



1 May 2015

A Commentary on the March 2015 Country Information and Guidance reports issued on Eritrea

This commentary identifies what the ‘Still Human Still Here’ coalition considers to be the main inconsistencies and omissions between the currently available country of origin information (COI) and case law on Eritrea and the conclusions reached in the following Country Information and Guidance (CIG) reports issued by the Home Office:

- [CIG Eritrea: Illegal exit](#) (March 2015)
- [CIG Eritrea: National \(incl. Military\) Service](#) (March 2015)

Where we believe inconsistencies have been identified, the relevant section of the CIG report is highlighted in blue. An index of full sources of the COI referred to in this commentary is also provided at the end of the document (COI up to 22 April 2015). This commentary is a guide for legal practitioners and decision-makers in respect of the relevant COI, by reference to the sections of the CIG reports on Eritrea issued in March 2015.

The document should be used as a tool to help to identify relevant COI and the COI referred to can be considered by decision makers in assessing asylum applications and appeals. This document should not be submitted as evidence to the UK Home Office, the Tribunal or other decision makers in asylum applications or appeals. However, legal representatives are welcome to submit the COI referred to in this document to decision makers (including judges) to help in the accurate determination of an asylum claim or appeal. The COI referred to in this document is not exhaustive and should always be complemented by case-specific COI research.

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A. CIG Eritrea: Illegal exit (March 2015)

The analysis of this CIG focuses both on the situation on return of those who have “illegally exited” from Eritrea and also treatment *on return* of (perceived) draft evaders/deserters from national service, given the inter-relationship of these two profiles. This section should therefore also be read alongside the discussion on [CIG Eritrea: National \(incl. Military\) Service](#). However, it should be noted that neither the guidance, nor the COI in that CIG specifically addresses treatment on return for (perceived) draft evaders/deserters from national service, but rather refers to the CIG Eritrea: Illegal exit on this point.

1.3 Consideration of Issues

Are Eritreans at risk of harm or mistreatment for leaving Eritrea illegally?

In the ‘Guidance’ section, the CIG report finds that:

Excerpt from the Eritrea CIG on Illegal exit

1.3 Consideration of Issues

Are Eritreans at risk of harm or mistreatment for leaving Eritrea illegally?

1.3.2 Those seeking to leave Eritrea need official permission to do so legally. This entails obtaining an exit visa which is stamped in a passport. Failure to obtain permission is regarded as illegal exit. However, there are large numbers of Eritreans – reportedly thousands each month – who leave the country illegally (see Law on Illegal Exit and Numbers in the country information section).

1.3.3 In the country guidance case of MO (illegal exit - risk on return) Eritrea CG [2011] UKUT 190 (IAC) (27 May 2011), the court held that:

‘Whilst it also remains the position that failed asylum seekers as such are not generally at real risk of persecution or serious harm on return, on present evidence the great majority of such persons are likely to be perceived as having left illegally and this fact, save for very limited exceptions, will mean that on return they face a real risk of persecution or serious harm’. This is generally because it was found that they would be regarded as a draft evader or political opponent.

1.3.4 However, MO was promulgated in 2011. The most up-to-date information available from inside Eritrea – notably the Danish Immigration Service 2014 Fact-Finding Mission Report (‘the Danish FFM Report’) – indicates that those who refuse to undertake or abscond from military/national service are not viewed as traitors or political opponents (see Penalties for Leaving Illegally and Treatment on Return in the country information section). As a result, Eritreans who left illegally are no longer considered per se to be at risk of harm or mistreatment amounting to persecution on return.

1.3.5 The Danish FFM Report also indicates that a person is able to return to Eritrea legally provided they pay the Diaspora tax and sign a “letter of apology” at an Eritrean embassy. This includes those who evaded or deserted National Service. Once this has been done, a passport application can be made (see Penalties for Leaving Illegally and Treatment on Return and Diaspora Tax in the country information section).

1.3.6 Although use of the money raised through the Diaspora tax is subject to United Nations Security Resolutions (see UNSCRs in the country information section), for states to levy a tax on its citizens overseas is not in itself persecutory, providing it is not at a punitive level or levied in a discriminatory way.

1.3.7 Therefore, provided the request is made without threats of violence, fraud and other illicit means, payment of the levy is not considered to be persecutory.

1.3.8 Consequently, the guidance outlined in MO above should no longer be followed and failure of a person to comply with a reasonable request to pay Diaspora tax would not, in itself, give rise to a well-founded fear of persecution or serious harm.

1.3.9 Those who are unable or unwilling to pay the tax would not be issued with a travel document. However, this would not place them at risk of mistreatment or harm that amounts to persecution.

In this guidance section, the CIG report relies on only one source of COI to depart from the position taken in the Country Guidance (CG) case [MO \(illegal exit - risk on return\) Eritrea CG \[2011\] UKUT 190 \(IAC\) \(27 May 2011\)](#); the Danish Immigration Service's [Fact-Finding Mission \(FFM\) Report, 'Eritrea – Drivers and Root Causes of Emigration, National Service and the Possibility of Return'](#), published in November 2014 and updated in December 2014' (hereafter, Danish Immigration Service FFM report). In addition, in the relevant section of the CIG report which presents COI, '2.3 Penalties for Leaving Illegally and Treatment on Return' again only one source is cited; the same Danish Immigration Service FFM report.

There are serious concerns about the reliability and the methodology of this report and it is considered that any reliance upon any information contained in this report should have been complemented by other sources. See the following section below for a discussion on the reliability of the Danish Immigration Service FFM report; an overview of the criticism it has received from other organisations; and a review of the content of the excerpts included at section '2.3 Penalties for Leaving Illegally and Treatment on Return' of the CIG:

❖ [Criticism of the 2014 Danish Immigration Service Fact-Finding Mission Report](#)

Highlighted paragraph 1.3.4 above states that the Danish Immigration Service FFM report "indicates that that [sic] those who refuse to undertake or abscond from military/national service are not viewed as traitors or political opponents". In fact, only one interlocutor of the FFM cited in '2.3 Penalties for Leaving Illegally and Treatment on Return' makes this point:

Excerpt from the Eritrea CIG on Illegal exit

2.3 Penalties for Leaving Illegally and Treatment on Return

2.3.1 [...] **A western embassy (D) stated that** 'Many Eritreans who live abroad at some point return to Eritrea either to visit family and friends or to start up some business or invest in some project. This includes people who have either evaded National Service or deserted from the service. **It is not completely clear in all cases what happens to National Service evaders or deserters when they return to Eritrea.** However, in some cases National Service evaders and deserters have restored their relations to the authorities prior to their return to Eritrea by paying the two percent Diaspora tax and by signing an apology letter. In some of these cases people have returned to Eritrea even shortly after they evaded or deserted from the service and left the country illegally. **It was emphasized that evaders and deserters are not considered political opponents by the government** and at present, there are no reports that deserters are imprisoned or otherwise severely punished. [...]

Note that this source, "a western embassy (D)" does not provide a clear position on the treatment of draft evaders and deserters *on return* to Eritrea. Whilst it asserts that draft evaders and deserters are not considered political opponents by the government, it states that "It is not completely clear in all cases what happens to National Service evaders or deserters when they return to Eritrea". As is detailed further below in [Criticism of the 2014 Danish Immigration Service Fact-Finding Mission Report](#), the picture that emerges from other interlocutors cited from the Danish Immigration Service FFM report is that illegal exit may be regularised abroad by paying the two percent Diaspora tax and by signing an apology letter, but the sources are not consistent on the profiles of persons who may be able to regularise their illegal exit in this way, specifically whether (perceived) draft evaders/deserters are able to do so, and whether such "regularisation" only applies to visitors to Eritrea. Moreover, no information is included on the content of the "apology letter", nor the potential future consequences of signing such a document.

Furthermore, no information is included in the CIG on what happens on return to persons who have returned without regularising their illegal exit, and the sources included in the CIG are inconsistent as to whether information exists on the treatment *on return* of those perceived to have draft

evaded/deserted military or national service, or returnees in general. The particular situation for refused asylum seekers is also not addressed by any of the sources cited in the Danish Immigration Service FFM report, so hence is not mentioned in the CIG, which is a notable omission.

Moreover, as detailed below in [Content concerns of '2.3 Penalties for Leaving Illegally and Treatment on Return'](#), relevant excerpts from the Danish Immigration Service FFM report that were notably omitted from the CIG report indicate that persons who have regularised their stay abroad having left illegally are likely to be re-enrolled in military/national service or detained on return. This is also evidenced by other sources of COI presented below on [Treatment of persons returned to Eritrea who left Eritrea illegally \(who are viewed as deserters or draft evaders\)](#). Given the well-documented harsh conditions of (indefinite) national service, it is considered that regularising one's status when abroad cannot be conflated with returning to Eritrea safely if it entails a return to (indefinite) military/national service. For COI on this point, see the discussion below of the CIG Eritrea: National (incl. Military) Service with regards to [Does the requirement to undertake national/military service put the person at risk of serious harm or mistreatment?](#) and the COI presented on [Conditions in military and national service](#) and [Evidence of indefinite conscription/ lack of existence of demobilisation from military service](#).

