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Agenda item 2

**Annual report of the United Nations High Commissioner
for Human Rights and reports of the Office of the
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 44/1, in which the Council extended the mandate of the Special Rapporteur on the situation of human rights in Eritrea and requested the mandate holder to present a report on the implementation of the mandate to the Council at its forty-seventh session.

The report is based upon the observations of the Special Rapporteur and information gathered from a variety of other sources. In the report, the Special Rapporteur provides an overview of the human rights concerns in Eritrea, and outlines recent developments and some of the human rights challenges in the country, including incommunicado detention, arbitrary arrest and detention, inhumane prison conditions, indefinite national/military service, lack of freedom of expression, opinion, association, religious belief and movement, lack of the rule of law and the serious human rights violations in the Tigray region of Ethiopia committed by Eritrean troops. In the light of the five benchmarks for progress set out in the report of his predecessor,¹ the Special Rapporteur addresses a number of recommendations to the Government of Eritrea and to the international community with a view to improving the situation of human rights in the country.

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

¹ A/HRC/41/53, paras. 78–82.



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I. Introduction

1. The present report is submitted pursuant to Human Rights Council resolution 44/1, 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 forty-seventh session.
2. The report covers the period from 5 May 2020 to 28 April 2021. Owing to the coronavirus disease (COVID-19) pandemic and the related restrictions of movement, and to the lack of cooperation of the Government of Eritrea, the Special Rapporteur was unable to conduct a field visit to Eritrea during the period under review.
3. The report is based on information gathered by the Special Rapporteur by monitoring the human rights situation remotely and on information provided by other sources, including civil society organizations, United Nations agencies, funds and programmes, and the donor community. In compliance with the Code of Conduct for Special Procedure Mandate Holders of the Human Rights Council, a draft report was shared with the Government of Eritrea in order to provide it with an opportunity to comment on the observations and findings of the Special Rapporteur.
4. The Special Rapporteur wishes to thank the previous mandate holder, Daniela Kravetz, for her invaluable support and the exchanges held with her on the implementation of the mandate.

II. Methodology and engagement

5. The Special Rapporteur considers that a visit to Eritrea would be the preferred method for carrying out a meticulous assessment of and gathering first-hand information on the situation of human rights in the country. However, given the lack of cooperation of the Government with the Special Rapporteur, who was denied access to the country, he collated the necessary information through alternative means.
6. Following his appointment in September 2020, the Special Rapporteur expressed his wish to engage with the Government of Eritrea in a constructive manner to help improve the situation of human rights in the country. In January 2021, the Special Rapporteur wrote to the Government of Eritrea, explaining his intention to be guided by the international human rights norms and standards to which Eritrea was a party in the implementation of his mandate. In the hope that the Government of Eritrea would seize the opportunity to engage in a fresh and constructive dialogue on human rights issues brought to the fore by an array of stakeholders, the Special Rapporteur requested a visit to Eritrea for consultations with relevant officials from the Government and with a range of stakeholders. His aim was to assess the human rights situation on the ground first-hand, and to explore jointly future avenues for the protection and promotion of human rights in the country. At the time of writing, his request was still pending.
7. The Special Rapporteur conducted remote monitoring and held meetings with a broad range of actors, such as diplomats, human rights defenders, civil society representatives and academics. In addition, the Special Rapporteur collected first-hand information from Eritrean refugees residing in other countries, with a view to informing his assessment of the situation of human rights in Eritrea. In this regard, the Special Rapporteur acknowledges the constructive discussions that he held with numerous academics, diplomats, members of the Eritrean diaspora, experts, human rights defenders and researchers, who provided valuable insights and support.

III. Activities

8. The Special Rapporteur was unable to undertake any field missions as a result of restrictions on travels due to the COVID 19 pandemic. Nevertheless, he managed to conduct a number of activities during the reporting period. In October 2020, he met with members of the diplomatic community in Khartoum concerned with developments in Eritrea. In

December 2020, he held a meeting with the core group of members of the Human Rights Council that are the main sponsors of the Council resolution on the situation of human rights in Eritrea, including members of the diplomatic community. In mid-December 2020, the Special Rapporteur travelled to the United Kingdom of Great Britain and Northern Ireland and held meetings from January to mid-March 2021 with various stakeholders concerned with the human rights situation in Eritrea, including civil society groups, victim groups, international agencies, the Eritrean diaspora and religious organizations. In February 2021, he participated in the interactive dialogue of the Human Rights Council on the situation of human rights in Eritrea.

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

9. The Special Rapporteur noted a mixed record of engagement by Eritrea with the United Nations human rights mechanisms. While the Government had praised itself for its participation in the universal periodic review process, the Special Rapporteur noted that most of the recommendations made to Eritrea during its review for the third cycle in January 2019, including on the long-awaited reforms, were still largely unimplemented. Likewise, the recommendations emanating from other human rights mechanisms, including the Human Rights Committee in March 2019 and the Committee on the Elimination of Discrimination against Women in February 2020, have yet to be implemented.

10. The Special Rapporteur emphasizes that reporting to the treaty bodies is an obligation under the treaties that Eritrea has ratified, and provides a unique opportunity to take stock of where the country stands in the implementation of its human rights obligations. He stresses that the recommendations from the universal periodic review alongside those of other human rights mechanisms provide an authoritative road map that the Government should readily implement, as they intend to improve the human rights situation in the country.

11. The Special Rapporteur is concerned that Eritrea has not agreed to any of the pending visit requests made by the Working Group on Arbitrary Detention (in 2018) and two special procedure mandate holders of the Human Rights Council, namely the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment (in 2005, 2007, 2010, 2017 and 2018) and the Special Rapporteur on the rights to freedom of peaceful assembly and of association (in 2018 and 2020).

12. The Special Rapporteur highlights that, as a member of the Human Rights Council, Eritrea should strengthen its cooperation with all human rights mechanisms. In particular, the Special Rapporteur encourages the Government to strengthen its cooperation with his mandate and engage constructively, and to enhance its engagement and technical cooperation with the Office of the United Nations High Commissioner for Human Rights, which remains ready to assist Eritrea in the three priority human rights areas identified by the authorities, as well as in the implementation of the recommendations from human rights mechanisms, including those emanating from the universal periodic review.

