



ERITREAN ASYLUM CLAIMS

SUMMARY BY THE AMERICA TEAM FOR DISPLACED ERITREANS

A. Introduction.

The America Team for Displaced Eritreans is a 501(c)(3) non-profit organization that assists Eritrean refugees in the U.S. and internationally, including through advocacy, asylum support, overseas rescues, and resettlement assistance. The purpose of this document is to provide a ready summary of human rights abuses and other circumstances within Eritrea that may help inform U.S. asylum officers, immigration judges and others in evaluating Eritrean asylum claims.

More specifically, this document points and refers principally to nine reports about human rights conditions within Eritrea that have been issued by leading human rights bodies. (It also refers to a number of other sources.) Online readers may access the nine principal reports by clicking on the respective links, as follows:

1. United States Department of State – Bureau of Democracy, Human Rights and Labor, released in 2016 for events of 2015 ("DOS") (partly relying on the reporting of other human rights bodies): <https://2009-2017.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm#wrapper>

2. United States Department of State – Office of International Religious Freedom, released in 2016 for events of 2015 ("IRF") (partly relying on the reporting of other human rights bodies): <https://www.state.gov/reports/2016-report-on-international-religious-freedom/eritrea/>

3. The United Nations Human Rights Council's Commission of Inquiry on Human Rights in Eritrea, May 9, 2016 (Summary version¹) ("COI 2016"): <http://daccess-ods.un.org/access.nsf/Get?Open&DS=A/HRC/32/47&Lang=E>

4. The United Nations Human Rights Council's Commission of Inquiry on Human Rights in Eritrea, June 4, 2015 (Summary version²) ("COI 2015"): <http://daccess-ods.un.org/access.nsf/Get?Open&DS=A/HRC/29/42&Lang=E>

5. Human Rights Watch, 2015/16 annual country report ("HRW 2016"): <https://www.hrw.org/world-report/2016/country-chapters/eritrea>

6. Human Rights Watch, 2011 briefing ("HRW 2011"): <https://www.hrw.org/report/2011/09/22/ten-long-years/briefing-eritreans-missing-political-prisoners>

7. Amnesty International, 2015/16 annual country report ("AI 2016"): <https://www.amnesty.org/en/countries/africa/eritrea/report-eritrea/>

8. Amnesty International, 2015 report titled "Just Deserters" ("AI 2015"): <https://www.amnestyusa.org/sites/default/files/eritrea-deserters-report.pdf>

9. Amnesty International, 2013 major country report ("AI 2013"): <http://www.amnestyusa.org/sites/default/files/afr640012013.pdf>

The above reports are notable not only for their stark portrayal of human rights abuses within Eritrea, but also for the consistency of that portrayal – over time, and from one report to the next. But it is the Commission of Inquiry's two reports that have come to be most often cited by governments, NGOs and the world press as (at the time of this writing) the most comprehensive and current investigations. Significantly, the Commission of Inquiry's 2016 report recommended, in uncommonly pointed terms, "that the Security Council refer the situation in Eritrea to the Prosecutor of the International Criminal Court for consideration"³ The release of the Commission of Inquiry's two reports was carried by major news outlets around the world.⁴

B. Overview: "The North Korea of Africa."

Eritrea is widely referred to in the world press as "the North Korea of Africa."⁵ That characterization derives from two perceived phenomena, as detailed below in this document. The first relates to the flow of country information: foreigners (including the foreign press, foreign NGOs and foreign governments) have highly limited physical access into and within the country; no free press exists within the country; and the Eritrean regime permits the release only of highly limited and government-controlled information about the country. The second phenomenon relates to the near-total absence of personal freedoms within the country, and to the breadth and severity of human rights violations within it.

C. Specific Human Rights Abuses.⁶

1. *Authoritarian police state.* The governing regime is authoritarian; no elections have been held for decades; only one political party is permitted; independent non-governmental associations are forbidden; public assemblies for all but recreational or government-sponsored purposes are outlawed; academic freedom is restricted; foreign organizations (and funding from them) are mostly banned; citizens are subjected to constant governmental surveillance and intimidation; the judiciary is not independent; justice is administered without rule of law; and the regime governs by sowing fear.⁷

2. *Throttling of press and political expression.* No freedom of the press or political expression is permitted. Journalists and political opponents have frequently been jailed, often never to be heard from again.⁸

3. *Harsh imprisonment, including of family members.* Any suspected dissent on the part of citizens is routinely punished by imprisonment, commonly in underground shipping containers, and commonly under intolerable, inhumane conditions – including starvation, overcrowding, lack of medical attention, rape of female prisoners, lack of sanitation, and extreme cold and heat – which conditions, separately or in the aggregate, often lead to death in detention. Arrests are commonly arbitrary, and prisoners are not informed of the charges against them. Political prisoners are held incommunicado and are denied access to lawyers or family members. Family members for their part are often imprisoned or otherwise punished as well: sometimes for merely inquiring about the location or status of their imprisoned loved ones; or for the failure of an escaped family member living overseas to pay the 2% income tax that the government imposes on Eritreans worldwide; or for a family member's desertion from the country's slave-like military service (see below).⁹