By only relying on the Danish Immigration Service FFM report in section '2.3 Penalties for Leaving Illegally and Treatment on Return', the CIG report fails to take into account any other sources of COI in the public domain. The CIG report argues in highlighted paragraph 1.3.4 above that 'those who refuse to undertake or abscond from military/national service are not viewed as traitors or political opponents'. However, this is inconsistent with the COI that is presented below from 2013-April 2015 on [Treatment of persons returned to Eritrea who left Eritrea illegally \(who are viewed as deserters or draft evaders\)](#) that indicates that persons returned to Eritrea of draft age having left illegally are viewed as deserters or draft evaders, as disloyal and unpatriotic, that draft evaders are viewed as "traitors", and that on return (perceived) deserters or draft evaders have experienced lengthy periods of detention without charge, forced labour, torture and other forms of inhumane treatment, after which they are recalled into military/national service.

The authorities' attitude towards persons attempting to leave the country without permission can be further observed through reports of arbitrary and incommunicado detention in harsh conditions without charge or trial and torture of persons trying to flee; a 'shoot-to-kill' policy toward people attempting to cross borders irregularly, with deaths reported as recently as September 2014 on this basis; ransom demands to avoid being shot or to continue onward migration; as well as punishments such as fines, non-renewal of business licences, or detention of family members in place of persons that have fled. See [Treatment of persons \(and/or their family members\) who attempt to flee](#).

COI from 2013-April 2015 presented below documents that repatriated Eritrean refused asylum seekers face disappearance, arbitrary arrest and detention without charge, torture and other ill-treatment. It is reported that the act of claiming asylum is perceived as criticising the government or an act of treason, that returnees have been forced to state under torture that they committed treason by claiming asylum, and that returned asylum seekers of national service age are particularly at risk of arrest upon return, given that their flight would have involved an evasion of or desertion from national service. See [Treatment of refused asylum seekers on return to Eritrea](#).

It is therefore considered that the COI does not support the inference drawn in paragraph 1.3.4 of the guidance of the CIG report above, that "As a result, Eritreans who left illegally are no longer considered per se to be at risk of harm or mistreatment amounting to persecution on return".

Highlighted paragraph 1.3.5 above states that the Danish Immigration Service FFM report also indicates that “a person is able to return to Eritrea legally provided they pay the Diaspora tax and sign a “letter of apology” at an Eritrean embassy. This includes those who evaded or deserted National Service”. However, as discussed below in [Criticism of the 2014 Danish Immigration Service Fact-Finding Mission Report](#), the sources are not consistent on the profiles of persons who may be able to regularise their illegal exit by paying the “diaspora tax” and signing a “letter of apology”; whether this only applies to visitors, and specifically whether (perceived) draft evaders/deserters are able to do so. Moreover, none of the interlocutors of the Danish Immigration Service FFM report make clear whether refused asylum seekers are also able to regularize their illegal exit and able to safely return on this basis. In addition, as detailed below, no information is included on the content of the “apology letter”, nor on the potential future consequences of signing such a document.

It is particularly surprising, that given the lack of independent press inside Eritrea, and civil society monitoring, that COI from reputable organisations employing a transparent methodology have been omitted from the CIG report. For example no reports of the UN Special Rapporteur on the situation of human rights in Eritrea, Sheila B. Keetharuth, have been included (excerpts from these reports are presented below [Relevant COI omitted from the CIGs](#)), nor is any mention made of the June 2014 establishment of the International Commission of Inquiry on Human Rights in Eritrea by the UN, which is due to report in June 2015:

➤ [United Nations, Oral Update by Mr. Mike Smith, Chair of the Commission of Inquiry on Human Rights in Eritrea at the 28th session of the Human Rights Council, 16 March 2015](#)

[...] On 27 June 2014, the Human Rights Council (HRC) “deeply concerned at the ongoing reports of grave violations of human rights by the Eritrean authorities against their own population” established the International Commission of Inquiry on Human Rights in Eritrea. [...]

We have had four months so far to delve into the human rights situation in Eritrea and we have done so to an extent never achieved before. We have interviewed approximately 400 people in five different countries and received 140 written submissions. We have consulted experts and spoken with a variety of representatives from inter-governmental and non-governmental bodies.

While we continue to travel, to collect testimonies and to go through information gathered to corroborate individual cases and incidents that will be brought to the attention of the Human Rights Council in our final report in June, we can already report on very clear patterns of human rights violations and on our systemic understanding of them. The dominant dimension of the situation in Eritrea appears to us to be the so-called state of “no war, no peace” often referred to by the government of Eritrea. This has become the pretext for almost all the State’s actions that generate and perpetuate human rights violations in the country. [...]

It is surprising that the CIG report makes no reference to the forthcoming publication of the International Commission of Inquiry report. Human Rights Watch considers in its report ‘Denmark: Eritrea Immigration Report Deeply Flawed’ that “Denmark and other European governments should await the outcome of the United Nations Commission of Inquiry on Eritrea, established in June 2014, before considering any major policy changes concerning Eritrea”.¹

1.4 Policy Summary

The CIG report provides the following policy summary of its guidance section:

Excerpt from the Eritrea CIG on Illegal exit
1.4 Policy Summary

¹ Human Rights Watch, [Denmark: Eritrea Immigration Report Deeply Flawed](#), 17 December 2014

- Eritreans need official permission to leave Eritrea legally. This entails obtaining an exit visa which is stamped in a passport. Failure to obtain permission is regarded as illegal exit
- Previous country guidance indicated that those who had left illegally were at risk on return to Eritrea. However, up-to-date information from inside Eritrea suggests this is no longer the case.
- Those who left Eritrea illegally are not at risk of harm provided they have paid the income tax Eritreans living abroad have to pay, and have signed a “letter of apology” at an Eritrean embassy. It is considered a reasonable requirement and a refusal or failure to comply with this will not, in itself, give rise to a well-founded fear of persecution or harm.
- Those who have not paid the tax would not be issued with an Eritrean passport and may therefore be unable to return to Eritrea. However, this does not form the basis for a grant of protection.
- However, there may be reasons related to their illegal exit that may mean the person is at risk of persecution or serious harm and decision makers must consider each case on its facts and the individual circumstances of the person.
- Effective state protection is not available and internal relocation is not a reasonable option. However, both of these factors need to be considered in the context of the conclusion(s) regarding risk.
- Where a claim falls to be refused, it is unlikely to be certifiable as ‘clearly unfounded’ under section 94 of the Nationality, Immigration and Asylum Act 2002.

In relation to the first highlighted paragraph, this is a summary of the Guidance included in the previous section of the CIG report:

Excerpt from the Eritrea CIG on Illegal exit

1.3.5 The Danish FFM Report also indicates that a person is able to return to Eritrea legally provided they pay the Diaspora tax and sign a “letter of apology” at an Eritrean embassy. This includes those who evaded or deserted National Service. Once this has been done, a passport application can be made (see Penalties for Leaving Illegally and Treatment on Return and Diaspora Tax in the country information section).

However, paragraph 1.3.5 makes no explicit mention that by signing a ‘letter of apology’, the returnee will not be at risk of harm. As detailed above, the sources included in the Danish Immigration Service FFM report are not consistent on the profiles of persons who may be able to regularise their illegal exist by paying the Diaspora tax and signing a “letter of apology”; whether this only applies to visitors, and specifically whether (perceived) draft evaders/deserters are able to do so. Moreover, none of the interlocutors of the Danish Immigration Service FFM report make clear whether refused asylum seekers are also able to regularize their illegal exit and able to safely return on this basis. In addition, as detailed below, no information is included on the content of the “apology letter”, nor on the potential future consequences of signing such a document. As set out above, regularising one’s status when abroad cannot be conflated with returning to Eritrea safely if it entails a return to (indefinite) military/national service.

The second paragraph of the policy summary suggests that there “may be reasons related to their illegal exit that may mean the person is at risk of persecution or serious harm”, but does not indicate what these reasons may be. It is considered that the COI included below on [Treatment of persons returned to Eritrea who left Eritrea illegally \(who are viewed as deserters or draft evaders\)](#) and [Treatment of refused asylum seekers on return to Eritrea](#) indicates that these reasons may include:

- Conscription age (i.e. all those having left Eritrea between 18-50 will be perceived to have evaded or deserted military/national service)
- Having in fact deserted indefinite military/national service
- Having claimed asylum

2.3 Penalties for Leaving Illegally and Treatment on Return

Section '2.3 Penalties for Leaving Illegally and Treatment on Return' only includes one source of COI; the Danish Immigration Service FFM report. The following section discusses the reliability of the Danish Immigration Service FFM report; provides an overview of the criticism it has received from other organisations; and reviews the content of the excerpts included in section '2.3 Penalties for Leaving Illegally and Treatment on Return' of the CIG.