13. The Special Rapporteur also encourages the Government of Eritrea to cooperate with the African Commission on Human and Peoples' Rights. He notes that the Eritrean authorities have not yet complied with previous decisions of the African Commission on Human and Peoples' Rights regarding the incommunicado detention of a group of members of the Eritrean political opposition, people of faith and journalists, and their fate and whereabouts. The non-cooperation with the African human rights system is a matter of concern to the Special Rapporteur and confirms the lack of willingness on the part of the Government of Eritrea to address the fate of incommunicado detainees as a flagrant violation of the right to due process of law.

V. Regional and international developments

A. Tigray conflict

14. The 2018 peace agreement between Ethiopia and Eritrea has resulted in much closer relations between the two countries, and has also led to closer links between Eritrea and Somalia. Nevertheless, border disputes between Eritrea and Djibouti persist, in addition to the issue of missing Djiboutian prisoners of war.

15. On 4 November 2020, tensions escalated in the region and an armed conflict erupted in Tigray when the Ethiopian National Defence Forces launched a military offensive against the Tigray People's Liberation Front in response to reported attacks against the Ethiopian National Defence Forces' military bases in Tigray by Tigrayan forces. The Ethiopian National Defence Forces were allegedly supported by Amhara regional forces and the Amhara Fano militia in western Tigray, and in particular by the Eritrean Defence Forces in northern and central Tigray. According to reports received, the conflict was characterized by air strikes on and the shelling of civilian structures, usually on the outskirts of towns, resulting in civilian casualties, followed by the occupation of the towns by Ethiopian National Defence Forces and the Eritrean army. The Tigray People's Liberation Front systematically withdrew from urban areas as the Ethiopian and Eritrean forces advanced. Serious violations of human rights and international humanitarian law against civilians by all parties to the conflict have been reported, including killing and injury of civilians, destruction of civilian homes and structures, and mass displacement of civilians.

16. The conflict in Tigray has resulted in many fatalities in the region. Much of the fighting in the first week of the conflict concentrated in the border regions between Kassala State in the Sudan and the western Tigray zone in Ethiopia, as refugees fled the area to Gedaref State in the Sudan.

17. In November 2020, the Special Rapporteur received a number of allegations indicating the participation of Eritrean troops in the conflict in Tigray alongside the Ethiopian army. The town of Himora, Eritrea, was reportedly subjected to indiscriminate shelling by Eritrea-based artillery. According to reports received, at least 46 people were killed by the shelling and more than 200 others were wounded. The Ethiopian National Defence Forces reportedly conducted air strikes on sites around Adigrat in eastern Tigray, resulting in civilian casualties and displacement. On 20 November 2020, Ethiopian and Eritrean troops took control of Adigrat. Eritrean forces reportedly committed extrajudicial executions of civilians and widespread sexual and gender-based violence and looting, and transported the looted goods to Eritrea on stolen trucks.

18. On 19 November 2020, after the Tigray People's Liberation Front forces had allegedly withdrawn from Aksum, Ethiopia (declared a World Heritage Site by the United Nations Educational, Scientific and Cultural Organization in 1980), the Ethiopian National Defence Forces and Eritrean troops reportedly conducted indiscriminate shelling of the city, leading to many civilian casualties, and subsequently took control of the city. According to reports received, Eritrean soldiers carried out house searches, harassing residents and summarily executed those perceived as Tigray People's Liberation Front fighters or sympathizers. In addition, reports indicated that Eritrean soldiers shot indiscriminately at civilians and killed patients in Saint Mary's Hospital. The Ethiopian National Defence Forces and Eritrean soldiers reportedly looted and damaged Saint Mary's Hospital and Aksum University Referral Hospital, including medical equipment, furniture, and the wing of the latter hospital equipped to treat COVID-19 patients.

19. On 28 November 2020, the Ethiopian National Defence Forces reportedly carried out artillery attacks on Mekele, the capital of Tigray, striking civilian structures such as homes, markets, hospitals and schools, and killing and injuring civilians, including children. The Ethiopian National Defence Forces and Eritrean troops subsequently entered the city. The Special Rapporteur received numerous reports of allegations of summary executions, arbitrary arrests, sexual violence and widespread looting of markets, hospitals, laboratories and homes by Eritrean troops.

20. In addition to reports of the involvement of Eritrean troops in the Tigray conflict, the Special Rapporteur also received information and reports that Somali soldiers were moved from military training camps in Eritrea to the front line in Tigray, where they accompanied Eritrean troops as they crossed the Ethiopian border. It is also reported that Somali fighters were present around Aksum. The Government of Somalia denied the participation of Somali soldiers in the Tigray conflict. It is further reported that a Somali parliamentary committee has demanded an explanation from the President of Somalia on the whereabouts of the Somali troops sent to Eritrea. The Special Rapporteur was informed that the foreign affairs and defence committee of the Parliament had called on the head of State to dispatch a fact-finding mission to Asmara for an investigation.²

21. The conflict in Tigray has deepened ethnic tensions and created an immense humanitarian crisis, with 4.5 million people – most of Tigray’s population – in urgent need of assistance, according to United Nations humanitarian agencies. The United Nations has called for an independent investigation into numerous reports of looting and human rights violations, including sexual assault and attacks on refugee camps allegedly carried out by Eritrean and Ethiopian troops between November 2020 and January 2021, despite the protected humanitarian status of refugee camps under the 1951 Convention relating to the Status of Refugees.

22. In early January 2021, an Ethiopian official said that 2.2 million people had fled their homes in Tigray. Approximately 60,000 people have crossed the border into the Sudan, according to humanitarian agencies. Even before the conflict, the Tigray region was home to as many as 200,000 refugees and internally displaced persons, according to humanitarian agencies.

23. On 26 March 2021, the Ethiopian Prime Minister stated that Eritrea had agreed to withdraw its forces from Tigray and the Ethiopian border. However, at the time of writing, there was no sign that the deployment of the Eritrean military in Tigray was about to end.

