

Eritrea Briefing Documents

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Title: Trends and Perspectives on the Eritrean Refugees and Human Rights Crisis

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1. INTRODUCTION¹

This paper discusses trends and perspectives on the Eritrean refugee and human rights crisis from the viewpoint of the Eritrean Movement for Democracy and Human Rights (EMDHR). It complements the objectives of the Eritrean Diaspora Working Group (London Meeting). As discussed over teleconference of the prospective participants of the London Meeting, on 10 January 2008, the paraphrased objectives of the meeting are:²

- To introduce a selected group of Eritrean human rights defenders from different regions of the world, including their advocacy work on human rights and refugee protection, specifically in Africa and Europe;
- To define concrete strategies with regard to the attainment of the above objectives, especially in relation to advocacy towards the European Union (EU) – because the EU is seen as a very important actor, both in relation to the refugee problem and in relation to human rights and the general political situation in the region.

According to the same document, the participants³ of the London Meeting were consciously chosen by the organiser (EEPA), taking into consideration the variety of political views amongst the Eritrean diaspora. At a later stage, however, a broader platform of Eritrean diaspora will be considered.⁴ The Working Group is expected to explore possibilities on the optimisation of effective information sharing and dissemination of Eritrean news to key EU officials, European NGO's and other relevant stakeholders.

As a preparation for the London Meeting, members of the Working Group were given specific tasks to be accomplished before the meeting. The EMDHR representative was asked to prepare a briefing on the Eritrean human rights and refugee crisis and the response towards such crisis in Africa and Europe. The briefing is based on past, current and future advocacy programmes of the EMDHR in the area of human rights and refugee protection, including some discussion on the political stand of major European players. To provide context, this document presents a brief contextual background of Eritrea, focusing mainly on the increasing tendencies of authoritarianism of the government that finally led to the post-2001 agonising political crisis.

2. CONTEXTUAL BACKGROUND

The following quotation from a comprehensive report of Amnesty International released in 2004 squarely depicts the level of extreme repression which has overwhelmingly prevailed in the Eritrea as a result of the post-2001 political crisis:

¹ This discussion paper heavily relies on the following contributions: Daniel R Mekonnen *Transitional Justice: Framing a Model for Eritrea* (University of the Free State, LLD Thesis, forthcoming 2008) (hereinafter 'LLD Thesis'); Simon M Weldehaimnot 'From Open Air Prison' to Refugees: Curtailment of the Rights to Emigrate in Eritrea and Its Ramifications,' (under review with the *International Journal of Refugee Law*); Simon M Weldehaimnot 'Guide to Eritrean Asylum Seekers: Compilation of Cases' (unpublished paper, 2007); a legal brief submitted by Simon M Weldehaimnot at the African Commission on Human Rights People (ACHPR) (hereinafter 'the Legal Brief').

² See Minutes of the Teleconference, prepared by Willemijn Nieuwenhuys, Project and Programme Manager at EEPA (hereinafter 'Tele Conference Minutes').

³ The current participants are Kassahun Checole (United States), Mehret Ghebreyesus (United States) Daniel R Mekonnen (South Africa), Dawit Mesfin (United Kingdom), Meriem Mohammed (United Kingdom), Mirjam van Reisen (EEPA) and Willemijn Nieuwenhuys (EEPA).

⁴ Tele Conference Minutes, n 2 above.

Human rights violations continue in Eritrea on a massive scale. *Thousands* of government critics and political opponents – many of them prisoners of conscience who have not used or advocated violence - are detained in secret. Some have been held for several years. None has been taken to court, charged or tried. In some cases, panels of military and police officers have reportedly handed down prison sentences in secret proceedings that flout basic standards of fair trial. Detainees are not informed of the accusations made against them, have no right to defend themselves or be legally represented, and have no recourse to an independent judiciary to challenge abuses of their fundamental rights.⁵

Eritrea is the youngest nation in Africa. With a population of less than 4 million people, it is also one of the smallest countries in the world and represents a history of only 17 years of independence. The 2007 *Country Reports on Human Rights Practices*, published by the US Department of State, describes the country as a one party state with 'continuously postponed presidential and national legislative elections.'⁶ In the initial years of independence, the country has enjoyed a relatively peaceful political transition. Between 1998 and 2000, Eritrea sustained a devastating loss in a bizarre border conflict with Ethiopia that claimed a minimum of 70, 000 lives from both sides.⁷ The government manipulates the border conflict to justify severe restrictions on fundamentals rights.

Since 1998, Eritrea has been completely militarised. In 2001, the country has seen the worst political crisis of the post-independence era which was a result of a serious political disagreement between the state president and a group of senior government officials who became to be known as the group of 15 (G-15).⁸ In the post-2001 era, Eritrea has become one of the most repressive countries in the world. With no implemented constitution, no functioning parliament, no independent judiciary, no free and fair elections and no free press, the country represents a bleak picture of a failed state in the making.⁹

3. FACTORS CONTRIBUTING TO REFUGEE OUTFLOW

Many reliable sources identify the Eritrean government as one of the worst violators of human rights in the world. Reports about the government's ever-growing draconian rule are abundant at every quarter of human rights advocacy groups. These include the annual reports of Amnesty International,¹⁰ Human Rights Watch,¹¹ Committee to Protect Journalists,¹² Reporters

⁵ Amnesty International *Eritrea: 'You Have No Right to Ask' – Government Resists Scrutiny on Human Rights* (AI Index: AFR 64/003/2004, May 2004) (emphasis added).

⁶ US Department of State, Bureau of Democracy, Human Rights, and Labour *Country Reports on Human Rights Practices* (2007), also available at <http://www.state.gov/g/drl/rls/hrprt/2006/78733.htm>. The People's Front for Democracy and Justice (PFDJ), previously known as the Eritrean People's Liberation Front, headed by country's president, Isaias Afwerki, is the sole political party and has controlled the country since independence in 1991.