Criticism of the 2014 Danish Immigration Service Fact-Finding Mission Report

In November 2014, the Danish Immigration Service published the results of its fact finding missions to Ethiopia and Eritrea:

- [Danish Immigration Service 'Eritrea – Drivers and Root Causes of Emigration, National Service and the Possibility of Return Report from the Danish Immigration Service's fact finding missions to Ethiopia and Eritrea August and October 2014', published 25 November 2014](#)

Following its publication, on 27 November 2014 Professor Gaim Kibreab, one of the interlocutors of the report emailed the Danish Immigration Service requesting to be disassociated from the report:

The way you have chosen to quote me contradicts the findings of the studies I have been conducting on the Eritrean National Service and the full information I provided you in our oral communication and in the edited version of the draft you sent to me for comments and approval. Instead of approving the draft you sent to me, I edited it substantially and your report does not reflect that (please see attachment). I would therefore like to be dissociated myself from your report and its conclusions.²

He further told the Danish newspaper Berlingske that "I was shocked and very surprised. They quote me out of context. They include me in a context with their anonymous sources in order to strengthen their viewpoints. They have completely ignored facts and just hand-plucked certain information".³

The Danish Immigration Service FFM report was subsequently re-issued in December 2014, following Professor Gaim Kibreab's request that statements attributable to him be removed from the report. The December 2014 version includes the following explanation for its re-issue:

- [Danish Immigration Service 'Eritrea – Drivers and Root Causes of Emigration, National Service and the Possibility of Return Report from the Danish Immigration Service's fact finding missions to Ethiopia and Eritrea August and October 2014', published 18 December 2014](#)

1. Background and methodology

[...] The DIS first published a report on 25 November 2014. Since the publication one of the sources, Professor Gaim Kibreab, London South Bank University, publically stated that he wished to be disassociated with the report. For this reason the DIS now publishes this appendix edition of the report that includes Annex B containing e-mail correspondence between Professor Kibreab and the DIS with regard to the approval of the meeting notes and the communication after the publication, and a subchapter 1.3 in Chapter 1 describing the communication with Professor Kibreab. Statements from Professor Kibreab in the report have been crossed out. [...]

² All of the correspondence between Professor Gaim Kibreab and the Danish Immigration Service is appended in Annex B of the Danish Immigration Service '[Eritrea – Drivers and Root Causes of Emigration, National Service and the Possibility of Return Report from the Danish Immigration Service's fact finding missions to Ethiopia and Eritrea August and October 2014](#)', published 18 December 2014

³ Asmarino Independent, [Danish report on Eritrea faces heavy criticism](#), 1 December 2014

In a March 2015 public statement criticising the Home Office CIG reports on Eritrea, Professor Gaim Kibreab described the Danish Immigration Service FFM report as “deeply flawed and hence subjected to a series of severe criticisms”⁴.

Criticisms by other organisations

In addition to Professor Gaim Kibreab’s statements, the Danish Immigration Service FFM report has been publicly criticised by: a number of academics⁵; Asmarino⁶; Eritrean Diaspora organisations⁷; Human Rights Concern Eritrea⁸; Human Rights Watch⁹; Stop Slavery in Eritrea¹⁰; UNHCR;¹¹ with observations from Asmarino¹²; the Caperi online newspaper¹³; Europe External Policy Advisors¹⁴; the Local, a Danish newspaper¹⁵; the Norwegian Organisation for Asylum Seekers (NOAS)¹⁶ and the Society for Threatened Peoples¹⁷. The following selected criticisms have been directed at the 2014 Danish Immigration Service FFM report, none of which are cited in the CIG report (emphasis added):

- UNHCR states that “The main text of the report (pp. 1-20) **makes frequent use of brief summaries of information provided by informants**. Direct quotes are used only rarely. Moreover, on numerous occasions in the report, **viewpoints of different interlocutors are grouped together in one summary paragraph. As a result, actual statements of, and nuances provided by, interlocutors are not reflected** in the 20-page report”¹⁸.
- UNHCR considers that “A comparison between the main text of the report and the records of the meeting notes (which all interlocutors had an opportunity to review and clear; see Methodology Section 1.2) demonstrates that **information provided by interlocutors has often been used selectively in the report**. In other instances, the report **ascribes statements to interlocutors that cannot, however, be traced to these interlocutors’ statements** as

⁴ Gaim Kibreab, [Some Reflections on the UK Home Office’s Country Information Guidance Eritrea: National \(incl. Military\) Service & Illegal Exit](#), 25 March 2015

⁵ Joint academic [STATEMENT ON EU ASYLUM AND AID POLICY TO ERITREA](#), 31 March 2015

⁶ Asmarino Independent (Yosief Ghebrehiwet), [Eritrea: The Danish Delegation to Eritrea and Their Unreliable Sources](#), 29 December 2014

⁷ Joint report by Eritrean Diaspora organisations, [“Listen to our Agony”](#), December 2014

⁸ Human Right Concern Eritrea, [Open Letter to the Danish Immigration Service](#), 10 December 2014

⁹ Human Rights Watch, [Denmark: Eritrea Immigration Report Deeply Flawed](#), 17 December 2014

¹⁰ Stop National Service Slavery in Eritrea, [Response to the recent report from the Danish Fact Finding Mission to Eritrea](#), 29 November 2014

¹¹ UNHCR, [Fact Finding Mission Report of the Danish Immigration Service, “Eritrea – Drivers and Root Causes of Emigration, National Service and the Possibility of Return. Country of Origin Information for Use in the Asylum Determination Process”, UNHCR’s perspective](#), December 2014

¹² Asmarino Independent, [Danish report on Eritrea faces heavy criticism](#), 1 December 2014

¹³ Caperi, [Two Danish officials resign over Eritrea fact finding report](#), 21 March 2015

Caperi [via Asenna], [Head of Danish fact finding mission stands by Eritrea report](#), 6 March 2015

¹⁴ European External Policy Advisors, [Flawed Danish Migration Report shows Need for Realistic Benchmarked Approach on Eritrea](#), 17 December 2014

¹⁵ The Local, [Denmark admits ‘doubts’ about Eritrea report](#), 10 December 2014

The Local, [The Eritrean regime is very happy with Denmark](#), 2 December 2014

¹⁶ NOAS, [UNHCR criticizes Danish report on Eritrea](#), 17 December 2014

¹⁷ Society for Threatened Peoples, [Dispute over protection for refugees from Eritrea in Europe: Different opinions concerning mass exodus of Eritreans – A call for more commitment to human rights in Eritrea](#), 11 February 2015

¹⁸ UNHCR, [Fact Finding Mission Report of the Danish Immigration Service, “Eritrea – Drivers and Root Causes of Emigration, National Service and the Possibility of Return. Country of Origin Information for Use in the Asylum Determination Process”, UNHCR’s perspective](#), December 2014

reviewed and cleared by them and contained in the annexed meeting notes” and provides a number of examples.¹⁹

- Human Rights Watch notes that the report “largely based on interviews with anonymous diplomatic and other sources in Eritrea, **contains contradictory and speculative statements about Eritrea’s human rights situation**. The sources also often qualify their statements, noting that there is no independent access to detention centers, that the fate of people returned to Eritrea is unclear, and that government reforms of the national service conscription are rumored, but not confirmed. **There is no indication that the authors of the report interviewed victims or witnesses of human rights violations in Eritrea**”.²⁰
- Stop Slavery in Eritrea a campaign ran by Eritrean youth, mostly former recruits of the Eritrean National Service (ENS) considers that “Given the delegation had access to information inside the country, this ‘extensive’ report should not have **failed to address the views of young Eritreans or their parents**”.²¹ Furthermore “the report **does not include any insight from the major military training facilities in Eritrea [...] Nor is there an indication of efforts taken to look into the notorious prisons where those accused of absconding or accused of considering absconding are detained**”.²² The source also states that “Whilst there is a mention in the report about authorities labelling returnees as ‘a bad apple’ or ‘bad influence’ there is **no consideration given to the implications of this and particularly for future prospects and opportunities**”.²³
- In a detailed critique, Yosief Ghebrehiwet of the Asmarino Independent explores:
 - (a) why the delegation believes that its assessment of the humanitarian situation on the ground in Eritrea is **more factual than the ones undertaken before by various organizations and individuals**;
 - (b) **why its study in Eritrea entirely bypasses local sources, both human and material, in the gathering of information and, instead, focuses mainly on foreigners and officials – and, for that, all anonymous**”.
 - (c) and how it **semantically exploits the ambiguity in the term “return”** to draw an unwarranted conclusion: that there would be no reprisals by the government if the refugees in Denmark were to be returned to Eritrea.²⁴

Yosief Ghebrehiwet considers that “**the fact that Eritrea has consistently and adamantly refused to provide access to the land to any fact-finding mission on its humanitarian record**, the most recent of which has been that of the UN Commission of Inquiry, makes the DIS [Danish Immigration Service] **delegation’s venture into Eritrea suspect** from its very inception”.²⁵

- In an opinion piece in the Local newspaper journalist Habtom Yohannes states that “**Seemingly it was not important for the researchers to talk to the Eritrean people and their**

¹⁹ UNHCR, [Fact Finding Mission Report of the Danish Immigration Service, “Eritrea – Drivers and Root Causes of Emigration, National Service and the Possibility of Return. Country of Origin Information for Use in the Asylum Determination Process”, UNHCR’s perspective](#), December 2014

²⁰ Human Rights Watch, [Denmark: Eritrea Immigration Report Deeply Flawed](#), 17 December 2014

²¹ Stop National Service Slavery in Eritrea, [Response to the recent report from the Danish Fact Finding Mission to Eritrea](#), 29 November 2014

²² Stop National Service Slavery in Eritrea, [Response to the recent report from the Danish Fact Finding Mission to Eritrea](#), 29 November 2014

²³ Stop National Service Slavery in Eritrea, [Response to the recent report from the Danish Fact Finding Mission to Eritrea](#), 29 November 2014

²⁴ Asmarino Independent (Yosief Ghebrehiwet), [Eritrea: The Danish Delegation to Eritrea and Their Unreliable Sources](#), 29 December 2014