B. International developments

24. The Special Rapporteur welcomes the decision adopted on 22 March 2021 by the Council of the European Union, under the European Union’s global human rights sanctions regime, imposing sanctions on Eritrea for serious violations of human rights, including acts of torture, extrajudicial, summary or arbitrary executions and killings in Eritrea. The Council imposed restrictive measures on eleven individuals and four entities responsible for serious human rights violations and abuses in China, the Democratic People’s Republic of Korea, Eritrea, Libya, the Russian Federation and South Sudan.³ For the first time, the European Union is equipping itself with a framework allowing it to target individuals, entities and bodies – including State and non-State actors – responsible for or associated with serious human rights violations and abuses worldwide, no matter where they occurred. The practice of arbitrary and incommunicado detention in Eritrea has a serious impact on the life of many Eritreans. This approach by the European Union and international pressure is urgently needed to end arbitrary and incommunicado detention in Eritrea, which affects the human dignity of prisoners and their families.

25. In this respect, the Special Rapporteur notes that on 13 March 2021, a case was being launched in a court in Amsterdam demanding a halt to European Union aid worth 80 million euros for a project to rehabilitate the roads between Eritrea and Ethiopia, which relies on forced labour.⁴ The petitioners have asked the court for (a) a declaratory injunction stating

² See Amanda Sperber, “Somali troops may have been drawn into Ethiopia’s civil war”, *Mail and Guardian*, 20 January 2021.

³ Council of the European Union, “EU imposes further sanctions over serious violations of human rights around the world”, 22 March 2021.

⁴ The Foundation of Human Rights for Eritreans, which defends the fundamental rights of Eritreans in Eritrea and in the diaspora, has observed that the aid project financed by the European Union aid relies on forced labour. The Foundation reportedly states that support for a project that uses forced labour contradicts the fundamental principles of international law, and has asked the Amsterdam court that the project be stopped.

that the European Union project is unlawful, and (b) an injunction stating that the European Union should cease its support for the project.⁵ The Special Rapporteur also notes that legal challenge has been launched against the Government of the United Kingdom over its funding to the European Union Emergency Trust Fund for stability and addressing root causes of irregular migration and displaced persons in Africa, for a development project reconnecting Eritrea and Ethiopia through the rehabilitation of the main arterial roads in Eritrea, which uses conscripts from Eritrean national service.⁶

26. The Special Rapporteur urges international organizations and business enterprises implementing projects in Eritrea to avoid financing projects that may potentially violate or have an adverse impact on human rights, particularly the Eritrean road-building project. In particular, they must put in place mechanisms to adequately monitor respect for the basic rights of those employed in such projects, and ensure that the labour force participates on a voluntary basis and that workers receive adequate financial compensation.

27. In October 2020, Reporters sans frontières international/Reporters without Borders International filed a complaint with the Swedish Prosecution Authority regarding international crimes, accusing the President of Eritrea and seven other senior Eritrean officials of a crime against humanity for holding Swedish-Eritrean journalist Dawit Isaak incommunicado since 2001.

28. On 12 January 2021, the National Unit for International and Organized Crimes, part of the Swedish Prosecution Authority, decided that it had reason to believe that Mr. Isaak was the victim of a crime against humanity, coming under the universal jurisdiction of Sweden. Nevertheless, it refused to open an investigation, on the grounds that it would be difficult to carry out an investigation in the absence of any cooperation by the Eritrean authorities, and that such an investigation might harm relations between Sweden and Eritrea and thus make it harder for the Ministry for Foreign Affairs of Sweden to negotiate Mr. Isaak's release. Lawyers are now asking for a review higher up in the Swedish Prosecution Authority.

VI. Assessment of the human rights situation in the light of the benchmarks for progress in improving the situation of human rights in the country

A. Benchmark 1: improvement in the promotion of the rule of law and strengthening of national justice and law enforcement institutions

29. The Special Rapporteur stresses that fair, independent, impartial and transparent administration of justice is a critical component of a democratic society that is based on the rule of law. The rule of law requires that all persons, institutions and entities, public and private, including the State itself, be held accountable to laws that are publicly promulgated, equally enforced and independently adjudicated, and which are consistent with international human rights norms and standards.

⁵ It is reported that the European Union has refused to stop the project, even though it recognizes that forced labour was (and is) used in the context of this project. At the end of 2019, the European Union announced that it would provide further funding for the project. It is also reported that the European Union funding goes to Eritrean State companies, which use it to procure materials. The European Union claims that it has no responsibility for the forced labourers as the project does not cover labour, and that it covers only the procurement of material and equipment to support the rehabilitation of roads.

⁶ In *Eritrea Focus v. Department for International Development: Eritrean Road Project Legal Challenge*, claimants have submitted that according to the law in the United Kingdom, Eritrean national service constitutes forced labour, a form of modern slavery, and that the conditions to which conscripts are subjected amount to inhuman and degrading treatment. It is against domestic law in the United Kingdom, European law and international law for the Government of the United Kingdom to be supporting the use of forced labour on the road-building project in Eritrea.

30. Eritrea has not yet put in place an institutional and legal framework to uphold minimum human rights standards in a democratic society. To uphold such standards, the country requires – and currently lacks – the rule of law, a constitution and an independent judiciary to enforce the protection of and respect for human rights. Eritrea still has no national assembly to adopt laws, including those regulating fundamental rights and the right of the Eritrean people to participate freely in the public life of their country. The Special Rapporteur therefore stresses the importance of Eritrea reconvening the national assembly as an important step towards building a democratic society, ensuring the separation of powers and providing checks and balances as inherent requirements of the rule of law in the country.

31. It is widely accepted that the Constitution of 1997 has never been in force. The Special Rapporteur recalls that in May 2014, the President of Eritrea announced the drafting of a new constitution. To date, the Government has not yet released any details about the process. The Special Rapporteur notes with concern that the legal vacuum continues to have far-reaching consequences for the protection of human rights in the country. He encourages the Government to create efficient, responsive and transparent institutions in the country that are governed by the rule of law.