⁷ Some reports indicate that from both sides around 100 000 soldiers have died during the war. See, for example, *New York Times* 'Resentment and Rations as Eritrea Nears a Crisis,' 16 October 2007, available at http://www.nytimes.com/2007/10/16/world/africa/16eritrea.html?_r=1&oref=slogin. The British journalist, Michela Wrong, on her part describes the war as 'more devastating than the rather better-publicised Kosovo crisis.' See Michela Wrong *I Didn't Do it for You: How the World Betrayed a Small African Nation* (2005) 371.

⁸ For detailed discussion on the plight of the G-15, see Daniel R Mekonnen 'The Reply of the Eritrean Government to ACHPR's Landmark Ruling on Eritrea: A Critical Appraisal' 31(2) 2006 *Journal for Juridical Science* 26-56.

⁹ See, for example, Daniel R Mekonnen 'The Abolition of Female Circumcision in Eritrea: Inadequacies of New Legislation' *African Human Rights Law Journal* 7(2) 2007.

¹⁰ N 5 above.

¹¹ Human Rights Watch 2006 *World Report: Eritrea*, available at <http://hrw.org/english/docs/2006/01/18/eritre12307.htm>, accessed 18 January 2006.

without Borders,¹³ as well as various concerns expressed by several democratic dispensations such as the EU¹⁴ and the US government,¹⁵ the UK government¹⁶ and others.¹⁷

According to a recent research, Eritrea is said to have moved away from the 'cautious authoritarianism' of the pre-1997 years to a 'full-fledged authoritarianism' after the 1998-2000 border conflict with Ethiopia.¹⁸ The authoritarianism of the Eritrean government was also persuasively revealed by an online survey conducted in the Eritrean Diaspora communities. Although the survey may not be taken as a perfect indicator, it draws tentative observations on the sad state of affairs in Eritrea. From a total number of 520 Eritrean voters, 91% asserted their opposition to the government in Eritrea and 86% said that the government is a dictatorship.¹⁹ In its annual global comparative assessment of the state of political rights and civil liberties, Freedom House has ranked Eritrea as a 'not free' and the Eritrean government as one of the most repressive regimes of the world for the seventh consecutive year.²⁰ Similarly, the Eritrean President, Mr Isaias Afwerki, was included in the 2004 list of the *World's Worst Dictators and Dishonoured Mentions*.²¹ Freedom of speech is one of the severely curtailed rights in Eritrea. A prominent media report published in October 2007 ranked Eritrea *the worst country* in the world in media freedom.²² Credible global indicators measuring economic progress and development indicate that Eritrea ranks the last or near the bottom in the world and indeed below most African countries.

In recent years, Eritrea has suffered from severe economic meltdown. A 2007 report by the International Monetary Fund (IMF) revealed that Eritrea's inflation is the second highest in the world, the first being that of Zimbabwe.²³ Eritrea has one of the lowest literacy rates in the

¹² Committee to Protect Journalists, 'Special Reports from around the World: In Imprisoning Journalists, Four Nations Stand Out,' available at http://www.cpj.org/Briefings/2005/imprisoned_04/imprison_release03feb05na.html (accessed 3 February 2005).

¹³ Reporters Without Borders 'Democratic Governments Urged to Summon Eritrean Ambassadors on Anniversary of 18 September 2001 Crackdown,' available at http://www.rsf.org/article.php3?id_article=23674, accessed 18 September 2007.

¹⁴ Presidency of the EU 'Declaration by the Presidency on behalf of the European Union on Political Prisoners in Eritrea,' http://www.ue2007.pt/UE/vEN/Noticias_Documentos/Declaracoes_PESC/20070918.htm, accessed 18 September 2007.

¹⁵ N 6 above.

¹⁶ UK Home Office, *Country of Origin Information Report on Eritrea*, October 2007, available at http://www.homeoffice.gov.uk/rds/country_reports.html.

¹⁷ The Eritrean government has been found to be in gross violation of international law at least in two landmark judgments of the ACHPR, only as regards the post-2001 human rights violations. See *Liesbeth Zegveld and Mussie Ephrem v The Government of Eritrea*, ACHPR, Communication No 250/2002, 19th Activity Report of the ACHPR; *Article 19 v Eritrea*, Communication No 275/2003, 22nd Activity Report of the ACHPR, Annex II. See also *Mahmoud Sherifo et al v Eritrea*, Working Group on Arbitrary Detention, UN Doc E/CN4/2003/8/Add1, 54 (2002), 05 March 2002.

¹⁸ Assefaw Bariagaber 'Eritrea: Challenges and Crises of a New State,' a Writenet Report Commissioned by UNHCR, Status Determination and Protection Information Section – DIPS, 1 October 2006, 19, available at <http://www.unhcr.org/home/RSDCOI/4538821e4.pdf>.

¹⁹ Eritrean Room for Strong and United Opposition (Online/Paltalk Forum), 2007 Survey, available at <http://cs.asmarino.com/Erfsauo.php?itemid=378>, accessed 02 July 2007.

²⁰ Freedom House *The Worst of the Worst: World's Most Repressive Societies*, 2007, available at http://www.freedomhouse.org/uploads/special_report/58.pdf. See also Freedom House *Countries at the Crossroads: Country Profile of Eritrea*, 2007, available at <http://www.freedomhouse.org/template.cfm?page=140&edition=8&ccrpage=37&ccrcountry=155>.

²¹ Parade 'The World's Worst Dictators and Dishonourable Mentions,' available at http://archive.parade.com/2004/0222/0222_dictators.html#anchor, accessed 22 February 2005.

²² Reporters Without Borders *Annual Worldwide Press Freedom Index*, available at http://www.rsf.org/article.php3?id_article=24025, accessed 16 October 2007 (emphasis added).

