

A millstone for Afar human rights fight in Eritrea

GENEVA, JUNE 8, 2016-The UN Commission of Inquiry on human rights in Eritrea (COIE) finds that Eritrean officials including President Isaias Afwerki, have committed **the crime of persecution, a crime against humanity**, against Eritrean Afar population since 1991.

Mr Mike Smith, Chairperson, for Commission of Inquiry, said there was no chance that Eritrea's judicial system could bring the perpetrators to justice through a legitimate trial and called for the perpetrators to be brought before the International Criminal Court in The Hague.

Our organization, the Eritrean Afar State in Exile (EASE), would like take this opportunity to thank all of our champions of Afar Human Rights fight in Eritrea, our team of advisers, especially professor Joseph Magnet, human rights lawyer Warren Creates, our exiled leadership and traditional leaders, our brave refugees in Ethiopia, in Djibouti, Yemen, Sudan, Saudi Arabia, Israel, and other parts of the world, and our Canadian friends and supporters for their commitment to Afar people's rights and humanity at large.

EASE would also like to send special thank you to those brave witnesses and survivors who came forward to assist our team with their investigations by living through and telling of horrifying stories of their loved once, stories of mass murders, rapes, ethnic cleansing, mass graves, displacement, expropriations of their land and businesses and other unimaginable atrocities under current tyrannical rule of Eritrean government. Your fight for justice and equality has now made it to the eyes and ears of the highest offices in the international arena and the court of laws.

Rest assured, EASE will continue to fight your fight for the emancipation of your people from slavery and tyranny in Eritrea and your fight for dignity and God-given rights to safety, security and prosperity as indigenous people in Eritrea.

The following references about the Eritrean Afar were taken from [JUNE 8 REPORT A/HRC/32/CPR.1 by COI](#)

AFAR IN ERITREA

Persecution

Discrimination on religious or ethnic grounds

69. There were also 35,845 new arrivals from Eritrea in Ethiopia in 2015, including 1,711 from the Afar community. Women accounted for 12,421 or about one-third of this figure. The figure is down slightly from the previous year, but remains significantly higher than the number from 2013, which was 24,402. Another 12,370 Eritreans arrived in Sudan last year, and 216 in Djibouti in 2015. 58 Many more are believed to have crossed the border without registering, but there are no precise numbers available.

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118. The Commission also received reports of forcible evictions of members of the Afar ethnic group, and arbitrary arrests of members of the Kunama ethnic group, in late 2015 and 2016, which require further investigation.

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Disappearances

253. As set out in the Commission's first report, Eritrean citizens have "disappeared" into the web of Eritrea's official and unofficial detention centres, since May 1991.³⁶⁵ Indeed, almost all witnesses reported that those detained were subject to enforced disappearance. Particularly high profile cases of enforced disappearance include: former fighters of the Eritrean Liberation Front, a former rival to the EPLF, detained in 1992; Jehovah's Witnesses detained in 1994; Muslim teachers in Keren detained in 1994; members of the Afar ethnic group, detained in 1998-1999; the G-15 political critics and journalists detained in 2001; scores of Muslims detained for protesting the appointment of a Mufti in 2007;

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Rape

300. The Commission conducted interviews detailing incidents of rape against women, girls, and men.⁴²⁹ As explained in more detail below, the evidence collected indicates that instances of rape which can be legally qualified as a crime against humanity, given that they were committed as part of a widespread or systematic attack directed against the Eritrean civilian population, occurred in two distinct circumstances. The first is in military training centres and in the army, the second is in detention. A third occurrence concerns rape of women and girls from

the Afar ethnic minority by military officers.⁴³⁰ However, given its limited resources, the Commission has not been able to investigate further these instances of rape and to establish whether these rapes were also committed as part of a widespread or systematic attack directed against the Eritrean civilian population. Accordingly, the Commission is of the view that its inquiry may have only partially captured the extent and details of rape as a crime against humanity.

The Law

282. Articles 7(1)(h) and (2)(g) of the Rome Statute define persecution as the intentional and severe deprivation of fundamental rights contrary to international law by reason of the identity of the group or collectively. They prohibit persecution on political, racial, national, ethnic, cultural, religious, or gender grounds.

283. Not every act of discrimination constitutes the crime of persecution. The persecution must be “in connection with” another international crime within the jurisdiction, for example, of the ICC,⁴⁰⁶ as well as linked to the attack on the civilian population.

The facts

423 A/HRC/29/CRP.1, paras. 1118-1120.

292. Afar and Kunama are minority, pastoralist ethnic groups. The Afar inhabits an area which is split between Southern Eritrea, Eastern Ethiopia and Northern Djibouti. The Kunama live in an area covering Northern Eritrea and Northern Ethiopia. In its first report, the Commission noted that the border war with Ethiopia prompted the emergence of new opposition movements based on Ethiopian territory including the Red Sea Afar Democratic Organization and the Democratic Movement for the Liberation of the Eritrean Kunama which sought the independence of the Afar and Kunama minorities both in Ethiopia and in Eritrea.⁴²¹ This resulted in suspicions that all Kunama and Afar intended to betray Eritrea. Kunama were also suspected of collaboration with Ethiopia because unlike other ethnic groups, they did not flee their villages during the 1998 Ethiopian occupation of Kunama areas in Eritrea. As a result, the government of Eritrea engaged in a campaign **of killings, arbitrary detentions and enforced disappearances targeting Afar and Kunama civilians, in particular during the period 1998-2001.**

Many rapes were also reported.⁴²² The Commission also received reliable but uncorroborated information about additional killings and disappearances of Kunama civilians in 2007.⁴²³

293. The Commission received a report about the arbitrary arrest and enforced disappearance of at least 52 Kunama civilians in late 2015, and separate information about **the forcible**

eviction and, in some cases, forced relocation, of Afar civilians in 2015 and 2016. These reports require further investigation.