32. The Special Rapporteur is concerned about the complete lack of proper administration of justice in Eritrea. He remains concerned about the practices of indefinite and arbitrary detention and arrest. It is of the utmost importance that all cases of arrests and pretrial detention are lawful, and that effective legal avenues are in place to address any concerns in this regard. Unlawful and arbitrary arrest and detention risk opening the door for other kinds of human rights violations, including torture and inhuman or degrading treatment. It is essential, therefore, that the legal rules that exist in international law to remedy and prevent these kinds of human rights violations be adhered to by all relevant actors with respect to the rule of law (police, prosecutors, judges and prison officials), and lawyers must be aware of their content to enable them to act effectively on behalf of their clients.

33. The Special Rapporteur is also concerned that the police, the military police and internal security in Eritrea regularly arrest and detain citizens without due process of law. According to information received, detainees are held in underground prisons or in metal shipping containers, in extreme weather conditions, or in secret places of detention. Political prisoners or prisoners of conscience are held without being informed of the reasons for their arrest and without an arrest warrant. They are not formally charged with a recognizable crime, nor are they brought before a court of law to review the legality of their detention, nor are they tried, in contravention of article 9 of the International Covenant on Civil and Political Rights, to which Eritrea is a State party. Others detainees, such as draft evaders, are presumed to know the reason for their arrest and detention, and the punishment provided for in article 37 the National Service Proclamation is applied in their case. They have no recourse to challenge the legality of their detention.

34. According to reports received, severe overcrowding in prisons is a major issue that spawns several other problems relating to the health, hygiene and nutrition of those in custody. The holding cells have no sanitation facilities and prisoners are allowed out only for very short periods to use the toilet. Personal hygiene is a serious concern in such circumstances, with detainees suffering from body lice, scabies or other skin infections, and being prone to respiratory complaints or diseases and diarrhoea. Food is of poor nutritional quality and quantity. Medical facilities are minimal and detainees with chronic health problems do not have easy access to medication or treatment, meaning that their lives are endangered. In addition, referral to hospitals takes time. The specific reproductive needs of female detainees are not accorded attention and women detainees are reportedly under the responsibility of men. Children under the age of 18 years are at times held with adults before being transferred to a military training camp.

35. Eritrea should ensure that persons in detention are treated with humanity and dignity, in accordance with the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules). In this regard, international human rights law provides for a range of rules and guidance regarding the treatment of persons who are deprived of their liberty. These rules include the prohibition of torture and other inhuman or degrading treatment, but also touch upon the requirements with respect to places of detention, registration of detainees, and conditions of detention, including separation of categories,

accommodation, personal hygiene, food, health and medical services, and recreation. It is important that the Government of Eritrea ensure that violations of such rules are prevented, by putting in place appropriate monitoring and inspection mechanisms, as well as remedies in case of violations.

36. The Special Rapporteur remains concerned about the situation of detainees and political prisoners who were arbitrarily detained and held in secret prisons without charge or trial in violation of human rights standards. The situation of detainees and political prisoners is particularly concerning. It is also unacceptable for Eritrea to arbitrarily detain political opponents in secret prisons without charge or trial in violation of human rights standards. He notes with concern that, to date, there is still no information regarding the 11 former members of Government known as the G-15, or the 10 independent journalists, including Mr. Isaak, who were arrested and imprisoned without trial in September 2001 and remain in incommunicado detention two decades later. The Special Rapporteur reiterates the request of his predecessors for specific information on their whereabouts and their state of health, and highlights that Eritrea has not complied with the decisions of the African Commission on Human and Peoples' Rights.⁷ These are other examples of numerous cases of individuals who are currently languishing in Eritrean prisons, with no prospect of release. The Special Rapporteur notes that it is difficult to speak of progress in Eritrea while their cases remain unresolved. He is concerned about the practice of arbitrary and incommunicado detention in Eritrea, which has a serious impact on the life of many Eritreans.

B. Benchmark 2: demonstrated commitment to introducing reforms to the national/military service

37. The national/military service remains in place in Eritrea. The Special Rapporteur has found no indication of any improvement in conditions compared to previous years,⁸ or evidence of a reduction in the duration of national/military service. He received information about grave human rights violations in the military/national service regime in Eritrea, including its prolonged and indefinite duration, abusive conditions and the use of conscripts in forced labour. Despite the decree that officially limits conscription to 18 months, the Government has made no meaningful changes to its mandatory national service that conscripts young Eritreans for an unlimited period, routinely beyond the 18-month legal limit.

38. Reports point to extremely harsh living conditions for conscripts. In addition, sexual abuse and severe punishment are common, in particular at Sawa military camp. Draft evaders and deserters who are caught face heavy punishment, including long periods of detention, torture and other forms of inhuman or degrading treatment.

39. Although some conscripts perform purely military roles in the army, most draftees are assigned to work in civilian administration, infrastructure projects, education and construction and perform other duties, without any free choice about the area of their employment. According to information received, the salaries are extremely low and do not allow conscripts to support a family.

40. The Special Rapporteur is concerned that the indefinite duration of military and civil service reportedly remains one of the main causes for the departure of Eritreans from their country. With the end of the state of war with Ethiopia, the Special Rapporteur encourages the Government to outline a timetable for reforms to its national service.

41. The Eritrean authorities should separate high-school education from military conscription and stop using the education system to recruit new conscripts. The national service requirements oblige all secondary school students in the country to complete their final year at the Warsay Yikealo secondary school, located in Sawa military camp, and to undertake mandatory military training, affecting the students' rights to education, academic freedom and non-discrimination in the field of education. Some of these students are still

⁷ *Zegveld and Ephrem v. Eritrea*, communication No. 250/02, decision, November 2003; *Article 19 v. Eritrea*, communication No. 275/2003, decision, 2007; and *Isaak v. Eritrea*, communication No. 428/12, decision, February 2016.

⁸ A/HRC/41/53, paras. 28–29.

under the age of 18 when they begin their final year. Students spending their final academic year at Sawa military camp are under military command and must conduct arduous military duties, even on school days, which often cut into their study and rest time.⁹ It is reported that approximately 60 to 65 per cent of students at Sawa military camp do not obtain the results needed for further study and are either drafted directly into military service or sent on vocational training programmes. It is also reported that military officials at Sawa military camp subject students to ill-treatment and harsh punishment, including corporal punishment, and that students undertake forced labour.