²³ IMF 2007 *World Economic and Financial Surveys*, available at <http://www.imf.org/external/pubs/ft/weo/2007/02/pdf/text.pdf>.

world. As much as 42.4% of the total population lacks basic literacy.²⁴ Besides, 'about 50% of Eritrean children drop out of school at the elementary stage,' and only '13% of high school students graduate.'²⁵ Level of urbanisation is also very low in Eritrea as 80% of the total population is engaged in rural agricultural activities such as farming and herding. As a result, Eritrea's economy is largely dependent on substance agriculture.²⁶

Development and nutrition indicators disclose shocking revelations. According to the *2006 Human Development Report* of the UNDP, the Human Development Index (HDI) for Eritrea is 0.454, which gives Eritrea a rank of 157 out of 177 countries.²⁷ Another most reliable worldwide indicator on nourishment is the Global Hunger Index (GHI), published by the German Agro Action (DWHH) and the International Food Policy Research Institute (IFPRI). This report, released on 12 October 2007, has ranked Eritrea third from bottom in terms of hunger; this means 116th from 118 countries assessed by the report.²⁸ As a result of a shrinking economy, Eritrea was able to meet only 19% of its own food needs in 2005.²⁹ Eritrea is also governed by one of the most corrupt governments in the world. According to Transparency International, Eritrea was ranked 111 out of 180 countries surveyed by a 2007 global corruption perceptions index.³⁰

In terms of militarism, Eritrea represents one of the most militarised societies in the world. In Eritrea, high school students are forcibly enrolled for the last year of education in the notorious Sawa Military Training Camp, where they are disciplined under strict martial rule. In effect, this is a preparatory stage for subjugation, indoctrination and brain washing that is accompanied by the abusive national military service programme (NMSP) which starts at the age of 18 and ends no where.³¹ In recent years, all senior academic institutions have been effectively headed by military commanders. In 2003, the country ranked first in the world for being the most militarized state; and in terms of percentage of its Gross National Product (GDP), Eritrean military expenditure ranked the third highest after North Korea and Angola.³² According to a former senior official of the National Commission for Demobilisation and Reintegration, by mid-2000, Eritrea had 300,000 army personnel, more than any other time in the history of the nation.³³ This number is believed to have increased considerably in recent years.³⁴

²⁴ CIA *The World Fact Book: Eritrea*, 2007, available at <https://www.cia.gov/library/publications/the-world-factbook/geos/er.html>.

²⁵ See Ravinder Rena 'Education and Human Development in Eritrea,' available at <http://www.worldpress.org/Africa/2869.cfm>, accessed 19 July 2007.

²⁶ See Yohannes A Andemichael: 'Design of an Indigenous Music Information Storage and Retrieval System in Eritrea,' *INDLINGA African Journal of Indigenous Knowledge Systems* 2(1) (2003): 69; UN Office on Drugs and Crime 'Eritrea: Country Profile, available at http://www.unodc.org/kenya/en/country_profile_erit.html, accessed on 17 February 2008.

²⁷ UNDP *2006 Human Development Report*, available at <http://hdrundp.org/hdr2006/statistics/>.

²⁸ DWHH and IFPRI *2007 Global Hunger Index: Facts, Determinants and Trends*, available at http://www.welthungerhilfe.de/fileadmin/media/pdf/Pressemitteilungen/DWHH_GHI_english.pdf.

²⁹ Anti Slavery International 'Trafficking in Women, Forced Labour and Domestic Work in the Context of the Middle East and Gulf Region,' Working Paper, 2006, available at <http://www.antislavery.org/homepage/resources/PDF/traffic%20women%20forced%20labour%20domestic%202006.pdf>, at 14.

³⁰ Transparency International *2007 Corruption Perceptions Index*, available at <http://www.infoplease.com/world/statistics/2007-transparency-international-corruption-perceptions.html>.

³¹ See Legal Brief, n 1 above.

³² See Awate Team '2003: Defending Indefensible, Indulging Incompetence,' available at <http://www.awate.com/portal/content/view/2748/2/>, accessed 11 January 2004. According to the same report, Eritrea's GDP was the third-last in the world in 2003.

³³ Amanuel Mehreteab 'Renewed Demobilization in Eritrea,' *Bonn International Centre for Conversion Bulletin* 21 (2001).

³⁴ Awate Team has recently indicated that the total number of NMSP conscripts is estimated between 400, 000 and 800, 000. See Awate Team 'The Genesis of Eritrea's Slavery Project,' available at <http://www.awate.com/portal/content/view/4646/9/>, accessed 23 October 2007.

Throughout its history, Eritrea has been one of the leading refugee producing countries in the world. It is a host to hundreds of thousands of internally displaced people (IDPs). Refugees and IDPs are two of the most vulnerable population groups in every society and as such they are the core targets of criminal syndicates involved in human trafficking and smuggling. As a result of the alarming record of human rights violations, Eritrea has been ranked the fourth refugee producing country in the world, with a total amount of 19, 400 new claims during 2005-2006. With its small number of population, regularly estimated to be less than four million, the country's refugee crisis is strictly frightening. In terms of refugee outflow, Eritrea is preceded only by failed or chaotic countries such as Somalia, Iraq and Zimbabwe.³⁵

In October 2007, Reuters reported that some 15, 600 Eritrean escapees currently living in the Shimelba Refugee Camp in northern Ethiopia are living under harshest conditions. Of these, 'some 3000 are university students or graduates fleeing forced conscription.'³⁶ In December 2007, the Ethiopian Administration for Refugee and Returnee Affairs indicated only in November 2007 more than 600 Eritreans crossed the border to seek asylum in Ethiopia. This means that the number 'had more than doubled from a monthly average of about 300' in 2006.³⁷ The following illustrative graph by the Awate Team also portrays a revealing account of refugee outflow from Eritrea to Sudan between March and November 2006.