²⁵ Asmarino Independent (Yosief Ghebrehiwet), [Eritrea: The Danish Delegation to Eritrea and Their Unreliable Sources](#), 29 December 2014

religious leaders, who recently published critical letters about the dire situation in the country and the mass exodus of the youth”.²⁶

- Human Rights Watch further considers that “The **Danish report seems more like a political effort to stem migration than an honest assessment of Eritrea’s human rights situation**,” said Leslie Lefkow, deputy Africa director. “Instead of speculating on potential Eritrean government reforms, host governments should wait to see whether pledges actually translate into changes on the ground”.²⁷
- Yohannes further states “**This is the answer we want – we just need someone to do the ‘research’ to say it**”, seems the terms of reference of the anonymous researchers of the Danish Immigration Service (DIS)”.²⁸
- Similarly, a joint report from Eritrean Diaspora organisations states that “This ‘study’ **dismissed the authoritative work of the United Nations Special Rapporteur on the Human Rights situation in Eritrea and other respected human rights organisations**. Their brief visit to Eritrea was conducted with only one purpose in mind: **to provide the evidence needed to justify curbing the number of Eritrean refugees arriving in Denmark**”.²⁹
- UNHCR further notes that “The report **does not include any reflections on the reliability of specific sources of information**. No information is provided in the report about the regulatory framework for the media, NGOs, research institutes and other actors in Eritrea, nor does the report contain an assessment of the impact of these regulatory frameworks on **the independence of certain sources and the reliability of information provided by these sources**”.³⁰
- Human Rights Concern Eritrea reports that “You [the Danish Immigration Service] stated that you chose your interlocutors based on the expertise, merit and role of each interlocutor relevant to the purpose and content of your mission. But, it is not clear to us how your stated goal of getting “updated and first-hand description of the conditions on the ground” could be achieved by **talking to Western Embassies and International Organizations, whose tenure usually last 2 – 3 years only and who have limited contact with nationals and no access to those who live outside the capital city**”.³¹
- Yohannes similarly considers that “**The researchers write without any criticism what one of these “governmental NGOs” told them**: “A regional NGO based in Asmara emphasised that ‘Sawa is not a military camp but is basically the final two years of high school. There are academic classes, some physical training, marching but no weapons training as such’.” Serious researchers would confront this statement with government films of Sawa inaugurations, easily found online”.³²
- Stop Slavery in Eritrea further states that “the **report seems to have looked hard for unlikely pieces of ‘evidence’ (needle in a haystack style) that could be used to support a policy move away from blanket protection**”.³³

²⁶ The Local, [The Eritrean regime is very happy with Denmark](#), 2 December 2014

²⁷ Human Rights Watch, [Denmark: Eritrea Immigration Report Deeply Flawed](#), 17 December 2014

²⁸ The Local, [The Eritrean regime is very happy with Denmark](#), 2 December 2014

²⁹ Joint report by Eritrean Diaspora organisations, [“Listen to our Agony”](#), December 2014

³⁰ UNHCR, [Fact Finding Mission Report of the Danish Immigration Service, “Eritrea – Drivers and Root Causes of Emigration, National Service and the Possibility of Return. Country of Origin Information for Use in the Asylum Determination Process”, UNHCR’s perspective](#), December 2014

³¹ Human Right Concern Eritrea, [Open Letter to the Danish Immigration Service](#), 10 December 2014

³² The Local, [The Eritrean regime is very happy with Denmark](#), 2 December 2014

³³ Stop National Service Slavery in Eritrea, [Response to the recent report from the Danish Fact Finding Mission to Eritrea](#), 29 November 2014

- According to a joint statement by a number of academics, “The Danish media has widely reported that **officials were bribed to change the content of the report** (with promises of pay-rises) – an allegation officially denied by the Danish Immigration Service”.³⁴
- The Norwegian Organisation for Asylum Seekers (NOAS) states “For the first time in over ten years, Flygtningenævnet (**the Danish Immigration Appeals Board**), **was not consulted on the remits** of a country of origin report”.³⁵
- NOAS further notes “**The Danish Ministry of Justice has been accused of providing guidelines on the report’s content and conclusions**, in order to tighten the practice in Eritrean asylum cases”.³⁶
- Caperi notes that “**The report had also been subject to a probe by an Parliamentary Ombudsman after a request from the Danish Ministry of Justice**”.³⁷
- The Local reports that a Danish Immigration Service employee, Jens Weise Olesen, who had taken sick leave since the report’s release called it a **massive failure**, “It is a torpedo fired directly into the work we have done over the past 20 years to build up trust and transparency”.³⁸
- Caperi states that **two officials from the Danish Immigration “criticized the way information was gathered and expressed their dissatisfaction with the findings”**.³⁹ It cites one of the officials as stating that “He [Jakob Dam Glynstrup – the head of the fact finding mission] was **fixated on a particular conclusion in this report**. I have absolutely no doubt about that. [...] **It was obvious from the moment that Jakob landed that his focus was on whether we could reach a conclusion in support of rejecting asylum**”.⁴⁰ This was categorically rejected by Glynstrup.⁴¹
- In March 2015 Caperi reported that “**Two officials who were part of the Danish fact finding mission to Eritrea last year and who criticized the final report and findings of the mission are leaving the Danish Immigration Service.**”⁴²

The Local reports that in a December 2014 press release the Danish Immigration Service (DIS) had stated that the reaction to its report “raises doubts about whether there are risks to people returning to Eritrea after illegally leaving the country and avoiding national service. [...] DIS therefore finds that after concrete and individual assessments, there can be a basis for granting asylum to people seeking it under this motivation [avoiding compulsory national service, ed.]”.⁴³ NOAS similarly reports in December 2014 that “Udlændingestyrelsen [the Danish Immigration Service] has announced that illegal exit and desertion from the national service in Eritrea can be grounds for asylum in Denmark. Udlændingestyrelsen further announced that it is now expected that asylum will be provided in many cases, if it can be assumed that the applicant is from Eritrea”.⁴⁴ According to a joint statement by a number of academics “The report has not been officially withdrawn, but its conclusions are no longer used as a reference for policy in Denmark. The immigration service has announced that illegal exit and desertion from the national service in Eritrea remain grounds for granting asylum in Denmark.

³⁴ Joint academic [STATEMENT ON EU ASYLUM AND AID POLICY TO ERITREA](#), 31 March 2015

³⁵ NOAS, [UNHCR criticizes Danish report on Eritrea](#), 17 December 2014

³⁶ NOAS, [UNHCR criticizes Danish report on Eritrea](#), 17 December 2014

³⁷ Caperi [via Asenna], [Head of Danish fact finding mission stands by Eritrea report](#), 6 March 2015

³⁸ The Local, [Denmark admits 'doubts' about Eritrea report](#), 10 December 2014

³⁹ Caperi [via Asenna], [Head of Danish fact finding mission stands by Eritrea report](#), 6 March 2015

⁴⁰ Caperi [via Asenna], [Head of Danish fact finding mission stands by Eritrea report](#), 6 March 2015

⁴¹ Caperi [via Asenna], [Head of Danish fact finding mission stands by Eritrea report](#), 6 March 2015

⁴² Caperi, [Two Danish officials resign over Eritrea fact finding report](#), 21 March 2015

⁴³ The Local, [Denmark admits 'doubts' about Eritrea report](#), 10 December 2014

⁴⁴ NOAS, [UNHCR criticizes Danish report on Eritrea](#), 17 December 2014

However this has not been communicated in English by the Danish authorities and the Report by the British Home Office does not highlight this crucial change in policy”.⁴⁵

It should also be noted that the Society for Threatened Peoples explains in February 2015 that Switzerland is continuing its policy of not deporting refused asylum seekers to Eritrea:

Following the visit of a delegation of the Swiss Ministries of Foreign Affairs and Justice to the state at the Horn of Africa, Switzerland decided to continue its previous asylum practice of not sending asylum-seekers back, as reported by the "Neue Zürcher Zeitung" on Tuesday. In the fall of 2014, several political parties in Switzerland had called for a more restrictive refugee policy towards Eritreans and demanded rejected asylum-seekers to be deported. However, when a fact-finding mission initiated by the Swiss Federal Office for Migration visited Eritrea in January 2015, it revealed no sustainable improvement of the human rights situation.⁴⁶

Additional methodological concerns

To build on the criticisms listed above, it should be borne in mind that as reported by the UK Foreign and Commonwealth Office in its annual report covering 2014, “No active human rights non-governmental organisations (NGOs) or groups operate in Eritrea. The government does not permit human rights groups to visit the country. Civil society is tightly controlled, with no effective and fully independent civil society groups”.⁴⁷ The monitoring capacity of the interlocutors of the Danish Immigration Service FFM report is therefore unclear, as is their mandate to undertake such work, the locations in which they operate, or the sources upon whom they may rely in giving their assessments.

In addition, no information is provided on how the FFM was facilitated, particularly any role the Eritrean government had in doing so. In fact, very little information is provided in section ‘1. Background and methodology’ of the Danish Immigration Service FFM report on the actual design of the FFM. Specifically, no information is included on:

- The phrasing of the questions posed to the interlocutors
- Whether all interlocutors were asked the same set of questions
- How structured the interviews were; whether the interviewers probed interlocutors’ answers etc.
- Whether the interviews were recorded and the ‘Notes from meetings with sources consulted in Eritrea’ included in Annex A’ are verbatim, or summaries.

