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ERITREA

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Introduction

1. ADF International is a faith-based legal advocacy organization that protects fundamental freedoms and promotes the inherent dignity of all people before national and international institutions.
2. This submission addresses the state of freedom of thought, conscience and religion, as well as parental rights in Eritrea. In particular, it provides an overview of the country's domestic legal framework, presents cases of religious persecution, and examines the country's military conscription program. Finally, it provides suggested recommendations in order to improve the human rights situation.

(a) Freedom of Thought, Conscience and Religion

Background

3. According to UNICEF, the total population of Eritrea was estimated to be about 3.6 million in 2019, comprising nine ethnolinguistic groups.¹ Almost 40% of Eritreans are under the age of 15 years, indicating a very young overall population.²
4. The nine ethnic groups in Eritrea include the Afar, Bilen, Hidarb, Kunama, Nara, Rashaida, Saho, Tigre, and Tigrina.³ The population is about 50% Muslim (virtually all Sunni), 40% Eritrean Orthodox, 5% Roman Catholic, 2% Protestant, 2% Traditional Beliefs, and 1% other Christian.⁴

Legal Framework

5. After gaining independence from Ethiopia, a provisional National Assembly was established in 1994.⁵ The National Assembly adopted a constitution in 1997, which was supposed to enter into force after elections.⁶ However, the elections were postponed and no elections have been held since, leaving the First Speaker of the Legislature, Isaias Afwerki, remaining in power.
6. The Eritrean Constitution encompasses various provisions pertaining to the protection of freedom of thought, conscience, or belief. Article 14.2 prohibits discrimination on various grounds, including religion.⁷ Furthermore, Article 19.1 states that "every person shall have the right to freedom of thought, conscience, or belief."⁸ On religion specifically, the Eritrean Constitution provides that "every person shall have the

¹ *Eritrea Country Office Annual Report 2022*, UNICEF (last visited 7 Aug. 2023), available at <https://www.unicef.org/media/135901/file/Eritrea-2022-COAR.pdf>.

² *Id.*

³ *Eritrea's 9 ethnic groups*, Ministry of Information Eritrea (21 Mar. 2014), available at <https://shabait.com/2014/03/21/eritreas-9-ethnic-groups/>.

⁴ *Religion of Eritrea*, Encyclopedia Britannica (last visited 7 Aug. 2023), available at <https://www.britannica.com/place/Eritrea/Religion>.

⁵ *Eritrea National Assembly*, IPU Parline Global Data on national parliaments (last visited 7 Aug. 2023), available at https://data.ipu.org/content/eritrea?chamber_id=13383.

⁶ *Eritrea Constitution of 1997*, Constitute Project (last visited 7 Aug. 2023), available at https://www.constituteproject.org/constitution/Eritrea_1997.pdf?lang=en.

⁷ *Id.* at Art. 14.2.

⁸ *Id.* at Art. 19.1.

freedom to practice any religion and to manifest such practice”. Article 19.4 also recognizes the freedom of every person to practice and manifest any religion.⁹

7. Despite constitutional guarantees of freedom of thought, conscience, or belief, the government only recognizes four official religions: the Eritrean Orthodox Church, Catholic Church, Lutheran Church, and Sunni Islam.¹⁰

Religious Persecution

8. According to the World Watch List 2023 from Open Doors, which monitors the persecution of Christians around the world and ranks countries accordingly, Eritrea ranks number four, only preceded by North Korea, Somalia, and Yemen, respectively.¹¹
9. For example, on 26 July 2021, two elderly pastors from Full Gospel Church in the capital city of Asmara, Pastors Ghirmay and Samuel, were taken from their homes in the middle of the night to an unknown location.¹² Police also intended to arrest a third, Pastor Georgio, but found him sick and left him under house arrest until he could be taken into custody.
10. Not even officially recognized religious groups are immune to persecution. In 2019, the government of Eritrea shut down all Catholic-run hospitals and clinics in the country, after having previously closed all the Christian and Muslim schools in an effort to lessen the impact that such religious groups have on Eritrean society.¹³
11. Between 19 and 23 November 2021, Eritrean government forces and Tigrayan militias committed killings, rapes, and other grave abuses against Eritrean refugees in Ethiopia’s Tigray region. Refugees caught in the crossfire were restricted from carrying out religious rites. A humanitarian worker said, “We heard that the priests were begging to bury [the dead], but [Eritrean forces] told them to leave the bodies.”¹⁴
12. On 9 February 2022, Abune Antonios, Patriarch of the Eritrean Orthodox Church, died after spending almost 15 years in government incarceration. He was under house arrest since 2007 – even though no charges were brought against him – after he

⁹ *Id.* at Art. 19.