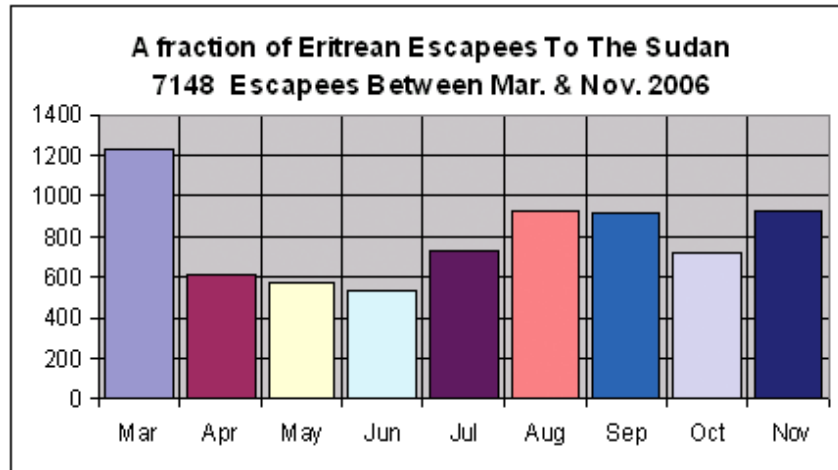


Table II: Eritrean refugee influx in 2006

Source: Awate Team 'Eritrean escapees to The Sudan,' available at <http://www.awate.com/portal/content/view/4460/6/> (accessed 30 January 2007)

³⁵ UNHCR 2006 *Global Trends: Refugees, Asylum Seekers, Returnees, Internally Displaced and Stateless Persons* (2007), also available at http://www.unhcr.dk/Pdf/statistics/global_trends_2006.pdf. Another report also states that 'in terms of refugee repatriation and resettlement, Eritrea held the record for the second highest refugee outflow per capita (after Burundi). In terms of absolute numbers, Eritrea's refugee outflow at 377,000 [was] the fifth highest.' See Awate Team, n 32 above; Baraiagaber, n 18 above, at 35.

³⁶ Reuters 'War Fears Swell Refugee Camp near Eritrea Border,' 01 November 2007, available at <http://www.alertnet.org/thenews/newsdesk/L01818953.htm>. See also *Newsweek* 'Waiting for War,' 30 October 2007, available at <http://www.newsweek.com/id/67188>.

³⁷ Reuters 'Ethiopia Sees Highest Eritrean Refugee Influx,' 14 December 2007, available at <http://www.reuters.com/article/latestCrisis/idUSL14534808>. According to the Ethiopian Administration for Refugee and Returnee Affairs, 'some 25,000 Eritreans are sheltering in Ethiopia.' The process of crossing the border to Ethiopia or Sudan is extremely dangerous. The price paid for smugglers is prohibitively exorbitant. Reports indicate that individuals pay some US\$ 2000 for smugglers who assist them to cross the border to Sudan. Eritrean borders are heavily guarded by special surveillance units which have been given explicit orders to shoot anyone on the spot if caught crossing the border. See Legal Brief, n 1 above.

Recently, the UN assistant high commissioner for refugees, Erika Feller, has also revealed that only in 2007 some 10, 000 refugees arrived in Sudan and most of them are Eritreans.³⁸ According to a 2006 report by Anti Slavery International, many Eritrean refugees migrate via Sudan to Egypt or to Libya and further to Europe, migrating to Djibouti or Somalia and further to Yemen, or migrating south, trying to reach South Africa. The report indicates that each of these migration routes is reported to also be a trafficking route.³⁹

The 1998-2000 border conflict with Ethiopia has also produced more than 650, 000 IDPs, including 75, 000 people who were arbitrarily expelled from Ethiopia.⁴⁰ All these population groups constitute major sources of victims⁴¹ of human trafficking such as women, children and the poor. The large of number vulnerable population groups in the society raises concerns that there may be a significant increase not only in the number of refugees but also in the number of victims of human trafficking in the near future with women and children making the most vulnerable.⁴²

4. THE PLIGHT OF REFUGEES

In recent years, many Eritrean refugees have been deported from several African and European countries irrespective of the dangers they face after deportation. Two latest examples in this regard come from Sweden and Egypt. Sweden has recently decided to deport a man to Eritrea on the ground that 'the general situation in Eritrea is not considered a basis for residency in Sweden.'⁴³ The individual circumstances in the man's case were said to be not strong enough to warrant an exception. In contrast, however, Cecilia Bailliet, a professor of international law at the University of Oslo, notes that the Norwegian Immigration Directorate suspended the deportation of Eritrean asylum seekers in 2006 in light of the deteriorating situation of human rights in Eritrea.⁴⁴ This approach has to be emulated by other European countries, such as Sweden, which are still deporting Eritreans irrespective of the alarming record of human rights violations in the country.

On the other hand, Bailliet decries that in spite of the commendable approach adopted by the Norwegian Immigration Directorate, the Appeals Board of the same country continues to grant

³⁸ Reuters 'UNHCR Says Eritrean Refugees Arriving on Sudan Border,' 06 February 2008, available at http://www.reuters.com/article/homepageCrisis/idUSMCD638085_CH_2400. Similarly, reports also indicated that only in Sweden some 878 Eritrean refugees have arrived in 2007. See *The Local* 'Sweden to Deport Man to Eritrea,' 28 January 2008, available at <http://www.thelocal.se/9743/20080123/>.

³⁹ n 29 above.

⁴⁰ See n 7 above. Most figures in this document do not include the more than 1 million refugees and IDPs who fled the country in the pre-independence era. Many of them are well settled in several western countries. See Gaim Kibreab 'Displaced Communities and the Reconstruction of Livelihoods in Eritrea,' United Nations University, World Institute for Development Economics Research, Discussion Paper No 2001/23, 2001, available at <http://www.wider.unu.edu/publications/dps/dp2001-23.pdf>.