It is interesting that the headings used for the notes from meetings with sources consulted in Eritrea are not uniform across the sources presented in Annex A ‘Notes from meetings with sources consulted in Eritrea’ in the Danish Immigration Service FFM report:

International Organisation (A): Daily life/economy; national service; People’s Army; detention/prisons; diaspora/returns to Eritrea; border crossing to Ethiopia; political prisoners; opening up; education

⁴⁵ Joint academic [STATEMENT ON EU ASYLUM AND AID POLICY TO ERITREA](#), 31 March 2015

⁴⁶ Society for Threatened Peoples, [Dispute over protection for refugees from Eritrea in Europe: Different opinions concerning mass exodus of Eritreans – A call for more commitment to human rights in Eritrea](#), 11 February 2015

⁴⁷ UK Foreign and Commonwealth Office, [Human Rights and Democracy Report 2014 - Section XII: Human Rights in Eritrea – Country of Concern](#), 13 March 2015

International Organisation (B): National Service, People's Army and the armed forces; round-ups; reentry into Eritrea; leaving Eritrea; freedom of movement/border crossings

International organisation (C): Economic situation; reentry of Eritreans living abroad etc.; desertion and evasion; shoot to kill; agriculture

Ministry of Foreign Affairs, Eritrea: No headings

UN agency: Nationality identification; reasons for leaving Eritrea; national service; economic/policy; education; prisons

Regional NGO based in Asmara: religion; national service; penalty for evasion and desertion; shoot to kill; UN sanctions; illegal exit/returns; freedom of movement; ID cards;

Well-known Eritrean intellectual: Diaspora; national service; penalty for evasion/desertion;

Western embassy (A) Human right reporting; national service; roundups; People's Army; diaspora visits; ID cards

Western embassy (B) Diaspora; emigration patterns; national service; propaganda; political prisoners/evaders/deserters; illegal exit/"shoot to kill"; agriculture/economy; freedom of movement

Western embassy (C): Figures and estimates; push factors; national service; political opposition; diaspora visits; People's Army; economy/education; freedom of movement; shoot to kill; nationality

Western embassy (D): Political prisoners; national service; penalty for evasion and desertion; the People's Army; economy; diaspora visits; corruption; freedom of movement; shoot to kill;

Western embassy (E): Human rights reporting; national service; diaspora visits; economy; ID checks;

Western embassy, Khartoum (met in Asmara): Diaspora; emigration; political prisoners; national service.

This may indicate that different interlocutors were asked different questions, but as the interview questions have not been provided, there is no way of assessing this, nor of understanding why interlocutors were not asked or chose not to answer particular questions.

Content concerns of '2.3 Penalties for Leaving Illegally and Treatment on Return'

Section '2.3 Penalties for Leaving Illegally and Treatment on Return' of the CIG report exclusively relies on the Danish Immigration Service FFM report. However, it should be noted that the excerpts included in the CIG report are not contained within the main body text of the report, that is the report's summary of interlocutors' responses (which were the particular subject of criticism above), but rather are excerpts of the 'Notes from meetings with sources consulted in Eritrea' included in Annex A.

To illustrate the methodological concerns of the design of the FFM as set out above, the information from the report cited in '2.3 Penalties for Leaving Illegally and Treatment on Return' was ordered under the following headings:

1. International Organisation (A): *Diaspora/Returns to Eritrea*
2. International organisation (B): *Reentry into Eritrea*
3. UN agency: *National Service*
4. Regional NGO based in Asmara: *Illegal exit/returns*
5. Well-known Eritrean intellectual: *Diaspora*
6. Western embassy (A): *Diaspora visits*
7. Western embassy (C): *National Service*
8. Western embassy (D): *Diaspora visits*
9. Western embassy (E): *Diaspora visits*

It should also be noted that the Danish Immigration Service FFM report also provides 'Notes from meetings with sources consulted in Ethiopia', but these are not consistently arranged by subheading. As detailed below a number of these address the topic 'Diaspora visits in Eritrea'.

Although there is some consistency in the subject headings used, it is surprising that given the subject matter of this report, that the 'diaspora' visiting Eritrea was not further defined, that is, whether it can be assumed that this only applies to persons with regularised status in another country and thus specifically excludes returned refused asylum seekers. Moreover the subject heading 'diaspora visits' implies that either the question(s) posed or answered provided on this topic related to a *temporary* stay in Eritrea, not permanent repatriation. It is also not clear whether interlocutors were asked about the situation of (perceived) draft evaders/deserters *on return* as distinct from the situation within the country and whether the specific situation of refused asylum seekers was inquired about.

It is considered that this lack of clarity over what questions were asked of the interviewees undermines the reliability of the content of the report. As Stop National Service Slavery in Eritrea observes, "There is also the difference between those who are returning for a brief visit as opposed to those who return permanently. To draw conclusions on the possibilities of return there needs to be a longer-term analysis of the fate of those who have returned permanently (including the possibilities of punishment by denying them opportunities)".⁴⁸

The whole of section '2.3 Penalties for Leaving Illegally and Treatment on Return' of the CIG report is presented below. Paragraph numbers have been introduced for clarity. The text highlighted in bold and underlined are part of the interview records included in Annex A of the Danish Immigration Service FFM report which are considered relevant, but were omitted from the CIG:

Excerpt from the Eritrea CIG on Illegal exit

2.3 Penalties for Leaving Illegally and Treatment on Return

1. 2.3.1 The sources consulted by Danish Immigration Service's Fact-Finding Mission (FFM) Report, 'Eritrea – Drivers and Root Causes of Emigration, National Service and the Possibility of Return', published in November 2014 and updated in December 2014, recorded the following observations on the penalties for illegal exit and likely treatment on return:

An international organisation explained that there are indications of Eritreans having been repatriated from Israel and other places to Eritrea. However, no one really knows what may happen to people returning. Concern was expressed as to what could happen if the Nordic countries conclude that the situation in Eritrea has improved.

The official statement is that all Eritreans are free to return to Eritrea, but of course they would have to participate in the development of the country including the National Service.

'International organisation (A) believed that 'It was stated that the right way to legalize a stay abroad, should one have left Eritrea illegally, is to pay the two percent income tax and sign an apology letter. Having done so, one can be issued a passport and legally enter and leave Eritrea without facing harassment or repercussions. ... Obviously, it cannot be excluded that there may be authorities who refuse to accept an apology letter if the person in question is a common criminal. However, the general feeling is that the authorities within the past year have become more relaxed and understanding towards their young people who have left the country.'

2. 'International organisation (B) observed that **The international community in Eritrea is unable to monitor the situation of National Service evaders and deserters who have left the country. Therefore, those consulted were unable to comment on treatment upon return or the accuracy of publicly available reports on this issue.** 'There is information to suggest that Eritreans abroad, including those who left the country illegally, are able to obtain Eritrean passports at Eritrean Embassies if they sign an "apology" letter and start to retroactively pay the two percent income tax levied on all Eritrean citizens living abroad. However, there was no information available to those consulted on the specific profile of persons who are able

⁴⁸ Stop National Service Slavery in Eritrea, [Response to the recent report from the Danish Fact Finding Mission to Eritrea](#), 29 November 2014

to benefit from this practice, i.e. whether deserters or evaders could benefit. It was deemed very unlikely that those who have a fear of persecution would be approaching Eritrean Embassies to acquire a passport and consequently try to re-enter the country. There were no known cases of prosecution for illegal exit for individuals who acquired an Eritrean passport based on the above-mentioned procedure.' **It was added that those who re-enter Eritrea with their passports acquired abroad and re-establish their residence in Eritrea would most likely be obliged to perform their National Service or join the People's Army.**

3. 'a UN Agency added that 'the government does not consider emigrants as traitors.'
4. A regional NGO based in Asmara cited an example. 'Three years ago Egypt returned a large number of Eritreans by plane. The returnees had been arrested by the Egyptian authorities on the border to Israel and they were deported to Eritrea. Egypt filled up several commercial planes each carrying more than 150 passengers. Upon arrival in Eritrea the women were free to enter Eritrea while the men were taken to a detention camp for questioning on why they had left Eritrea. The men were detained for approximately two weeks after which they were free to return to their own communities. However, only half a dozen or so were tried at the criminal court for perceived illegal economic activities.'
5. **A well-known Eritrean intellectual explained that he is an Eritrean national, but he also holds a passport of a European country. He returned from Europe to Eritrea in the late 1990's. It is not possible to denounce one's Eritrean nationality despite having obtained a nationality abroad. Dual citizenship is recognized in Eritrea. The source explained that he travels freely in and out of Eritrea on his Eritrean passport, but he needs an exit visa each time because of his Eritrean passport and citizenship. It is unproblematic for Eritreans who are living abroad or Eritreans who has a dual citizenship to obtain an exit visa in Eritrea. Previously, it was much harder to get an exit visa, but about two years ago regulations were changed, thus making things much easier. The source added that he has an Eritrean ID-card.**
'A well-known Eritrean intellectual stated that 'persons who left Eritrea illegally can return to their country without fearing any consequences. According to the law illegal exit is penalized, but the government has a somewhat relaxed 'amnesty' attitude toward such people and in reality they are not penalized. The reason for this relaxed attitude is that the government wants people to return to Eritrea. Such persons have to pay the two percent income tax and sign an apology letter. Having done this no one will be arrested upon return.'
In addition such persons will not be recruited to the National Service. The source explained that he has a close relative living abroad and this relative has been visiting Eritrea repeatedly after having paid the two percent tax and signed an apology letter. The relative can travel in and out of Eritrea without consequences.
6. 'Western Embassy (A) stated that 'Many members of the Eritrean Diaspora have been recognized as political refugees in Europe and many of these people travel to Eritrea on visits and they leave the country again legally without experiencing any kind of problems. However, prior to such visits in Eritrea they have to pay the two percent Diaspora tax and sign an apology letter whereby they restore their relations with the Eritrean government. It is probably not true that people who have done so are at risk of being detained upon arrival in Eritrea.'
7. 'A western embassy (C) stated that National Service draft evaders and deserters who have left Eritrea illegally can choose to regularize their relationship with the government by signing an apology letter and by paying a two percent Diaspora tax. By doing so they will be issued an Eritrean passport and they can enter the country legally for family visits or other purposes. Paying the two percent Diaspora tax is a prerogative for obtaining an exit visa in order to leave Eritrea again. National Service evaders and deserters are not punished upon return to Eritrea if they have regularized their status in this way. It was added that almost all Eritreans have a very strong sentiment of their nation and belonging to Eritrea.'
8. 'A western embassy (D) stated that 'Many Eritreans who live abroad at some point return to Eritrea either to visit family and friends or to start up some business or invest in some project. This includes