42. The Special Rapporteur is concerned by the impact of national service on the right to education of many Eritrean students. He notes that the circumstances under which the Eritrean population is forced to work under national service was documented by the commission of inquiry on human rights in Eritrea, which found that systematic, widespread and gross human rights violations had been and were being committed by the Government of Eritrea and that a large proportion of the population were subjected to forced labour.¹⁰

43. The Special Rapporteur received information that the European Commission is considering reorienting funds initially committed to nine projects in support of Eritrea under the European Union Emergency Trust Fund towards other priorities in the Horn of Africa by December 2021.

C. Benchmark 3: extended efforts to guarantee freedoms of religion, association, expression and the press, and extended efforts to end religious and ethnic discrimination

44. The Special Rapporteur remains concerned by the lack of tangible progress in relation to the rights to freedom of opinion, expression, information, assembly and association, conscience and religion, and movement within the country. According to reports received, widespread arbitrary arrest and incommunicado detention create a climate of fear that deters any expression of dissent in the country.

45. The Government recognizes only four religions: the Evangelical, Orthodox and Roman Catholic Churches and Sunni Islam. For as long as followers of unrecognized religions are prohibited from practising their religion and systematically arrested and detained, the religious freedoms of Eritreans of all faiths are curtailed. It is estimated that there are thousands of prisoners being detained for their religious beliefs, including conscientious objectors.

46. The Special Rapporteur welcomes some positive developments in recent months. In August 2020, a large group of Muslim men was released. In January and February 2021, a total of 70 Evangelical and Orthodox Christians were released from three Eritrean prisons: on 27 January 2021, six female prisoners were released, having been detained for worshipping in public in September 2020 in Dekemhare, south-east of Asmara; and on 1 February 2021, 21 female and 43 male prisoners were released from Mai Serwa and Adi Abeito prisons, near Asmara. The prisoners had been held for between 2 and 12 years. Nevertheless, the Special Rapporteur notes at the same time that the Eritrean authorities have yet to ensure full respect for human rights and fundamental freedoms.

47. In this regard, the Special Rapporteur has received information about 13 Eritrean Christians who remain imprisoned after the authorities raided two separate prayer meetings in March 2021 and took 35 people into custody, including women.¹¹ The Special Rapporteur has been informed of the release from Mai Serwa prison on 11 April 2021 of 22 of the 23 Christians who were arrested at a prayer meeting in Asmara, most of whom were women. However, all 12 of the Christians arrested in Assab, to the south-east of Asmara, remain in Assab prison, where conditions are reported to be harsh. The Special Rapporteur notes with

⁹ See Human Rights Watch, *“They Are Making Us into Slaves, Not Educating Us”*: How Indefinite Conscriptio Restricts Young People’s Rights, Access to Education in Eritrea (2019).

¹⁰ See A/HRC/29/42.

¹¹ See International Christian Concern, “35 Christians arrested during prayer meetings in Eritrea”, 16 April 2021.

concern that this latest wave of arrests is proof that there has been no change in the repressive government policy towards religious freedom in the country.

48. The Special Rapporteur welcomes the release on 4 December 2020 of 28 Jehovah's Witnesses (26 men and 2 women), after being imprisoned for their faith for periods ranging from 5 to 26 years. They include three conscientious objectors – Paulos Eyasu, Isaac Mogos and Negede Teklemariam – whose cases were highlighted by the former Special Rapporteur.¹² One male Jehovah's Witness was released on 29 January 2021 after having been imprisoned for more than 12 years, and an additional three were released on 1 February 2021 (one man and two women), who had been imprisoned for between four and nine years. The Special Rapporteur notes at the same time that the Eritrean authorities have yet to release 20 Jehovah's Witnesses who remain in prison (14 men and 6 women), one of whom is more than 75 years old. He received information about their names, gender, age and dates of imprisonment, and reports that they were stripped of their citizenship because of their religious affiliation.¹³

49. The Special Rapporteur urges the Eritrean authorities to ensure full respect for their human rights and fundamental freedoms. The Special Rapporteur calls on Eritrea to respect the concluding observations of the African Commission on Human and Peoples' Rights, namely the Commission's recommendations to ensure that Jehovah's Witnesses retain their citizenship rights, take urgent measures to address the denial of basic rights of all detained persons, including Jehovah's Witnesses, and investigate the reported deaths in detention of Jehovah's Witnesses.¹⁴

50. Moreover, according to information received by the Special Rapporteur, the Government holds a monopoly on information, and controls the only television channel, the radio stations and the newspaper. No international journalists are accredited in the country. Access to the Internet is severely restricted and telephone calls are monitored. Eritrea was labelled the most censored country in the world by the Committee to Protect Journalists in 2019, and ranked last in the 2021 World Press Freedom Index published by Reporters sans frontières international/Reporters without Borders International.

51. The Special Rapporteur highlights that public gatherings of more than seven people without a permit are still prohibited in Eritrea. The formation of political parties is prohibited, and no independent civil society organizations are permitted to operate in the country, unless they are affiliated to the Government. No international non-governmental organizations are present in the country.

52. The Special Rapporteur also notes that national service conscripts are not allowed to travel within the country without a permit, and that those of conscription age who have not yet been demobilized are banned from travelling abroad. Asylum seekers who are returned to Eritrea reportedly face severe punishment upon their return, including prolonged periods of incommunicado detention, torture and ill-treatment.

53. The Special Rapporteur stresses that creating and maintaining a safe environment in which civil society can operate free from hindrance and insecurity will assist the Government in fulfilling its existing international human rights obligations and commitments.

¹² See, for example, A/HRC/44/23.

¹³ See Jehovah's Witnesses, "Special report: the persecution of Jehovah's Witnesses in Eritrea", 30 August 2019.

¹⁴ African Commission on Human and Peoples' Rights, "Concluding observations and recommendations on the initial and combined periodic report of the State of Eritrea on the implementation of the African Charter on Human and Peoples' Rights", adopted at its sixty-third ordinary session, October–November 2018, para. 120 (x), (xviii) and (xxviii).