⁴¹ UNIEF, for example, reports that Africa's 3.3 million refugees and its estimated 12.7 million IDPs are those most vulnerable to trafficking. See Jonathan Fowler 'UNICEF: Human Trafficking in Africa Fuelled by War, Economic Hardship, and Lack of Birth Registration,' *Associated Press*, 23 April 2004, as quoted in The Protection Project 'Human Rights Reports of Africa: Country Profile of Eritrea,' available at <http://www.protectionproject.org/eritrea.doc> (date unknown).

⁴² Compare this with the observations of the United Nations Office on Drugs and Crime (UNODC), which has recently observed that human trafficking is on the rise in East Africa, a region to which Eritrea belongs. See IRIN News 'East Africa: Human Trafficking "On the Rise,"' 21 June 2007, available at <http://www.irinnews.org/report.aspx?ReportId=72856>.

⁴³ *The Local*, n 38 above. See also Amnesty International 'Urgent Action Appeal: Protest Deportation of Asylum-Seeker Jamil Mohammad Burhan,' available at <http://www.amnestyusa.org/actioncenter/actions/uaa04608.pdf>, accessed 21 February 2008

⁴⁴ Cecilia M Bailliet 'Examining Sexual Violence in the Military within the Context of Eritrean Asylum Claims Presented in Norway,' *International Journal of Refugee Law* 19 (2007) 510.

only humanitarian protection to women victims of rape and sexual abuses.⁴⁵ Female members of the Eritrean army are routinely raped and sexually abused by army commanders. Bailliet has cited a considerable body of evidence in this regard, ranging from periodic reports by rights groups to testimonials given by victims of rape and sexual abuse. Such cases are internationally recognized under the Refugee Convention (under article 1 A(2)) as adequate grounds for the grant of asylum. Accordingly, Bailliet suggests that for Eritrean victims of rape and sexual violence 'access to protection in the form of asylum, as opposed to humanitarian protection or protection on compassionate grounds is merited.'⁴⁶ However, Bailliet also suggests that Norwegian Government has recently proposed 'a new Aliens Law which calls for recognition of sexual violence and acts of a gender specific nature as persecution, and announced that new gender guidelines will be created.'⁴⁷ This policy should be followed by other European countries which have not yet adopted the same degree of protection.

Although most European countries do not forcibly send people back to Eritrea, there are reports that Germany has sent an asylum seeker back to Eritrea two years ago and the UK deported one person in 2007.⁴⁸ Both were jailed on their return, according to Amnesty International. Madelaine Seidlitz, refugee and migration expert at Amnesty International asserts that the human rights situation in Eritrea is currently very serious and there are many reports of people who are sent back to Eritrea being arrested and subjected to torture.⁴⁹ Amnesty International believes that it is quite inappropriate and in contravention of the Refugee Convention to force someone to return to Eritrea.⁵⁰ In spite of this, many Eritrean refugees in Egypt, Libya, Sudan and other countries leave in a constant fear of deportation. These countries are known for deporting large number of Eritreans in different times. In Libya, for example, a group of Eritreans were forcibly returned to Eritrea in 2004. Aware of what awaited them back in Eritrea, the deportees forced the plane to land in Sudan.⁵¹ Eritrean refugees have also been reportedly deported from Sudan several times or even hijacked by underground Eritrean security personnel who regularly commit cross boarder atrocities in Sudan.⁵²

As late as 13 February 2008, some 250 Eritrean asylum seekers in Egypt were under imminent threat of deportation.⁵³ Alarmed by a phone text message from one of the asylum seekers, an Eritrean human rights lawyer wrote an urgent petition to the Chairperson of the ACHPR in which he stressed that if deported, the asylum seekers will be treated harshly in Eritrea, because they are assumed to have left the country in manners described by the Eritrean government as 'illegal.'⁵⁴ Quoting the Asylum and Immigration Tribunal of the United Kingdom,

45 Ibid, at 509.

46 Ibid, at 479, 509.

47 Ibid, at 510.

48 *The Local*, n 38 above.

49 Ibid.

50 Ibid.

51 *BBC News* 'Eritreans in Plane Hijack Drama,' 24 August 2004, available at <http://news.bbc.co.uk/2/hi/africa/3605184.stm>. Lately, some of them, including former Maltese deportees, were relocated to third countries with the assistance of the indomitable Eritrean human rights activist, Elsa Chyrum, and other activities.

52 Nick Wadhams 'Rights Group Accuses Sudan, Eritrea of Deporting Eritrean Refugees from Sudan,' *VOA*, 10 December 2007, available at <http://voanews.com/english/2007-12-10-voa35.cfm>.

53 Simon M Weldehaimanot 'An Appeal On Behalf of Eritrean Refugees,' 13 February 2008, available at <http://www.awate.com/forums/showthread.php?t=2199>.

54 Ibid. Sadly, one of such asylum seekers was reportedly shot dead on 16 February 2008 at the border between Egypt and Israel, apparently when she tried to cross from Egypt to Israel out of frustration. The report said that 'Murfit Meery, 37, was trying to cross into Israel in the El Kuntilla region in the eastern part of the Sinai peninsula.' Her daughters aged 8 and 10, travelling with her, were taken into custody.' See Reuters 'Egypt Police Kill Eritrean Migrant on Israel Border,' 16 February 2008, available at <http://www.alertnet.org/thenews/newsdesk/L16201821.htm>. Another report indicates that Eritrean asylum seekers represent the largest number of prisoners in Egyptian prison sites. There are reportedly about 600 Eritrean prisoners in Egypt. See '600', available at [Page | 9](http://www.togoruba.org/togoruba1964/mainTogorubamap/mainMap/headingMap/tigrigna/2008/newsFeb-</p></div><div data-bbox=)

the author of the petition indicated that 'a person who is reasonably likely to have left Eritrea illegally will in general be at real risk' if returned to Eritrea forcibly. Once in Eritrea, deportees are treated as traitors and subjected to punishment which is persecutory and amounts to serious harm and ill-treatment.⁵⁵