people who have either evaded National Service or deserted from the service. It is not completely clear in all cases what happens to National Service evaders or deserters when they return to Eritrea. However, in some cases National Service evaders and deserters have restored their relations to the authorities prior to their return to Eritrea by paying the two percent Diaspora tax and by signing an apology letter. In some of these cases people have returned to Eritrea even shortly after they evaded or deserted from the service and left the country illegally. It was emphasized that evaders and deserters are not considered political opponents by the government and at present, there are no reports that deserters are imprisoned or otherwise severely punished.'

9. 'a Western Embassy (E) stated that 'Eritreans who have left the country illegally and who may have evaded or deserted from national service have the option of returning home if they pay a fee and sign a letter of apology. If the person's relation to the government has been duly re-established, he or she would not be persecuted or risk reprisals upon return to Eritrea. However, it cannot be ruled out that the government would find desertion from the military an aggravated circumstance. But there is no specific information to support that particular concern.' 15

This section 2.3 of the CIG introduces the excerpts of the Danish Immigration Service FFM report by stating that it "recorded the following observations on the penalties for illegal exit and likely treatment on return". As can be seen in the excerpts above, the interlocutors of the Danish Immigration Service FFM report and therefore the CIG report inconsistently address the profiles of persons who illegally exited Eritrea on return. As the Danish Immigration Service FFM report interview questions are not provided, it is not clear if this is because the question was not specifically asked, poor phrasing of questions, or because incomplete answers to questions were given that were not probed by the interviewers for clarity. The profiles of persons addressed in the above excerpts of the Danish Immigration Service FFM report can be illustrated in the following summary:

1. **International organisation (A):** addresses how to legalise a stay abroad having left illegally, but does not mention whether this also applies to perceived deserters/evaders or refused asylum seekers or the treatment of these profiles on return. Indeed, states that "no one really knows what may happen to people returning".
2. **International organisation (B):** addresses obtaining passports for Eritreans abroad for those who have left illegally, states that "there was no information available to those consulted on the specific profile of persons who are able to benefit from this practice, i.e. whether deserters or evaders could benefit" and that "the international community in Eritrea is unable to monitor the situation of National Service evaders and deserters who have left the country. Therefore, those consulted were unable to comment on treatment upon return or the accuracy of publicly available reports on this issue". Does not mention treatment refused asylum seekers.
3. **UN agency:** refers in general to 'emigrants' not being perceived as traitors; unclear if this relates to treatment on return and/or persons that left illegally and/or deserters/evaders and/or refused asylum seekers
4. **Regional NGO based in Asmara:** provides an example of repatriation to Eritrea, but not on the profile of these returnees; whether they had exited illegally, were perceived as deserters/draft evaders and whether they were refused asylum seekers.
5. **A well-known Eritrean intellectual:** Refers in general to "Eritreans who are living abroad or Eritreans who has a dual citizenship" being able to obtain exit visas, and that "persons who left Eritrea illegally can return to their country without fearing any consequences" but does not mention whether this also applies to perceived deserters/evaders or refused asylum seekers.

6. **Western Embassy (A):** refers in general to the “Eritrean diaspora” who have been “recognized as political refugees in Europe” as being able to travel to Eritrea if they pay the two percent Diaspora tax and sign an apology letter, but not specifically whether they had exited illegally, were perceived as deserters/draft evaders. By definition, is referring to people with status, so no refused asylum seekers.
7. **Western embassy (C):** does specifically mention draft evaders/deserters who left Eritrea illegally as being able to regularize their relationship with the government by signing an apology letter and by paying a two percent Diaspora tax, but not refused asylum seekers.
8. **A western embassy (D):** does specifically mention draft evaders/deserters who left Eritrea illegally having restored relations by paying the two percent Diaspora tax and by signing an apology letter but not whether this applies to refused asylum seekers. Also states “It is not completely clear in all cases what happens to National Service evaders or deserters when they return to Eritrea”
9. **A Western Embassy (E):** does specifically mention draft evaders/deserters who left Eritrea illegally having restored relations by paying the two percent Diaspora tax and by signing an apology letter but not whether this applies to refused asylum seekers. Adds the qualification “However, it cannot be ruled out that the government would find desertion from the military an aggravated circumstance. But there is no specific information to support that particular concern”.

The picture that emerges from these sources is that illegal exit may be regularised abroad by paying the two percent Diaspora tax and by signing an “apology letter”, but the sources are not consistent on the profiles of persons who may be able to regularise their illegal exit in this way, specifically whether (perceived) draft evaders/deserters are able to do so, and whether such “regularisation” only applies to visitors to Eritrea.

No information is included on the content of the “apology letter”, nor the potential future consequences of signing such a document. According to Stop Slavery in Eritrea, one of the organisations that have publicly criticised the Danish Immigration Service FFM report, “the ‘regret’ form actually forces people to admit that they have committed an offence and hence self-incriminate, the text on the form actually states that the ‘crime’ committed is not actually absolved and hence an action can be taken at any time”.⁴⁹

Furthermore there is no information on what happens on return to persons who have returned without regularising their illegal exit. The sources are also inconsistent as to whether information exists on the treatment on return of those perceived to have draft evaded/deserted military/national service or returnees in general. It is also considered a notable omission that the Danish Immigration Service FFM report does not address the situation for returned refused asylum seekers.

Moreover, relevant excerpts from the Danish Immigration Service FFM report that were notably omitted from the CIG report indicate that persons who have regularised their stay abroad having left illegally would be likely to be re-enrolled in national service on return:

International organisation A: “The official statement is that all Eritreans are free to return to Eritrea, but of course they would have to participate in the development of the country including the National Service.”

⁴⁹ Stop National Service Slavery in Eritrea, [Response to the recent report from the Danish Fact Finding Mission to Eritrea](#), 29 November 2014

International organisation B: “It was added that those who re-enter Eritrea with their passports acquired abroad and re-establish their residence in Eritrea would most likely be obliged to perform their National Service or join the People’s Army.”

No information from International organisation (C) was included in this CIG report. Notably this interlocutor of the Danish Immigration Service FFM report also makes the point that returnees to Eritrea are re-enrolled in National Service and adds that such returnees may also be detained:

International organisation (C)

“If a National Service evader or a deserter who has left Eritrea illegally returned to Eritrea, he or she would be detained for a short period of time, i.e. a couple of days or one week, and then re-enrolled in National Service. As an additional punishment, they could be sent off to duties at military posts near the Ethiopian border”.

The only source which disagreed on this point was the well-known Eritrean intellectual who appears to base his view on the experience of one relative:

A well-known Eritrean intellectual: “Persons who left Eritrea illegally can return to their country without fearing any consequences. [...] In addition such persons will not be recruited to the National Service. The source explained that he has a close relative living abroad and this relative has been visiting Eritrea repeatedly after having paid the two percent tax and signed an apology letter. The relative can travel in and out of Eritrea without consequences”. However it is not made clear if this relative left Eritrea illegally.

It is therefore considered that if persons would be likely to be re-enrolled into military/national service or detained on return, given the well-documented harsh conditions of (indefinite) military/national service, it is considered that regularising one’s status when abroad cannot be conflated with returning to Eritrea safely if it entails a return to (indefinite) military/national service. For COI on this point, see the discussion below of the CIG Eritrea: National (incl. Military) Service with regards to [Does the requirement to undertake national/military service put the person at risk of serious harm or mistreatment?](#) and the COI presented below on [Conditions in military and national service](#) and [Evidence of indefinite conscription/ lack of existence of demobilisation from military service](#)).