Conclusion

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295. The Commission also has reasonable grounds to believe that Eritrean officials have **intentionally and severely deprived Eritrean Kunama and Afar of fundamental rights contrary to international law on ethnic grounds**. The Commission has corroborated evidence that the Afar and Kunama were targeted, at a minimum, in the period between 1998 and 2001. It has also received uncorroborated information that both ethnic groups were persecuted during other periods as well, and that such persecution persists.

296. **Persecution on both religious and ethnic grounds** has been an integral part of the Eritrean leadership's plan to maintain its authority in a manner contrary to international law.

Thus, the Commission finds that Eritrean officials have committed **the crime of persecution, a crime against humanity**, in a large-scale and routine manner since May 1991. As discussed above, the Commission finds that, at a minimum, the persecution of members of non-authorized religious denominations persists.⁴²⁴

VI. Conclusions and recommendations

B. Recommendations

347. **The recommendations made by the Commission in its first report remain valid. The Commission highlights below those recommendations that are specifically relevant to its new mandate, and makes new ones.**

1. Government of Eritrea

(a) General recommendations

348. **The Commission of Inquiry recommends that the Government of Eritrea:**

(a) Implement fully and without delay the Constitution of 1997; any amendments thereto should be made in a transparent and participatory manner, and take into account the State's international human rights obligations;

(f) Discrimination on religious or ethnic grounds

353. The Commission further recommends that the Government of Eritrea:

(c) Ensure the protection of all minority ethnic groups in Eritrea, in particular the Kunama and the Afar.

Human Rights Council

358. The Commission recommends that the Human Rights Council:

(a) Renew the mandate of the Special Rapporteur on the situation of human rights in Eritrea, and request the mandate holder to, inter alia, promote and report on the implementation of the present recommendations, and provide the mandate holder with the necessary additional human and financial resources;

(b) Bring to the attention of relevant special procedures, for appropriate action, the human rights violations and crimes identified by the Commission in its reports, including the situation of minorities, such the Kunama and the Afar;

(c) Keep the situation in Eritrea on its agenda, and invite the United Nations High Commissioner for Human Rights to report periodically on the situation of human rights;

(d) Transmit the present report to the General Assembly, the Secretary-General and the Security Council for follow-up on its recommendations;

(e) Support the establishment of a structure by the Office of the United Nations High Commissioner for Human Rights with a protection and promotion mandate, in particular to assist in ensuring accountability for human rights violations in Eritrea, especially where such violations amount to crimes against humanity.

General Assembly

360. The Commission recommends that the General Assembly put the human rights situation in Eritrea on its agenda.

5. Security Council

361. The Commission recommends that the Security Council:

- (a) Determine that the situation of human rights in Eritrea poses a threat to international peace and security;
- (b) Refer the situation in Eritrea to the Prosecutor of the International Criminal Court;
- (c) Impose targeted sanctions, namely travel bans and asset freezes, on persons where there are reasonable grounds to believe that the said persons are responsible for crimes against humanity or other gross violations of human rights. A/HRC/32/CRP.1 88

6. African Union

362. The Commission recommends that the African Union establish an accountability mechanism, under the aegis of the African Union and supported by the international community, to investigate, prosecute and try individuals reasonably believed to have committed crimes against humanity.

7. Member States and international organizations

363. The Commission recommends that Member States and international organizations:

- (a) Keep Eritrea under close scrutiny until consistent and tangible progress with regard to the situation of human rights is evident, and ensure the centrality of human rights in all engagement with the State;
- (b) Insist on the implementation of the decision made on 13 April 2002 by the Eritrea-Ethiopia Boundary Commission on the delimitation of the border;

(c) Keep Eritrea on the agenda of the International Labour Organization and continue to address the issue of forced labour;

(d) Assist Eritrea in addressing serious legislative and institutional weaknesses by strengthening its judiciary, establishing independent institutions and reforming its security sector through bilateral and multilateral development cooperation, in accordance with the human rights due diligence policy on United Nations support to non-United Nations security forces;

(e) Provide Eritrean nationals seeking protection with refugee status in accordance with the provisions of the international law governing asylum, and in particular the Convention relating to the Status of Refugees;

(f) Exercise jurisdiction over crimes against humanity when any alleged offender is present on the territory of a Member State or extradite him or her to another State in accordance with its international obligations;

Transnational corporations

364. The Commission recommends that transnational corporations operating or planning to operate in Eritrea conduct human rights impact assessments that specifically address the possibility that Eritrean contractors will rely on conscript labour, difficulties relating to freedom of association and expression in Eritrea, and the absence of financial transparency.