In 2002, some 220 Eritreans were deported from Malta in disregard to popular appeals forwarded by Amnesty International and other Eritrean and non-Eritrean rights groups. On arrival at Asmara Airport, the deportees were detained and taken to detention camps in circumstances resembling with a hot pursuit of prisoners of war.⁵⁶ While in prison, they were tortured and harshly treated by the military. Reports indicate that some of them were extra judicially executed.⁵⁷ In a 2004 report by Amnesty International, one victim was quoted as follows:

We were beaten and mostly were tied in the 'helicopter' position and tortured in groups of 10 to 15. We were tied up day and night, except for three short food and toilet breaks. I was tied up for two weeks. One of us got very ill with bronchitis and there was no medical treatment... Some got paralysed in the arms and legs.⁵⁸

Similarly, in the documentary, *Eritrea: Voices of Torture*, one of the Malta deportees by the name Habtom Tekleab narrated his ordeal in prison as follows:

When they first caught us, we were beaten mercilessly with everything the soldiers found to hand. In fact, some of the soldiers were saying, 'let us kill them.' Others said, 'don't kill them ... if they die they won't suffer enough.' They even covered our faces and beat us one by one. They then tied us and suspended us up in the [shipping] container. It is horrible to be held in a [shipping] container let alone being tied up and left inside. The temperature is so high that it reaches 45, 47 degrees centigrade. The whole day we were left inside and were throwing up blood and screaming in agony. Then in the evening, they brought us to be seen by the others, to terrorize them. We were bathed with blood, badly bruised and were left until the next day in order to scare the others. We did not look like human beings at that time. Both of us looked different, we looked like the soil. Our faces changed completely. Our bodies swelled and bruised because of the beating and the heat. God's mercy let us live.⁵⁹

According to the same sources,⁶⁰ another deportee by the name Robel Goniche, was shot dead at the edge of a detention camp while trying to escape. In South Africa, some Eritrean asylum seekers and students have also been deported illegally, upon the unwarranted intervention of

2008/1902SF8-06NT.pdf, accessed on 21 February 2008. Israel has also threatened recently to deport some six to seven thousand African refugees, who are believed to be unqualified for asylum protection. According to Larry Derfner, many of the asylum seekers are Eritreans. See Larry Derfner (The Jerusalem Post) 'The underground bomb shelter in Israel turned into overcrowded little Eritrean refugee camp, The Jerusalem Post,' available at <http://www.jpost.com/servlet/Satellite?cid=1203518560591&pagename=JPost%2FJPostArticle%2FShowFull>, accessed 21 February 2008.

⁵⁵ Weldehaimanot, n 53 above. See also MA (Draft Evaders - Illegal Departures - Risk) *Eritrea v. Secretary of State for the Home Department*. CG [2007] UKAIT 00059. United Kingdom: Asylum and Immigration Tribunal/Immigration Appellate Authority, 26 June 2007, online, UNHCR Refworld, available at <http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?docid=46822c3f2>, para 1, accessed 17 February 2008.

⁵⁶ Amnesty International, n 5 above; Human Rights Concern – Eritrean (HRC-E) *Eritrea: Voices of Torture*, Documentary, 2006)

⁵⁷ HRC-E, n 56 above.

⁵⁸ Amnesty International, n 5 above.

⁵⁹ HRC-E, n 56 above.

⁶⁰ Amnesty International, n 5 above and HRC-E, n 56 above.

the Eritrean Embassy in some notable cases. Between 2000 and 2002, some 600 Eritrean students were sent to South African universities for postgraduate studies under a World Bank funded human resource development programme. Many of them found it impossible to return to Eritrea, owing to their continued objection to the alarming human rights crisis in the country.⁶¹ In an effort to subjugate political dissent, the Eritrean Embassy pressed for illegal deportation schemes which indeed resulted in the unfortunate deportation of Rahel Tesfamariam and Isaak Habte in June 2003. Others spared the risk of deportation after intervention by pro bono human rights litigation organisations, notably the Legal Resources Centre and Lawyers for Human Rights.⁶² EMDHR is the result of such sad developments and the overall human rights crisis in Eritrea. Sadly, several of its founding members are yet to secure sufficient asylum protection under South African laws. The South African refugee protection, as compared to the protection accorded by other democratic dispensations, is exceedingly discouraging. This has remained one of the most daunting challenges among EMDHR members. Generally speaking, the situation of Eritrean asylum seekers and refugees in Africa is by far worse than any other part of the world.

5. ALLEVIATING THE REFUGEE AND HUMAN RIGHTS CRISIS

Since its inception, EMDHR has been working actively in the area of human rights promotion. As indicated earlier, EMDHR by itself is a product of the increasing political repression in Eritrea, which also includes the suppression of the rights of its founding members in South Africa by the Eritrean embassy in the same country. By mission and objective, EMDHR gives top priority to refugee protection. Thus far, it has assisted hundreds of Eritrean asylum seekers in South Africa and elsewhere, by offering legal advice, writing supporting letters, disseminating petition letters and organising protest marches to denounce deportation orders of asylum seekers from different parts of the world.⁶³ In terms of its limited resources, advocacy is too costly to EMDHR. Therefore, it focuses on dissemination of self-liberating messages to victims as well as to the general public, via various communications platforms, such as radio broadcasting, leaflets, seminars, workshops and internet. EMDHR strives to encourage people to shoulder the responsibility of making informed decisions on issues affecting their lives - to teach people how to fish, instead of giving them fish now and again. Still, the plight of Eritrean refugees in South Africa and other parts of the continent is at its dismal level.