Furthermore, it should be noted that in addition to the CIG report not citing all of the interlocutors consulted in Eritrea for the Danish Immigration Service FFM report, none of the sources consulted in Ethiopia are cited in the CIG report. This is despite seven of the eight sources consulted in Ethiopia also providing information which is listed under the heading ‘Diaspora visits in Eritrea’. Despite it not being clear how ‘diaspora visits’ have been defined, it should be noted how the question to the Norwegian Refugee Council is phrased below, i.e. that it relates only to “members of the Diaspora returning to Eritrea for family visits or holydays [sic]”, so not permanent repatriations. What is also revealing about the answers from these organisations is that only one of the organisations claimed to have information on visits to Eritrea by members of the diaspora; Tamrat Kebede, Executive Director of the InterAfrica Group whose position as set out below is that “those who return are probably connected with the government and some are allowed to return because they have businesses that the government has an interest in”.

Notes from meetings with sources consulted in Ethiopia

IOM

IOM had not heard of Diaspora Eritreans travelling to Eritrea. However, IOM-staff are regularly travelling in and out of the Eritrea. According to IOM it is only those Diaspora Eritreans who have paid the 2 % income tax and cooperate with the government that can travel in and out of the country.

Norwegian Refugee Council (NRC), Addis Ababa

Question: Are you aware if the Eritreans coming to Ethiopia have their origin in certain parts of Eritrea. Or is

it so that they come from a variety of places in Eritrea? Answer: Not sure about this

Question: **Have you heard of members of the Diaspora returning to Eritrea for family visits or holydays?**

Answer: Have no information about this.

Swedish embassy, Addis Ababa

Diaspora visits in Eritrea

The Swedish embassy had no information as regards alleged visits in Eritrea by members of the Eritrean Diaspora.

Tamrat Kebede, Executive Director, InterAfrica Group (IAG)

Diaspora visits in Eritrea

Tamrat Kebede (IAG) stated that some members of the Eritrean Diaspora could go back to Eritrea on family visits or because they feel obliged to fight for their country. However, those who return are probably connected with the government and some are allowed to return because they have businesses that the government has an interest in.

UNHCR in Addis Ababa

Diaspora visits in Eritrea

UNHCR in Addis Ababa had no information concerning visits to Eritrea by Eritreans who have been granted asylum in Europe.

UNHCR Sub Office Shire

Diaspora visits in Eritrea

UNHCR Sub Office Shire did not have specific information about Eritrean Diaspora members visiting Eritrea.

Western embassy (F)

Diaspora visits in Eritrea

According to a Western embassy (F) there are indications that the Eritrean government has an economical interest in Eritreans leaving the country because the government imposes a 2 % tax on its Diaspora population. The Western embassy (F) did not have information regarding its Eritrean Diaspora visiting Eritrea.

Relevant COI omitted from '2.3 Penalties for Leaving Illegally and Treatment on Return'

Furthermore, by this section only including COI from the Danish Immigration Service FFM report, the CIG report fails to take into account any other relevant COI in the public domain.

COI from 2013-April 2015 presented below indicates that persons returned to Eritrea of draft age having left illegally are viewed as deserters or draft evaders, as disloyal and unpatriotic, that draft evaders are viewed as "traitors", and that on return (perceived) deserters or draft evaders have experienced lengthy periods of detention without charge, forced labour, torture and other forms of inhumane treatment, after which they are recalled into military/national service.

Available COI further indicates that in general persons who refuse to undertake or abscond from military/national service are subject to incommunicado detention without charge or trial in harsh conditions, physical violence, torture and other ill-treatment, refusal of family leave, and loss of full citizenship rights. Moreover, military/national service is reported to be obligatory, universal and of an indefinite duration, with the initial 18-month period of service frequently extended indefinitely, institutionalized in 2002 with the introduction of the Warsai Yikaalo Development Campaign (WYDC).

Sources also report that “many conscripts serve for over a decade”, that “some conscripts have served for nearly two decades” and that “most serve 17 years or more”, and that men older than 50 (conscription age) have been forced to perform militia duty. Only one demobilization programme has been reported to be implemented; a World Bank-funded project which ended in 2005. It is reported that there are a few former combatants who are not demobilised even though the cause they volunteered to fight for had come to an end de facto in May 1991 and de jure in May 1993. It is also reported that this indefinite military conscription continues to be a top push factor for flight from Eritrea.

The authorities’ attitude towards persons attempting to leave the country without permission can be further observed through reports of arbitrary and incommunicado detention in harsh conditions without charge or trial and torture of persons trying to flee; a ‘shoot-to-kill’ policy toward people attempting to cross borders irregularly, with deaths continued to be reported as recently as September 2014 on this basis; ransom demands to avoid being shot or to continue onward migration; as well as punishments such as fines, non-renewal of business licences, or detention of family members in place of persons that have fled.

Moreover, sources document that repatriated Eritrean refused asylum face disappearance, arbitrary arrest and detention without charge, torture and other ill-treatment. It is reported that the act of claiming asylum is perceived as criticising the government or an act of treason, that returnees have been forced to state under torture that they committed treason by claiming asylum, and that returned asylum seekers of national service age are particularly at risk of arrest upon return, given that their flight would have involved an evasion of or desertion from national service.

Illustrative, non-exhaustive sources of COI published between 2013-April 2015, which illustrate these issues are presented below on:

- ❖ [Treatment of persons returned to Eritrea who left Eritrea illegally \(who are viewed as deserters or draft evaders\)](#)
- ❖ [Treatment of persons who refuse to undertake or abscond from military/national service](#)
- ❖ [Evidence of indefinite conscription/ lack of existence of demobilisation from military/national service](#)
- ❖ [Evidence that indefinite conscription is a driver of migration from Eritrea](#)
- ❖ [Conditions in military and national service](#)
- ❖ [Treatment of persons \(and/or their family members\) who attempt to flee](#)
- ❖ [Treatment of refused asylum seekers on return to Eritrea](#)

B. CIG Eritrea: National (incl. Military) Service (March 2015)

1.3 Consideration of Issues

Does the requirement to undertake national/military service put the person at risk of serious harm or mistreatment?

It is important to note that focus of this CIG on Eritrea is not the treatment of perceived draft evaders/deserters from military/national service *on return* to Eritrea, but rather the situation in-country. Moreover, in the section of the CIG which presents COI, the CIG states on this issue:

Excerpt from the Eritrea CIG on National (incl. Military) Service

Section 2: Information

[...] 2.9 Desertion and Evasion in Practice

Treatment on Return to Eritrea

2.9.11 See the country information and guidance report on Eritrea: Illegal Exit.

The following discussion should therefore be read alongside the above analysis of the CIG on Illegal Exit, see [A. CIG Eritrea: Illegal exit \(March 2015\)](#). As detailed above, that CIG does not specifically address the situation of persons perceived to have deserted/evade military/national service on return either. In the section on [2.3 Penalties for Leaving Illegally and Treatment on Return](#), the CIG on Illegal Exit only relies on one source of COI; the heavily criticised Danish Immigration Service FFM report. The Illegal Exit CIG omits relevant excerpts from this Danish Immigration Service FFM report that indicates that persons who have regularised their stay abroad having left illegally would be likely to be re-enrolled in military/national service or detained on return. By only relying on one source of COI, the CIG also fails to include other COI in the public domain which indicates that persons returned to Eritrea of draft age having left illegally are viewed as deserters or draft evaders, as disloyal and unpatriotic, that draft evaders are viewed as “traitors”, and that on return (perceived) deserters or draft evaders have experienced lengthy periods of detention without charge, forced labour, torture and other forms of inhumane treatment, after which they are recalled into military/national service.

For these reasons the focus of the following analysis of the CIG Eritrea: National (incl. Military) Service is on the conditions of military/national service.

Conditions of Military Service: Military Training

Excerpt from the Eritrea CIG on National (incl. Military) Service

1.3 Consideration of Issues

[...] Conditions of Military Service: Military Training

1.3.9 There are reports that conditions at Sawa Military Training Centre are harsh with severe punishments meted out for attempted escape, insubordination, disobedience or dissent. Reports also suggest that people are arbitrarily detained and **some** are subjected to torture, inhuman or degrading treatment and corporal punishment. There are also reports of students falling ill and dying or committing suicide due to the conditions. **However, there are also reports that students are not overworked or beaten.**

1.3.10 In addition, **sources do not agree on the scale and extent of the alleged treatment, and there has been no independent verification of the conditions during training given the lack of access by western governments, international media and international NGOs to both Eritrea generally and Sawa in particular.** The Danish Fact-Finding Mission Report to Eritrea also reported the views of interlocutors in Asmara who made contrasting conclusions (see Conditions in the information section).

1.3.11 Although a person may be able to demonstrate that they would be at real risk of mistreatment or inhuman and degrading treatment as a result of the conditions of military service, it cannot be said that every single person undertaking some form of military training as part of their national service requirement would face such risk. The application of any such harm or mistreatment appears to be arbitrary.

The guidance above at paragraph 1.3.9 is based on the COI included in section '2.7 Conditions, Treatment During Military Training'. It is noteworthy that the guidance at 1.3.9 fails to mention the specific risks that women face in military training which as documented in section 2.7 of the CIG includes sexual violence from military commanders, including rape (paragraphs 2.7.2 and 2.7.3). Additional COI in the public domain also documents that women in national service are frequently victims of sexual violence and that those refusing sexual advances are often severely punished, including psychological violence, through harsh treatment including assignment to unduly heavy military duties or denial of leave to visit family. See [Conditions in military and national service](#).