4. Religious persecution. The practice of only four religions is permitted; the dominant Eritrean Orthodox church is controlled by the government (its freely chosen patriarch has been under house arrest for years); the Sunni imam is also controlled; and various Protestant sects are harshly persecuted. Dissent against those restrictions, and unauthorized religious practice, are routinely punished by imprisonment. In prison, religious dissidents are often tortured until they renounce their faith.¹⁰

5. Torture. Imprisonment for any of the above offenses commonly results in gruesome physical and psychological torture, from which many prisoners are believed to die. Many torture facilities are believed to exist throughout the country.¹¹

6. Travel restrictions. Exiting the country is tightly controlled. Those who exit without visas – notably, to escape the regime overland in pursuit of refuge in another country – are in peril for their lives, in that government security forces have orders to shoot-to-kill at the country's borders. While those orders have been variously enforced in recent years, at a minimum would-be escapees who are captured are imprisoned and commonly tortured.¹²

7. Slave-like national service. All citizens are subject by conscription to mandatory national service, either military or civil. Children are routinely conscripted at age 17, and sometimes as young as 15. The service may last for an indefinite term of years, sometimes decades; follow-up reserve duty (or required participation for older citizens in a "people's militia") can also last indefinitely, and reservists are often called up en masse; food is inadequate; wages are negligible, thus impoverishing the conscripts' families; long-term conscripts are unable to form families or to fully participate in family life; conscripts are commonly forced to work for government and military officials in their private affairs or for government-controlled and even foreign enterprises, often in harsh conditions; female conscripts are commonly abused sexually by their commanding officers and others; and any dissent while in the national service (including the practice of prohibited religions and refusing sexual advances) is commonly punished by imprisonment and torture. In sum, the national service is widely viewed as amounting to forced labor, and even slavery.¹³

8. Killings and disappearances. The regime has engaged in extrajudicial executions, arbitrary killings, forced disappearances, mass murders of ethnic minorities, mass killings of certain ethnic groups, and executions of military deserters.¹⁴

9. Rape. The rape of Eritrean women in the military and in detention as described above, consistent with contemporary human rights standards, has been characterized in and of itself by the United Nations Commission of Inquiry as a crime against humanity.¹⁵

D. Risks Associated with Removal to Eritrea.

The America Team is aware of only a few Eritreans who, within the last several years, have sought asylum in the U.S. but have been removed to Eritrea; most asylum seekers either have been granted asylum or for some other reason their removals have not proceeded. Possibly many more, however, have been removed. In any event, as to those who have been removed, The America Team does not have specific information as to whether they have been imprisoned, tortured or killed upon arrival in Eritrea; some or all have likely never been heard from in the U.S. again.

Several credible authorities, however, believe that many asylum seekers who are refouled from Western countries to Eritrea (other than regime operatives who had claimed asylum, or other individuals who are well-connected with the regime) are at extreme peril for such abuse. In its 2013 report, Amnesty International cited evidence for the proposition that "a significant majority" of refouled Eritrean asylum seekers have been so punished; and in its 2015 report, it repeated its caution regarding refoulement.¹⁶ The United Nations Commission of Inquiry came to a similar conclusion.¹⁷ In a landmark October 2016 ruling, the UK's Upper Tribunal (an administrative appeals court) held that failed Eritrean asylum seekers who had fled the country to escape national service would likely be vulnerable to harsh detention and/or inhumane national service and should thus not be refouled.¹⁸

It is the belief of The America Team that refouled asylum seekers who lack regime connections are likely to face punishment and/or inhumane national service for the following reasons, as indicated in one or more of the documents cited in the preceding paragraph and as may otherwise be fairly surmised:

1. Merely leaving Eritrea for refuge elsewhere without an exit visa is illegal.
2. Having escaped prison (which many asylum seekers have done) is illegal.
3. Leaving Eritrea to avoid military service is considered treasonous.
4. An asylum seeker who left Eritrea may have already experienced imprisonment, torture or other human rights abuses there for perceived anti-governmental behavior, such that refoulement could result in repeat or additional abuses for the same perceived behavior, even if the behavior is not repeated.
5. In seeking asylum anywhere, an Eritrean asylum applicant can be expected to criticize the human rights record of the Eritrean regime, which criticism the regime would likely consider treasonous.
6. Seeking asylum specifically in the U.S. is perilous, in that the Eritrean regime is hostile to the U.S. and routinely denounces the U.S. as an enemy of the state.
7. The harsh treatment of perceived dissidents within Eritrea is so pervasive that it could be expected to eventuate for any of the above reasons.

¹ The complete 2016 report of the Commission of Inquiry appears at http://www.ohchr.org/Documents/HRBodies/HRCouncil/CoIEritrea/A_HRC_32_CRP.1_read-only.pdf

² The complete 2015 report of the Commission of Inquiry appears at http://www.ohchr.org/Documents/HRBodies/HRCouncil/CoIEritrea/A_HRC_29_CRP-1.pdf

³ COI 2016 at 1, 23.