D. Benchmark 4: demonstrated commitment to addressing all forms of gender-based violence and to promoting the rights of women and gender equality

54. The Special Rapporteur notes that Eritrea acceded to the Convention on the Elimination of All Forms of Discrimination against Women on 5 September 1995. Despite the goodwill shown by Eritrea in acceding to the Convention without reservations, its laws protecting women's rights have been undermined by a weak judiciary and by cultural practices.

55. While women and men suffer a whole array of violations under national service, the Special Rapporteur is particularly concerned about the vulnerability of women to sexual abuse, which continues with impunity, and the impact of national service on education and on family life.

56. According to the information received, cases of domestic violence are prevalent but are rarely brought to trial. Women seldom openly discuss domestic violence because of social pressure, association with shame and stigma, lack of economic independence and fears of reprisals. The family support network is the only form of recourse, often using village elders or religious figures to mediate discussions with the husband's family.

57. Moreover, the adjudicators in community courts are drawn from the community and most of them have basic literacy skills and no legal background or training. Yet their task is to adjudicate on cases dealing with marriage, divorce, maintenance allowances, custody of children, or even inheritance, all of which are code-based. The Special Rapporteur notes that such a situation provides fertile ground for arbitrariness, inconsistencies and miscarriages of justice, with a negative impact on the rights of the women involved in these matters specifically and on the enjoyment of women's rights generally.

58. Women detainees are usually accommodated separately from men within the same institution. However, women detainees are reportedly under the responsibility of male staff in the main, as the majority of guards at detention centres are men, which exposes them to multiple forms of abuse, including sexual violence, rape or threats of rape and sexual harassment. The specific reproductive health needs of women detainees are not accorded attention. Some young children are held with their mothers, and in the case of lactating mothers, the poor quality of food makes it difficult to ensure proper nutrition for their infants.

59. Reports also indicate that women have been arbitrarily arrested and detained for practising their religion or for refusing to engage in activities that directly conflict with their religious beliefs, such as military service.

60. The Special Rapporteur encourages the Government to consider implementing the recommendations made to Eritrea by the Committee on the Elimination of Discrimination against Women in its concluding observations on the sixth periodic report of Eritrea, following the Committee's consideration of the periodic report at its 1755th and 1756th meetings, held in Geneva on 14 February 2020.¹⁵

E. Benchmark 5: strengthened cooperation with the United Nations country team

61. The Special Rapporteur notes that the United Nations in Eritrea partners with the Government of Eritrea in four priority areas under the Strategic Partnership Cooperation Framework (2017–2021): (a) basic social services; (b) environmental sustainability, resilience and disaster risk management; (c) public sector capacity development; and (d) inclusive growth, food security and sustainable livelihoods. The Framework capitalizes on the collective comparative strengths of the United Nations system in responding to the identified priority areas and enhancing the overall well-being of the people of Eritrea.

¹⁵ See CEDAW/C/ERI/6 and CEDAW/C/ERI/CO/6.

62. Nevertheless, the Special Rapporteur notes that travel restrictions on non-citizens lawfully in the country remained in effect. The Government required all diplomats, international humanitarian workers, United Nations staff and foreigners to request permission at least 10 days in advance to travel more than 15 miles (25 kilometres) outside of Asmara. Such restrictions undermine the implementation of activities and programmes by United Nations agencies throughout the country. The Special Rapporteur calls on the Eritrean authorities to lift these restrictions.

VII. Situation of Eritrean asylum seekers and refugees in Tigray, Ethiopia

A. Allegations of violations of human rights, international humanitarian law and international refugee law

63. The Special Rapporteur has received information concerning allegations of violations of human rights and international humanitarian law committed by the Eritrean army in the Tigray region of Ethiopia, including deliberate attacks against civilians and summary executions, indiscriminate attacks, sexual and gender-based violence, arbitrary detention, destruction and looting of civilian property and displacement and abduction of Eritrean refugees and asylum seekers. He is particularly concerned about the deterioration of the situation of Eritrean refugees and asylum seekers in Tigray as a result of the military operations in the region since 4 November 2020. In his oral update that he presented to the Human Rights Council during an interactive dialogue at its forty-sixth session, on 24 February 2021, he raised serious concerns about the human rights of Eritrean refugees and asylum seekers in the Tigray region.

64. In the context of the ongoing crisis in Tigray, United Nations humanitarian agencies have called on the Ethiopian authorities to address the situation of Eritrean refugees and asylum seekers in a way that ensures respect for human rights, international humanitarian law and international refugee law, in accordance with the international treaty and customary law obligations of Ethiopia.

65. According to reports received, there were some 96,000 Eritrean refugees in Tigray before the crisis, living largely in four refugee camps: Hitsats, Mai Aini, Adi Harush and Shimelba. In the meantime, however, the Special Rapporteur has received information that, as of November 2020, the situation of these refugees and asylum seekers has become more precarious and worrisome. The Special Rapporteur is concerned by reports indicating that some camps housing Eritrean refugees and asylum seekers have come under attack during the conflict in Tigray. Reports and first-hand accounts refer to allegations of grave violations and abuses of human rights and humanitarian law, including killings, targeted abductions and the forced return of Eritrean refugees and asylum seekers to Eritrea, allegedly by Eritrean forces.

66. Recent reports indicate that two refugee camps hosting more than 25,000 Eritrean refugees in the Tigray region, Hitsats and Shimelba, allegedly came under attack by Eritrean and Ethiopian troops between November 2020 and January 2021. According to information received, there were clear and consistent patterns that these refugee camps were being specifically targeted, despite their protected humanitarian status.

67. On 28 January 2021, in a letter to the Minister of Foreign Affairs of Ethiopia, the Special Rapporteur called upon the Ethiopian authorities to protect the human rights of Eritrean refugees and asylum seekers in the Tigray region, and to ensure respect for their rights under human rights law, international humanitarian law and international refugee law. He reminded the Government of its obligations under the Geneva Conventions of 1949 and their Protocols Additional of 1977, in particular common article 3 and the Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II), which provide that civilians and all persons taking no part in armed hostilities must under no circumstances be the object of attack and must be spared and protected.