¹⁰ Staff writer, *Christianity still growing in Eritrea despite 20 years of church closures*, Christianity Today (20 May 2022), available at <https://www.christiantoday.com/article/christianity.still.growing.in.eritrea.despite.20.years.of.church.closures/138634.htm>.

¹¹ *Eritrea World Watch Ranking: 4*, Open Doors (last visited 7 Aug. 2023), available at <https://www.opendoors.org/en-US/persecution/countries/eritrea/>.

¹² Open Doors Team, *Two elderly pastors arrested in Eritrea and a third placed on house arrest*, Open Doors (26 Jul. 2021), available at <https://www.opendoorsuk.org/news/latest-news/pastors-arrested-eritrea/>.

¹³ Crux Staff, *Catholic Church suffering violence in Ethiopia, Eritrea*, Crux (29 May 2020), available at <https://cruxnow.com/church-in-africa/2020/05/catholic-church-suffering-violence-in-ethiopia-eritrea>.

¹⁴ *Ethiopia: Eritrean Refugees Targeted in Tigray, Need for Urgent Protection, Assistance; Thousands Still Missing*, Human Rights Watch (16 Sep. 2021), available at <https://www.hrw.org/news/2021/09/16/ethiopia-eritrean-refugees-targeted-tigray>.

denied government requests to excommunicate 3,000 Church members, and spoke out against the imprisonment of Christians, including three Orthodox priests.¹⁵

13. In January 2023, a group of forty-four Christians, predominantly women, were taken from their homes by police.¹⁶ Observers believe that security forces conducted similar house raids to catch other Christians and that many members of “unofficial” churches have been detained without charge and held in terrible conditions.
14. On March 2023, Eritrean police arrested and detained 103 Christian college students at a worship event in Asmara. The Christian students were reportedly taken to the notoriously harsh and overcrowded Mai Serwa prison.¹⁷
15. It has also been reported that Christians who are eventually released from government custody endure persistent discrimination via governmental “blacklisting”.¹⁸ They also often face employment barriers and continuous surveillance, while their families lose opportunities.

Freedom of Thought, Conscience and Religion in International Law

16. Eritrea acceded to the International Covenant on Civil and Political Rights (ICCPR) on 22 January 2002 and the International Covenant on Economic, Social and Cultural Rights (ICESCR) on 17 April 2001 without reservations.¹⁹
17. Article 18.1 of the ICCPR guarantees the right to freedom of thought, conscience and religion, including the right to manifest one’s religion or belief in worship, observance, practice and teaching. Additionally, both Article 18.4 of the ICCPR and Article 13.3 of the ICESCR obligate States Parties to respect the liberty of parents and, when applicable, legal guardians to ensure the “religious and moral education of their children in conformity with their own convictions.”
18. Eritrea’s harsh restrictions on religious adherents and institutions are incompatible with its obligations under Article 18 of the ICCPR and Article 13 of the ICESCR, among others, for multiple reasons.
19. First, under Article 18.3 of the ICCPR, limitations on the right to freedom of thought, conscience and religion may be subject only to such limitations as are “prescribed by law” and are “necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others.”
20. Vague appeals to national unity or the recognition of only a few “official” faiths do not cure defects caused by derogations from human rights obligations. On both issues,

¹⁵ John Newton, *Eritrea: Patriarch dies in Captivity*, Aid to the Church in Need UK (11 Feb. 2022), available at <https://acnuk.org/news/eritrea-patriarch-dies-in-captivity/>.

¹⁶ Karen Faulkner, *Eritrea: 44 Christians Arrested, Imprisoned for Unknown Reasons*, Worthy News (30 Jan. 2023), available at <https://www.worthynews.com/82393-eritrea-44-christians-arrested-imprisoned-for-unknown-reasons>.

¹⁷ Karen Faulkner, *Eritrea: Police Round Up and Imprison 103 Christian College Students*, Worthy News (26 Apr. 2023), available at <https://www.worthynews.com/84895-eritrea-police-round-up-and-imprison-103-christian-college-students>.

¹⁸ *Global Prayer Guide (Eritrea Restricted)*, The Voice of the Martyrs (last visited 8 Aug. 2023), available at <https://www.persecution.com/globalprayerguide/eritrea/>.