In its broader and long term objectives, EMDHR intends to launch comprehensive human rights litigation projects aimed at combating the impunity of senior Eritrean government officials and equally the impunity of immigrant Eritrean human rights abusers in the domestic courts of democratic dispensations as well as in regional and international judicial forums. One of the most important works in this regard is the latest communication lodged against the Eritrean government at the ACHPR by a volunteer at EMDHR. The communication, lodged on behalf of hundreds of thousands of Eritrean citizens who are unable to do so by themselves, expounds the violation of the right to freedom of movement of the Eritrean youth.⁶⁴ In this context, the

⁶¹ Daniel R Mekonnen and Samuel B Abraha 'The Plight of Eritrean Students in South Africa,' (unpublished paper, 2004).

⁶² These include individuals such as Yared Teka, Solomon Russom, Samuel A Habtemariam, Amanuel Belete, Tsegay Gebreyonas and Abraham O Tekle. See Stringer # 17 'South Africa: Eritrean Students Deported, Arrested,' 08 June 2003, <http://www.awate.com/portal/content/view/1392/3/>; *Yoel Alem v The Minister of Home Affairs and Others*, High Court of South Africa, Transvaal Division, Case No 2597/2004, unreported (copy of order in possession with author).

⁶³ Other Eritrean civil society organizations in Europe and elsewhere, such as Eritreans for Human and Democratic Rights – UK, HRC- E, and others are also actively involved in such kind of activities.

⁶⁴ See Legal Brief, n 1 above.

communication discusses the violation of several other fundamental rights and freedoms by the Eritrean government.⁶⁵

There are also other ongoing litigation proposals which are in their initial stage. One of such proposals, developed from the first draft of the doctoral thesis of this author, is currently under consideration by the Centre for Justice and Accountability (CJA, www.cja.org), a US-based pro bono human rights litigation organisation.⁶⁶ It is firmly believed that several immigrant human rights abusers are meaningfully aiding the Eritrean government's widespread acts of torture, persecution and murder of innocent Eritreans. These abusers, who operate under instructions received from the headquarters of the ruling party in Asmara, are possibly suspected to be members of a network of spies, security agents, bloggers and others, deployed by the Eritrean government in all Eritrean diaspora communities to spy and report on outspoken critics as well as to denounce and crush any tendency of political dissent. To do this, the abettors utilise several methods, including intimidation, cancellation of passports, arrangement of illegal deportations,⁶⁷ physical assault,⁶⁸ death threats⁶⁹ and the like. They are disguised as community leaders and/or diplomats and are the most feared in all Eritrean diaspora communities.

Many of such abusers are legally, peacefully, openly and comfortably living with survivors of torture and abuse in the same European and American cities without any consequences to their actions. The CJA accountability proposal lays the legal basis for holding notorious immigrant human rights abusers under relevant principles of international criminal law with the hope that such legal basis can finally lead to analogising the scenario when using US or European laws for accountability purposes (in local jurisdictions). As aptly stated in another similar initiative, this proposal intends 'to ensure that the full weight of law is applied to those who refuse to play by the rules of the game.'⁷⁰

⁶⁵ It is to be noted that in two landmark cases of the ACHPR, the Eritrean government was found to be in flagrant violation of international human rights standards. See n 17 above.

⁶⁶ Daniel R Mekonnen 'The Importance of Accountability for Immigrant Human Rights Abusers in the United States,' a proposal submitted to the CJA on 17 January 2008. CJA is a San Francisco-based NGO 'devoted to seeking justice and accountability on behalf of torture survivors against their perpetrators in the courts.' In its nine years history, CJA has thus far successfully won several human rights litigation cases against abusers from different countries who sought a safe haven in the US. With its fitting motto, *Bringing Human Rights Abusers To Justice*, CJA is one of the most appropriate institutions to give effect to the current proposal. See also CPJ' Mission Statement at www.cja.org.

⁶⁷ See, for example, the cases from South Africa cited in note 62 above.

⁶⁸ The latest example in this regard comes from the UK, where in a certain public meeting called by the Eritrean Embassy in London (in December 2007), two prominent human rights defenders were flagrantly assaulted by government operatives in the venue. See, for example, Selam Kindane 'The London Mekete Resorts to Common Crime to Ensure Non Diversity of Views,' 11 December 2007, available at <http://zete9.asmarino.com/index.php?itemid=1146>. Kidane advises that the culprits of the London incident can be legally challenged by invoking section 39 of the 1988 UK Criminal Act as well as the following case law: *Cole v Turner* (1705) 6 Mod 149; *Wilson v Pringle* [1986] 2 All ER 440; *Fagan v MPC* [1969] 1 QB 439; *Sim v Stretch* [1936] 2 All ER 1237, 1240, per Lord Atkin.

⁶⁹ This author, for example, recently received a death threat written by a pseudonymous email writer. The writer, whose Internet Protocol (IP) address was traced to be in Washington, DC said: 'Wait for your time we will take care of you. The EPLF knows your location and address. It is just a matter of time. Once we finish the business with Woyane Aggame, then we will come back at you and others ... We know you very well ... we will take you out for good ... just wait for your time.' The email displayed the following details: IP address: 38.102.41.247; latitude/longitude: 38.9048/-77.0354; ISP: Performance Systems International Inc.; domain: cogentco.com; zip code: 20007; and time zone 05:00. The death threat was sent to the author just after he published part 6 of his serialised Tigrinya article which explores the possibilities under international criminal law of holding to account the most responsible perpetrators of gross human rights violations in Eritrea: ••••• ••••• '••••• •••••••••• ••• •• ••• •• ••••• (••••• •••••),' 23 November 2007, available at, <http://www.awate.com/portal/content/view/4665/8/>.