68. In particular, the Special Rapporteur expressed concern about reports pointing to the alleged participation of Eritrean troops in the Tigray conflict alongside the Ethiopian National Defence Forces, and allegations of their possible implication in cases of serious human rights violations, including abductions, extrajudicial killings and executions of civilians, widespread looting and pillage, the forced return of Eritrean refugees and asylum seekers, and their imprisonment in unknown locations in Eritrea. Such allegations must be investigated promptly and thoroughly by independent United Nations mechanisms.

69. In this respect, the Special Rapporteur referred Ethiopian authorities to the principle of non-refoulement as codified in article 3 of the 1984 Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, to which Ethiopia has been a State party since 14 March 1994, and which provides that no State party shall expel, return (“refouler”) or extradite a person to another State where there are substantial grounds for believing that the person would be in danger of being subjected to torture.

70. The Special Rapporteur drew the attention of the Government of Ethiopia to article 9 (1) of the International Covenant on Civil and Political Rights, to which Ethiopia has been a State party since 11 June 1993, and which provides that everyone has the right to liberty and security of person. The enjoyment of the rights guaranteed in the Covenant is not limited to citizens of States parties but must also be available to all individuals, regardless of nationality or statelessness, such as asylum seekers, refugees, migrant workers and other persons, who may find themselves in the territory or subject to the jurisdiction of the State party.

71. Lastly, the Special Rapporteur recalled that Ethiopia was a State party to the 1951 Convention relating to the Status of Refugees and had adopted Proclamation No. 1110/2019, by which the rights and procedures provided in the international and regional legal framework, including protection of refugees against forced repatriation and expulsion, had been brought into domestic law.

B. Deteriorating humanitarian situation for Eritrean refugees and asylum seekers in the Tigray region

72. According to reports received, prior to the crisis, the Tigray region of Ethiopia hosted some 96,000 registered Eritrean refugees. There are growing concerns that tens of thousands of Eritrean refugees and asylum seekers have been internally displaced within Tigray and further into the country. In addition, when two of the northernmost camps (Hitsats and Shimelba) were caught up in active hostilities, camp residents were left for months without food, water, medical supplies or other basic necessities, according to humanitarian agencies.¹⁶ Other Eritrean refugees have reportedly experienced brutal attacks and violence. Across the Tigray region, the conflict and the lack of basic services and shortages of food, water, fuel and cash has had a severe impact on the lives of Eritrean refugees and asylum seekers, and civilians in general.

73. In a positive step, the United Nations and the Ministry of Peace of Ethiopia agreed in December 2020 to establish aid access via a humanitarian corridor. In early January 2021, the Government of Ethiopia granted United Nations humanitarian agencies limited access to two camps in southern Tigray. The United Nations agencies were reportedly able to provide 26,000 residents of the camp with emergency food rations and nutrition assistance, but much more food and non-food aid was needed. The Special Rapporteur is concerned by reports that access failed to improve as the Government of Ethiopia continued to leave humanitarian supply and personnel clearances unanswered for long periods.

74. In February 2021, the United Nations alerted the world that as many as 20,000 Eritrean refugees were missing after two refugee camps in Tigray were destroyed.¹⁷ Two days later, the Government of Ethiopia announced its intention to close the camps and relocate the remaining refugees to new camps or integrate them into Tigrayan host communities. During a visit to southern Tigray, the United Nations High Commissioner for Refugees heard horror

¹⁶ See www.voanews.com/ethiopia-tigray/eritrean-refugees-caught-crossfire-ethiopia-tigray-war.

¹⁷ See www.aljazeera.com/news/2021/2/2/ethiopia-un-says-20000-refugees-missing-in-tigray.

stories of survivors' experiences at the hands of Eritrean troops.¹⁸ The High Commissioner urged Ethiopia to ensure free and unimpeded access to the region for humanitarian workers, noting that neither the United Nations nor their implementing partners had been able to visit Hitsats or Shimelba refugee camps, which the Government of Ethiopia had stated it intended close.

75. The United Nations also sounded the alarm over horrifying reports of sexual and gender-based violence, and of Eritrean refugees in Tigray being kidnapped, killed, attacked and prevented from fleeing.¹⁹ In a statement, the Special Representative of the Secretary-General on Sexual Violence in Conflict highlighted a range of concerns about sexual violence in Tigray, particularly the high number of alleged rapes in Mekele.²⁰

76. Eritrean refugees who have fled Tigray need access to both urgent humanitarian assistance and sustained social services, psychosocial care and livelihood opportunities. Their economic integration into other parts of Ethiopia or neighbouring States will be critical to their survival and well-being. The Special Rapporteur calls on the Government of Ethiopia to ensure immediate and unfettered access for the humanitarian community to all affected communities in the Tigray region, including Eritrean refugees and asylum seekers.

VIII. Conclusions and recommendations

77. **The situation of human rights in Eritrea remains a source of serious concern. The way to improve the situation has been outlined in a number of previous reports by human rights mechanisms, and the recommendations made therein should be considered seriously.**

78. **The Special Rapporteur underscores the centrality of human rights and the rule of law to stability in Eritrea, and calls upon its Government to strengthen its efforts to address the situation of human rights in the country as part of a holistic approach to the challenges of governance and democracy in Eritrea. Other challenges include combating impunity, extending efforts to guarantee the freedoms of religion, expression, association, peaceful assembly and the press, introducing reforms to national service, strengthening the participatory political system and the rule of law, and creating efficient, responsive and transparent institutions in the country. In this regard, the Special Rapporteur calls upon the Government to renew its efforts in these areas to fulfil its human rights obligations.**

79. **The Special Rapporteur calls upon the Government to acknowledge the persistence of human rights violations and abuses in Eritrea, and to allow him and other human rights mandate holders effective access to visit all areas of the country and meet with relevant stakeholders, with a view to addressing the human rights challenges that it faces.**

80. **In the present report, the Special Rapporteur has focused on specific areas of serious concern for human rights that must as a matter of utmost priority be addressed by the Government of Eritrea. Given the current developments in the Tigray region, the involvement of the Government of Eritrea in armed conflict and the persistent and flagrant violations of human rights, and guided by the obligations of Eritrea under international treaty law, the Special Rapporteur makes the following recommendations to the Government of Eritrea in relation to each benchmark and to the ongoing armed conflict in the Tigray region.**

¹⁸ See www.unhcr.org/en-us/news/press/2021/2/6019584e4/remarks-un-high-commissioner-refugees-filippo-grandi-press-conference-addis.html.