¹⁹ See Ratification Status for Eritrea, UN Treaty Body Database (last visited 9 Aug. 2023), available at https://tbinet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=57&Lang=en.

the Human Rights Committee has indicated that “The freedom from coercion to have or to adopt a religion or belief and the liberty of the parents and guardians to ensure religious and moral education cannot be restricted.”²⁰

21. Furthermore, the Committee has underscored that the limitations contemplated in Article 18 are to be strictly interpreted:

“[R]estrictions are not allowed on grounds not specified there, even if they would be allowed as restrictions to other rights protected in the Covenant, such as national security. *Limitations may be applied only for those purposes for which they were prescribed and must be directly related and proportionate to the specific need on which they are predicated.* [emphasis added] Restrictions may not be imposed for discriminatory purposes or applied in a discriminatory manner.”²¹

22. The abovementioned measures undertaken by the Eritrean government do not meet the threshold for permissible limitations on the exercise of the human right to freedom of thought, conscience and religion as they result in the targeted discrimination or arbitrary interference with the activities of religious groups.

(b) Rights of the Child

23. The Eritrean Constitution contains various provisions concerning the family and parental rights. First, the Preamble recognizes that, for the development and health of society, it is important to improve upon “the traditional community-based assistance and fraternity, love for family, respect for elders, mutual respect and consideration.”²²

24. Article 9.2 of the Constitution encourages values of “community solidarity and love and respect of the family.”²³ More specifically, Article 22.1 recognizes the family as the “natural and fundamental unit of society” and entitles it to “protection and special care” of the State and society.²⁴ Article 22.2 states that men and women of full legal age have the right to marry and to found a family and have “equal rights and duties as to all family affairs.”²⁵ Article 22.3 further states that parents have the right and duty to “bring up their children with due care and affection.”²⁶

Eritrea’s Military Conscription Program

25. Eritrea enforces a harsh mandatory military conscription program for high-school students. This has led many children, young people, and families to flee the country to avoid being conscripted.²⁷

²⁰ Human Rights Committee, *General Comment No. 22 (48) (art. 18)*, adopted by the Human Rights Committee Under Art. 40, para. 4, of the ICCPR (CCPR/C/21/Rev.1/Add.4) at para. 8, available at https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CCPR%2FC%2F21%2FRev.1%2FAdd.4&Lang=en.

²¹ *Id.*

²² Constitution of Eritrea, *supra note 6*, at Preamble.

²³ *Id.* at Art. 9.2.

²⁴ *Id.* at Art. 22.1.

²⁵ *Id.* at Art. 22.2.

²⁶ *Id.* at Art. 22.3.

²⁷ See e.g., Dina Kraft & Sara Miller Llana, *Denied asylum in Israel, Eritreans are welcomed by Canadian Jews*, Christian Science Monitor (21 Jan. 2022), available at

26. Conscripts are often tasked with menial labor or deployed to Ethiopia's conflict-torn Tigray province. They are reportedly subjected to physical violence and allegations of sexual violence by military commanders. There is no time limit on military service, with no provision for conscientious objection.²⁸
27. The families of those conscripted into combat in Ethiopia have not received any official information about the whereabouts or the fate of their loved ones. Conscripts are routinely denied the opportunity to visit their families, often for years. Additionally, there is a threat of severe punishment for families of draft evaders and dodgers, including imprisonment of fathers and mothers after conscripts abscond and the denial of food coupons for entire households.²⁹
28. In July 2022, parents were purportedly coerced by government officials to have their children who evaded conscription register for national service.³⁰ Authorities transported thousands of high-schoolers, many of them underage, to attend their final year at Warsai-Yikealo school in Sawa Military Training Centre. After sitting their school-leaving exams, students continued to be compelled into military training.³¹

Nationalization of faith-based schools

29. The nationalization of schools has also been criticized due to its potential interference with freedom of education, particularly when it prevents parents from sending their children to schools that align with their religious or denominational preferences.
30. On 4 September 2019, Eritrean Catholic Bishops wrote a letter to the Eritrean Minister of Public Education, Semere Re'esom, asking: "If this is not hatred against the faith and religion, what else can it be? By removing children and young people from structures capable of forming them to the supreme values of the fear of God and the moral law, what kind of new generation are we preparing for the future of this country?"³²
31. On 15 October 2022, one of the bishops who had signed the letter, Bishop Fikremariam Hagos Tsalim, was arrested by Eritrean security forces at Asmara International Airport.³³ Two Catholic priests, Father Mihretab Stefanos and Abba

<https://www.csmonitor.com/World/2022/0121/Denied-asylum-in-Israel-Eritreans-are-welcomed-by-Canadian-Jews>.

²⁸ See *generally* Evan Williams, "Escaping Eritrea" documentary on Frontline: PBS (released 4 May 2021), available at <https://www.pbs.org/wgbh/frontline/documentary/escaping-eritrea/>.