⁷⁰ A similar proposal in this regard is that initiated by the editors of the prominent Eritrean website, www.awate.com. For details, see Awate Team 'A Call to Set Up Awate Defence Fund,' 06 February 2008, available at, http://www.awate.com/portal/component?option=com_wrapper/Itemid,25/; and 'A Concept Paper

6. CHALLENGES AND LIMITATIONS

With all its dedicated personnel working merely on voluntary basis and without any formal pay (now for more than 4 years), EMDHR suffers from acute shortage of financial resources. Since its inception, the organisation has been supported by insufficient financial resources denoted generously from some funders.⁷¹ Yet, the organisation has not attained a level of sufficient and sustainable funding required for a successful implementation of its major projects. Other challenges are related with the poor quality of refugee protection accorded by the South African legal system to Eritrean asylum seekers in the country. In principle, the South African legal system guarantees adequate protection to refugees and asylum seekers. The practice is, however, discouraging. Several years after applying for a refugee status, most of the founding members of EMDHR are yet to receive the relevant travel documents that enable them to travel around the world. Due to such limitations, their movement outside of South Africa has been severely curtailed, making extremely difficult the implementation of advocacy, campaign and litigation programmes designed by the organisation. For example, participation in the current London Meeting was ideally scheduled to be attended by a member of the Executive Committee (EC) of EMDHR. Since none of the current EC members have obtained the relevant travel documents, the EC requested the author to represent EMDHR in the meeting, as had been done in several other forums. With all its attendant risks, the author still uses his Eritrean passport for international travels.

The sad thing is that Western governments are not putting adequate pressure on the Eritrea government to make sure that the government resolves to address the alarming record of human rights violations. A clear point in this regard is the official position of the EU towards the Eritrean government, which was dubbed by the Paris-based press freedom advocacy group, Reporters Without Borders, as 'stealth diplomacy.' The organisation correctly lamented that:

This tragedy is revealing of the blatant failure of the 'stealth diplomacy' adopted by the European Union. Development programmes worth 122 million Euros over five years, were agreed in May [2007] by European Commissioner Louis Michel. In exchange the EU called on the Eritrean government to 'adopt a constructive approach to the resolution of regional crises as well as to progress in human rights and press freedom.' But on the day of the signing of the agreement on 4 May, the Eritrean president scornfully brushed aside critical questions from European journalists about human rights in Eritrea at a joint press conference with Louis Michel in Brussels. The EU official nevertheless said he was 'very, very honoured' to welcome Isaias Afwerki to the Commission. As a result, Reporters Without Borders is campaigning for the Eritrean president and his ministers to be declared persona non grata in Europe.⁷²

The call made by Reporters Without Borders is timely and one that should be heeded by all peace loving and democratic nations in the world, the leading of which are several EU member

of the Subcommittee of Legal Experts at the Awate Defence Fund' (11 February 2008). For previous calls on the need for the adoption of such proposals, see generally [redacted] ' [redacted] [redacted] [redacted] [redacted] [redacted] [redacted] -- 1 [redacted] [redacted] 9 [redacted] [redacted], July 2007 – February 2008, available at <http://www.awate.com/portal/content/view/4756/8/>.

⁷¹ One of the initial funding for EMDHR came from Justice Africa, a London-based NGO. At a later stage, some projects were also funded by two US-based funders, namely, National Endowment for Democracy and Grassroots International. EMDHR also solicits some funds from its members, in the form of monthly contribution, and also from Eritrean diaspora individuals and civil society organisations. With the precarious situation of its members, who are mostly refugees, membership contribution has never attained the required level of funding.

⁷² Reporters Without Borders 'Eritrea Annual Report 2008,' February 2008, available at http://www.rsf.org/article.php3?id_article=25386. See also Mekonnen, n 9 above.

countries. A clear contrast needs to be drawn here between Eritrea and Zimbabwe to assess the attention given to the human rights crises in the two countries by the EU. The treatment is apparently incomparable. For Nunu Kinda, what makes Eritrea different from Zimbabwe, in the eyes of the EU, is the fact that Zimbabwe has at one time hit the race card, triggering the EU to respond furiously.⁷³ Fortunately or unfortunately, the Eritrean crisis does not involve racism to an extent which disgusts the EU.⁷⁴ In spite of the alarming record of human rights violations in the country, the EU seems to be indifferent about the excesses of the Eritrean government. In this regard, another Eritrean writer has correctly noted that when 'Mugabe is unwelcome in Europe for rigging elections in 2002,' EU officials warmly welcome Afwerki, who surprisingly, 'has never allowed elections to rig or not to rig.' Mikael calls this 'a clear case of European double standard.'⁷⁵

7. CONCLUSION

The Eritrean human rights and refugee crisis has reached a very alarming stage. Several Eritrean and non-Eritrean rights groups are relentlessly working to alleviate this crisis. There are, however, limitations and challenges. In the case of EMDHR, lack of financial resources and other institutional limitations have severely curtailed the achievement of the organisation's major objectives. The status of Eritrean refugees and asylum seekers in several African countries is helplessly discouraging. The problem also prevails in some European countries. Some EU countries are generally playing a pivotal role in terms of according protection to Eritrean refugees and asylum seekers. However, the EU, as a major international actor is not playing a constructive role, especially in pressurising the Eritrean government to improve its alarming record of human rights violations. As one of the leading international development partners, much work of advocacy is required to convince the EU to reconsider its position towards the Eritrean government.

⁷³ Nunu Kidane 'Comparing Isaias and Mugabe,' available at http://www.awate.com/artman/publish/article_4534.shtml, accessed 07 July 2006.

⁷⁴ See also Daniel R Mekonnen 'Comparing Mugabe and Afwerki: A Sequel,' *e-CIVUCUS*, Issue No 334, 25 April 2007.

⁷⁵ Wodlu Mikael 'Europe and African Dictators,' available at <http://www.awate.com/portal/content/view/4685/5/>, accessed 12 December 2007. Compare this with Network of Eritrean Civil Societies in Europe 'NECS-E Urged EU to take President Issias to Task over the Gross Human Rights Abuse in Eritrea,' available at <http://cs.asmarino.com/?itemid=586>, accessed 08 December 2007.