¹⁹ See www.aljazeera.com/news/2020/12/11/disturbing-un-says-safety-of-eritrean-refugees-greatly-at-risk.

²⁰ See www.un.org/sexualviolenceinconflict/press-release/united-nations-special-representative-of-the-secretary-general-on-sexual-violence-in-conflict-ms-pramila-patten-urges-all-parties-to-prohibit-the-use-of-sexual-violence-and-cease-hostilities-in-the.

81. In relation to benchmark 1, on improvement in the promotion of the rule of law and strengthening of national justice and law enforcement institutions, the Special Rapporteur recommends that the Government of Eritrea:

(a) Create efficient, responsive and transparent institutions in the country that are governed by rule of law;

(b) Reconvene the national assembly to adopt laws and to enable the Eritrean people to participate freely in the public affairs of their country, as an important step towards building a democratic society, ensuring the separation of powers and providing checks and balances as inherent requirements of the rule of law in the country;

(c) Cease the practices of indefinite and arbitrary detention and arrest and put effective legal avenues in place to address any concerns in this regard;

(d) Ensure that the legal rules that exist in international law to remedy and prevent human rights violations are adhered to by all relevant actors with respect to the rule of law (police, prosecutors, judges and prison officials);

(e) End the practice of arbitrary and incommunicado detention and release detainees, including political opponents and prisoners of conscience, who were unlawfully and arbitrarily detained and held without charge in secret prisons and other places of detention, and ensure that all persons deprived of their liberty are detained in official places of detention only and are provided with all the legal guarantees related to the proper administration of justice and due process of law, including access to a lawyer, family visits and prompt judicial review of their detention;

(f) Comply with the decisions of the African Commission on Human and Peoples' Rights regarding communications related to numerous cases of individuals who are currently languishing in Eritrean prisons having been held for prolonged periods without charge or trial.

82. In relation to benchmark 2, on a demonstrated commitment to introducing reforms to the national/military service, the Special Rapporteur recommends that the Government of Eritrea:

(a) Put in place an independent mechanism to monitor and investigate violations against conscripts and students at Sawa military camp who have been subjected to ill-treatment and harsh punishment, including corporal punishment, sexual and gender-based violence and forced labour;

(b) End the harsh conditions at Sawa military camp and abolish the requirement for all students to complete their last year of secondary school at the camp, which affects students' right to education.

83. In relation to benchmark 3, on extended efforts to guarantee freedoms of religion, association, expression and the press, and extended efforts to end religious and ethnic discrimination, the Special Rapporteur recommends that the Government of Eritrea:

(a) Immediately and unconditionally release all those who remain in prison without charge or trial because of their faith or belief, including 20 Jehovah's Witnesses and 13 Christians;

(b) Review the decisions to strip Jehovah's Witnesses of their citizenship because of their religious affiliation, respect the recommendation of the African Commission on Human and Peoples' Rights to ensure that Jehovah's Witnesses retain their citizenship rights, and investigate the reported deaths in detention of Jehovah's Witnesses;

(c) Take concrete measures to create a safe, enabling, unrestrictive and free environment for members of the political opposition, the independent media, and independent civil society organizations not affiliated to the Government.

84. In relation to benchmark 4, on a demonstrated commitment to addressing all forms of gender-based violence and to promoting the rights of women and gender equality, the Special Rapporteur recommends that the Government of Eritrea:

(a) Establish an effective legal framework to address all forms of discrimination and violence against women and promote the rights of women in all aspects of Eritrean society;

(b) Ensure that cases of sexual and gender-based violence against women and girls are investigated and perpetrators are held accountable;

(c) Implement the recommendations made by the Committee on the Elimination of Discrimination against Women in its concluding observations on the sixth periodic report of Eritrea.

85. In relation to benchmark 5, on strengthened cooperation with specialized United Nations human rights bodies, international agencies and the African Commission for Human and Peoples' Rights, the Special Rapporteur recommends that the Government of Eritrea:

(a) Lift the travel restrictions on all non-citizens lawfully in the country, diplomats, international humanitarian workers and United Nations staff, since such restrictions undermine the implementation of activities and programmes by United Nations agencies throughout the country;

(b) Issue a standing invitation for country visits to the special procedure mandate holders of the Human Rights Council and to the members of the African Commission on Human and Peoples' Rights.

86. In relation to the ongoing conflict in the Tigray region of Ethiopia, the Special Rapporteur recommends that the Government of Eritrea:

(a) Provide information on the presence of Eritrean troops in Tigray and the allegations of serious human rights violations committed by the Eritrean army, including the abduction and forced return of Eritrean refugees and asylum seekers;

(b) Ensure that protective measures are taken in areas under its effective territorial control to ensure respect for international humanitarian law and international human rights law by Eritrean troops present in Tigray;

(c) Ensure that specific measures are taken to investigate allegations of violations by Eritrean forces in Tigray and bring perpetrators to justice in an impartial manner and in full respect for fair trial guarantees.

87. The Special Rapporteur recommends that the international community, including Governments, international organizations and business enterprises:

(a) Investigate promptly and thoroughly allegations of serious human rights violations, including abductions, extrajudicial killings and executions of civilians, widespread looting and pillage, and the forced return of Eritrean refugees and asylum seekers;

(b) Exert concerted international pressure on the Government of Eritrea to end the two-decade practice of arbitrary and incommunicado detention, including of political opponents, prisoners of conscience and others detained because of their faith, which has a serious impact on the life of many Eritreans;

(c) Adopt similar initiatives to the European Union's global human rights sanctions regime to target and impose restrictive measures on individuals, entities and bodies – including State and non-State actors – responsible for, involved in or associated with serious violations of human rights and humanitarian law in Eritrea, including acts of torture, extrajudicial, summary or arbitrary executions and killings;

(d) Avoid directly or indirectly financing projects that may potentially violate or have an adverse impact on the human rights of the Eritrean people, and put in place mechanisms to adequately monitor respect for the basic rights of those employed in projects implemented, ensuring that the labour force participates on a voluntary basis and that workers receive adequate financial compensation.