic human rights organizations in Eritrea. The Government reported no applications or registrations of human rights NGOs during the past year.

In 1995 the Government proclaimed that religious organizations, including religious-based NGOs, could not engage in development activities. The Government also removed religious-based indigenous NGOs completely from relief work in order to prevent the development of church-based organizations receiving money from abroad. All foreign NGOs are considered to be providing technical advice. If they are in Eritrea for more than 183 days, NGOs must pay an income tax of 38 percent of their salaries and allowances. This tax situation encourages the departure of NGOs and the loss of technical assistance.

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

The Transitional Civil Code prohibits discrimination against women, children, and people with disabilities.

Women

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

The Government consistently advocated improving the status of women, many of whom played a significant role as fighters in the struggle for independence. In 1991 the provisional EPLF Government codified a broad range of rights for women, providing for equal educational opportunities, equal pay for equal work, and legal sanctions against domestic violence. In 1994 the Third Party Congress advocated more rights for women, including parity in the right to the use of land and other property. However, much of society remains traditional and patriarchal, and most women have an inferior status to men in their homes and communities. The law provides a framework for improving the status of women, but laws are unevenly implemented, because of both a lack of capacity in the legal system and ingrained cultural attitudes. In practice, males retain privileged access to education, employment, and control of economic resources, with disparities greater in rural areas than in cities.

Women aged 18 to 40 participate, by law, in the National Service Program.

Children

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

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

People with Disabilities

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

Section 6 Worker Rights

a. The Right of Association

There are no government restrictions regarding the formation of unions, including in the military, the police, and other essential services. Labor association is encouraged by the Government, which promulgated Proclamation 8 in 1991 providing workers with the legal right to form unions and to strike to protect their interests. The Government is presently rewriting the labor code, but it must wait until the new constitution is ratified. The National Confederation of Eritrean Workers, which was part of the EPLF during the war, has reorganized since independence and become independent of both the Government and the PFDJ. It represents over 20,000 workers from 129 unions. The largest union is the Textile, Leather, and Shoe Federation.

There were no strikes reported in 1996.

b. The Right to Organize and Bargain Collectively

Eritrea is a member of the International Labor Organization (ILO) and worked closely with the organization in 1993 to prepare the draft labor code, which prohibits antinunion discrimination by employers and establishes a mechanism for resolving complaints of discrimination. The Government has indicated its intention to ratify several key ILO conventions on labor--freedom of association, the right to bargain, a labor administration system, and prohibitions against child labor--but

still has not done so. The Ministry of Labor and Human Welfare indicated that ratification of the conventions may not occur until after the new constitution is promulgated. Wages are determined by the market.

There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor

There is no law or signed convention prohibiting compulsory labor. There were no known instances of forced labor. All citizens between 18 and 40 are required to participate in the national service program, which includes military training as well as civic action programs. High school students are also required to participate in a summer work program, for which they are paid.

d. Minimum Age for Employment of Children

The legal minimum age for employment is 18 years, although apprentices may be hired at age 16. While the Ministry of Labor and Human Welfare is responsible for enforcement of laws pertaining to employment of children, there is no inspection system in place to monitor compliance. According to labor officials, 50 percent of children are not able to attend school due to a shortage of schools and teachers. Rural children who do not attend classes often work on their family farms, while urban children are often street vendors of cigarettes, newspapers, or chewing gum.

e. Acceptable Conditions for Work

There are two systems regulating employment conditions: The civil service system, and the labor law system. There is no legally mandated minimum wage in the private sector. In the civil service sector wages vary from \$40 to \$473 (2,500-3,000 birr per month), with factory workers (in Government-owned enterprises) earning the highest wages. The minimum wage does not provide the average worker and family a decent standard of living.

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

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