⁴ See, e.g., The New York Times, June 8, 2016: <http://www.nytimes.com/2016/06/09/world/un-accuses-eritreas-leaders-of-crimes-against-humanity.html>; The Guardian, June 8, 2016: <https://www.theguardian.com/world/2016/jun/08/un-commission-eritrea-international-criminal-court-hague>; The Washington Post, June 12, 2015: <https://www.washingtonpost.com/news/worldviews/wp/2015/06/12/the-brutal-dictatorship-the-world-keeps-ignoring/>

⁵ See, e.g., The New York Times, June 8, 2016: <http://www.nytimes.com/2016/06/09/world/un-accuses-eritreas-leaders-of-crimes-against-humanity.html> .

⁶ In the experience of The America Team, the abuses listed in this section are the most frequently cited in U.S. asylum applications. But many additional human rights abuses are described in the principal reports and in other human rights reports about Eritrea, including those pertaining to government control of commercial activity, government persecution of ethnic minorities, restrictions on internal and external travel by citizens, limited worker rights, and forced evictions from and demolitions of property.

⁷ AI 2016 at introduction. AI 2013 at "Summary"; "Arrests and Detentions". HRW 2016 at "Freedom of Speech and Association". HRW 2011 at introduction; "Other Human Rights Violations by the Eritrean Government". DOS at 1, 9, 11-12, 16. COI 2015 at 6, 7-9, 14-15. COI 2016 at 6-7, 9, 11, 13, 18.

⁸ AI 2016 at introduction; "Prisoners of Conscience". AI 2013 at "Summary"; "Arrests and Detentions". HRW 2016 at "Freedom of Speech and Association". HRW 2011 at introduction; "The Fate of the September 2001 Victims"; "Arbitrary Arrest and Disappearance". DOS at 1, 8-9, 10-11. COI 2015 at 7.

⁹ AI 2016 at introduction; "Torture and other ill-treatment"; "Prisoners of Conscience". AI 2015 at 9, 41-42. AI 2013 at "Summary"; "Arrests and Detentions"; "Prisons and Detention Conditions". HRW 2016 at "Arbitrary Arrest, Prolonged Detention, and Inhumane Conditions"; "Freedom of Speech and Association". HRW 2011 at introduction; "Arbitrary Arrest and Disappearance"; "Torture and Cruel, Inhuman and Degrading Treatment"; "Collective Punishment". DOS at 1, 4-8, 10. COI 2015 at 6, 9, 10, 11, 15-16. COI 2016 at 6, 8, 9, 11-13, 14, 15, 18.

¹⁰ AI 2016 at introduction. AI 2013 at "Summary"; "Arrests and Detentions"; "Prisons and Detention Conditions". HRW 2016 at "Freedom of Religion". HRW 2011 at introduction; "Religious Persecution". DOS at 1, 3, 6, 7, 15. IRF, in its entirety. COI 2015 at 8, 11. COI 2016 at 6, 8, 14-15, 18.

¹¹ AI 2016 at "Torture and other ill-treatment". AI 2013 at "Summary"; "Arrests and Detentions"; "Prisons and Detention Conditions". HRW 2016 at "Arbitrary Arrest, Prolonged Detention, and Inhumane Conditions". HRW 2011 at introduction; "Torture and Cruel, Inhuman and Degrading Treatment". DOS at 1, 3, 4. COI 2015 at 12, 15. COI 2016 at 6, 8, 11, 14, 15, 18.

¹² AI 2016 at "Forced labour - National Service". AI 2013 at "Arrests and Detentions". HRW 2011 at introduction; "Torture and Cruel, Inhuman and Degrading Treatment". DOS at 2, 8. COI 2015 at 7, 10. COI 2016 at 9.

¹³ AI 2016 at "Forced labour - National Service". AI 2015, in its entirety. AI 2013 at "Summary"; "Arrests and Detentions". HRW 2016 at "Indefinite Military Service and Forced Labor". HRW 2011 at introduction; "Forced Labor and other Abuses in National Service". DOS at 1, 3, 18, 21, 23-25. COI 2015 at 12-14, 16. COI 2016 at 6, 7, 11-12, 14, 15, 18-19.

¹⁴ DOS at 2-3, 6. COI 2015 at 10. COI 2016 at 6, 9, 11, 13-14, 15, 18.

¹⁵ COI 2016 at 11, 15, 18.

¹⁶ AI 2015 at 9, 54, 57. AI 2013 at 30-31, 37.

¹⁷ COI 2015 at 7, 21.

¹⁸ <http://reliefweb.int/report/united-kingdom-great-britain-and-northern-ireland/eritreans-face-real-danger-return> .

For the complete text of the case, see http://www.refworld.org/publisher/GBR_UTIAC,,ERI,57fc91fc4,0.html , with pertinent conclusions at 4, 158.

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