²⁹ Report of the Special Rapporteur on the situation of human rights in Eritrea to the 50th Session of the U.N. Human Rights Council (6 May 2022) (A/HRC/50/20) at paras. 24, 41, and 32, available at <https://www.ohchr.org/en/documents/country-reports/ahrc5020-situation-human-rights-eritrea-report-special-rapporteur>.

³⁰ *Eritrea 2022*, Amnesty International (last visited 8 Aug. 2023), available at <https://www.amnesty.org/en/location/africa/east-africa-the-horn-and-great-lakes/eritrea/report-eritrea/>.

³¹ *Id.*

³² English Africa Service – Vatican City, *Eritrean government takes over more Church schools*, Vatican News (20 Sep. 2019), available at <http://www.vaticannews.cn/en/africa/news/2019-09/eritrean-government-takes-over-more-church-schools.html>.

³³ CAN Staff, *Eritrean Catholic Bishop Arrested*, Aid to the Church in Need Ireland (19 Oct. 2022), available at <https://www.acnireland.org/journal/2022/10/19/eritrean-catholic-bishop-arrested>.

Abraham, were also arrested with him. Although they were subsequently released, no reason was given for their arrest.³⁴

32. Parents who are members of non-official faiths face even more barriers in their children's education if they seek to enroll them in private schools that have not been nationalized. For example, Faith Missions Church, active in the country since the early 1950s and used to run orphanages and schools, is one of four religious groups still awaiting registration, despite having submitted the necessary documentation in 2002. Registration is contingent on presidential approval.³⁵

Incompatibility with Eritrea's International Human Rights Obligations

33. Both the ICCPR and ICESCR recognize the rights of parents to ensure the religious and moral education of their children.³⁶ Article 13.3 of the ICESCR only requires that educational institutions other than those established by the public authorities meet "such minimum educational standards as may be laid down or approved by the State."³⁷ Article 13.4 provides that no part of said provision shall be construed so as to "interfere with the liberty of individuals and bodies to establish and direct educational institutions."³⁸
34. The measures taken by Eritrea in this regard go far beyond any reasonable minimum standards for education. The separation of children from their families, physical labor, allegations of sexual abuse, and other deprivations occurring in military training camps undoubtedly violate children's rights and interfere with their family life. They also undermine the rights of parents to direct the moral and religious education of their children.
35. Finally, Eritrea's denial of conscientious objection to military service also violates Article 18 of the ICCPR since the requirement to use lethal force may seriously conflict with the freedom of conscience and the right to hold and manifest one's deeply held convictions.³⁹

³⁴ Donna Birrell, *Catholic clergymen released from detention in Eritrea*, Premier Christian News (8 Jan. 2023), available at <https://premierchristian.news/en/news/article/catholic-clergymen-released-from-detention-in-eritrea>.

³⁵ See Church raided and Christians arrested, CSW (25 Jun. 2019), available at <https://www.csw.org.uk/2019/06/25/press/4378/article.htm>.

³⁶ International Convention on Civil and Political Rights (ICCPR) (adopted 16 December 1966, entered into force 23 March 1976) 999 UNTS 171 (ICCPR), art. 18.; International Covenant on Economic, Social and Cultural Rights (ICESCR) (adopted 16 December 1966 by General Assembly resolution 2200A (XXI)).

³⁷ ICESCR, Art. 13.3.

³⁸ ICESCR, Art. 13.4

³⁹ CCPR General Comment No. 22: Article 18 (Freedom of Thought, Conscience or Religion) (adopted at the Forty-eighth Session of the Human Rights Committee, on 30 July 1993 CCPR/C/21/Rev.1/Add.4) at para. 11, available at <https://www.refworld.org/pdfid/453883fb22.pdf>.

(c) Recommendations

36. In light of the aforementioned, ADF International suggests the following recommendations be made to Eritrea:
- a. Ensure the full and equal enjoyment of the rights to freedom of thought, conscience and religion for all, both in law and practice;
 - b. Immediately release those detained on account of their freedom of thought, conscience and religion and ensure that religious adherents can practice their faith without fear of retaliation or persecution;
 - c. Amend laws and policies related to the national conscription program in a manner compatible with its obligations under the Convention on the Rights of the Child;
 - d. Ensure that the right of parents to direct the religious and moral education of their children is respected; and
 - e. Immediately reopen closed churches, hospitals, clinics, and religious schools and approve those with pending applications, while respecting the rights of individuals and bodies to establish and direct educational institutions



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