The guidance at paragraph 1.3.9 that (emphasis added): "Reports also suggest that people are arbitrarily detained and *some* are subjected to torture, inhuman or degrading treatment and corporal punishment" is also inconsistent with the COI at paragraph 2.7 which indicates that such practices are common (emphasis added):

Excerpt from the Eritrea CIG on National (incl. Military) Service

Section 2: Information

[...] 2.7 Conditions

Treatment During Military Training

2.7.2 The Human Rights Watch 'World Report 2014: Eritrea' (covering events in 2013), stated that:

'Children as young as 15 are inducted and sent for military training, according to recent interviews by refugee agencies. They and other recruits are regularly subject to violence and ill-treatment for raising questions or for other perceived infractions. **Beatings, torture, and prolonged incarcerations are common.** Women are subject to sexual violence from military commanders, including rape.'

Further to the specific risks that women face in military training, COI available in the public domain presented below illustrates that during military training recruits have been beaten, shackled and left in the sun for not walking quickly enough and for drinking water without permission; that students at Sawa are subjected to various types of violations, some amounting to torture, inhuman or degrading treatment and corporal punishment; that there are reports of students falling ill and dying or committing suicide; of children at Sawa being kept in poor conditions and receiving harsh punishments for infractions; conscripts having been detained after being caught reading the Bible or praying during their military training period at Sawa military camp; and that authorities at the Sawa Camp reportedly abused trainees, particularly those whose religious beliefs included objections to bearing arms. See [Conditions in military and national service](#).

It should also be noted that whilst the guidance from paragraph 1.3.9 above presents the COI as specific to conditions of 'military training', the following source included in section 2.7 presented in relation to 'Treatment During Military Training' in fact refers to any role within the national service system, not just military training (emphasis added):

Excerpt from the Eritrea CIG on National (incl. Military) Service

Section 2: Information

[...] 2.7 Conditions

Treatment During Military Training

2.7.1 The Amnesty International report, 'Eritrea - 20 years of Independence, but still no freedom', published on 9 May 2013, stated:

'Within the national service system, any form of criticism or insubordination is not tolerated. **Conscripts in any role in the national service framework** can be arrested and detained arbitrarily – with no charge, trial, judicial oversight or opportunity to challenge their detention – for minor infractions including questioning an order of a senior officer or post holder, being late for work, criticising levels of pay, questioning a commanding officer or allegedly not working to the best of their ability.'

The sources consulted do not always differentiate between conditions in military training and national service. For example, Human Rights Watch also uses the term “conscripts” to refer not just to trainees at Sawa; “Although Eritrean law limits national service to 18 months, most conscripts serve for much of their working lives”.⁵⁰ On this point it should be noted that Kibreab reports that “Whether one is assigned to the military or to the ministries, departments, banks, regional administrations, firms owned by the party or one is hired out to the private sector in the post-18 months duration of the national service does not change the fact that one is a conscript (agelglot)”.⁵¹ The Special Rapporteur on the situation of human rights in Eritrea states that (emphasis added) “A large number of draftees under the authority of the Ministry of Defence are assigned to other ministries, and work in civilian administration, infrastructure projects, education, construction, and perform other duties; however, they do not choose their assignments or postings. In that sense, the Eritrean national service is much broader than military service, as it encompasses all areas of civilian life. Consequently, in the present report, **the Special Rapporteur uses the terms “national service”, “military service” and “conscription” interchangeably**”.⁵²

Additional COI available in the public domain from 2013-April 2015 presented below in [Conditions in military and national service](#) and not included in the CIG details the following conditions for Eritrean National Service [ENS] conscripts:

- Conscripts facing arbitrary detention and mistreatment if they protest;
- Torture being used as punishment for prisoners detained for failure to perform duties during national service (even as a result of infirmity or illness);
- Punitive and disproportionate treatment being meted out to conscripts for expressing their views on the indefinite nature of national service, raising questions about the detention of peers or their living conditions;
- Arrest and detention without charge for minor infractions including questioning an order of a senior officer or post holder, being late for work, criticising levels of pay, questioning a commanding officer or allegedly not working to the best of their ability;
- Sudden disappearances at the ENS can be as a result of failing to obey whims of senior officers; perceived infractions by conscripts result in incarceration and in physical abuse often amounting to torture;
- Women in national service are frequently victims of sexual violence, including rape, committed by officers and male recruits and that those refusing sexual advances are often severely punished;
- Torture, cruel and degrading treatment and forced labor being routine for conscripts; Penalties for noncompliance in national service include lengthy detention, hard labor, and physical abuse, as well as withholding government documents and entitlements such as passports and ration cards;

⁵⁰ Human Rights Watch, [World Report 2014: Eritrea](#), 21 January 2014

⁵¹ Gaim Kibreab, [The Open-Ended Eritrean National Service: The Driver of Forced Migration, Paper for the European Asylum Support Office Practical Cooperation Meeting on Eritrea](#), 15-16 October 2014

⁵² UN, [Report of the Special Rapporteur on the situation of human rights in Eritrea, Sheila B. Keetharuth](#), 13 May 2014, paragraph 24

- Working conditions often harsh and sometimes involve physical abuse;
- ENS recruits being prohibited from exercising their faith, possessing holy books or digital tools whilst in military training and during service; absences without official leave or overstaying leave being punished by exposure to extreme climatic conditions, which may in effect lead to death;
- The frequent extensions of mandatory national service with minimal salaries and no choice over the nature of work assigned is a system that amounts to forced labour;
- National service recruits having often worked for government and state-owned companies on low salaries, exposing the government to the allegation of using forced labour;
- Women and girls being forcibly recruited into the (indefinite) national service without pay in conditions which amount to forced labour;
- Former recruits have filed a lawsuit against a Canadian mining firm that it conspired with the Eritrean government to force them to work unfairly long hours without enough salary, proper medical services, good shelter or enough food.

Indeed, the COI included from paragraph 2.7.9-2.7.12 in the CIG at 'Treatment During Remaining National Service Postings' is not inconsistent with these positions.

It is considered that the available COI from numerous sources therefore does not support the contention in highlighted paragraph of 1.3.9 above that "there are also reports that students are not overworked or beaten". This assertion is based on the following excerpts of COI from section 2.7:

Excerpt from the Eritrea CIG on National (incl. Military) Service

Section 2: Information

[...] 2.7 Conditions

Treatment During Military Training

2.7.4 However, the Danish Immigration Service's Fact-Finding Mission (FFM) Report, 'Eritrea – Drivers and Root Causes of Emigration, National Service and the Possibility of Return', published in November 2014 and updated in December 2014, stated:

'A regional NGO based in Asmara suggested that 'The information in human right reports about ill-treatment in the National Service is more often than not exaggerated. People in National Service are not overworked or working under slave-like conditions, they are not beaten, subjected to torture or suffer from malnutrition.'

2.7.5 Sources from the same report also made the following observations:

A well-known Eritrean intellectual also interviewed by the Danish delegation believed that '...reporting by international NGOs on National Service has been exaggerated.'

A Western embassy (A) suggested that "the public available human rights reporting regarding Eritrea is rather old. The more recent reports seem to recycle outdated information." and that "The mainstream human rights reports are describing a situation in Eritrea facing National Service evaders and deserters that is no longer representing the real situation. The situation has changed to the better. Evaders and deserters are not imprisoned for a protracted period of time and they are not exposed to physical harm."

'A Western embassy (B) suggested that "the human rights situation in Eritrea is not as bad as it has been described. It was added that reports from Human Rights Watch and Amnesty International are mostly based on sources outside of Eritrea, especially parts of the Diaspora including asylum seekers and refugees."

As can be seen above, it is one interlocutor from the Danish Immigration Service FFM report, not "reports" that specifically states that people in national service (who are incorrectly described as 'students' in the guidance at paragraph 1.3.9) are not overworked or beaten. For a general discussion of the reliability of the Danish Immigration Service FFM report and an overview of the criticism it has

received from other organisations, see [Criticism of the 2014 Danish Immigration Service Fact-Finding Mission Report](#).

In relation to paragraphs 2.7.4 and 2.7.5 above, only two of the interlocutors of the Danish Immigration Service FFM report cited specifically address the conditions in national service; the other excerpts presented relate to the situation of deserters/evaders which is a different issue, or refer more generally to the reportedly improved human rights situation. Given that the FFM interview questions are not detailed, it is not clear whether the interlocutors were specifically asked about the treatment of trainees at Sawa, or in the Eritrean National Service. As can be seen above in [Criticism of the 2014 Danish Immigration Service Fact-Finding Mission Report](#), interlocutors' answers on this issue are presented in Annex A 'Notes from meetings with sources consulted in Eritrea' in the Danish Immigration Service FFM report under the general heading "national service". Furthermore, as Kibreab points out, "There is no evidence in the [Home Office] Guidelines to show that the team during its visit interviewed Eritreans who completed national service without suffering inhuman treatment".⁵³

Paragraph 1.3.10 of the guidance above states that "sources do not agree on the scale and extent of the alleged treatment, and there has been no independent verification of the conditions during training given the lack of access by western governments, international media and international NGOs to both Eritrea generally and Sawa in particular". However, it is considered that as demonstrated by the range of reliable sources presented on this issue below on [Conditions in military and national service](#), there is strong convergence that conditions in both military training and (indefinite) national service are harsh. Moreover, it is considered that given the lack of access to Eritrea, particularly to Sawa itself, that this renders testimonies of Eritreans in exile collected by reputable international organisations employing a transparent methodology that much more valuable. On this point, see [Methodologies employed by UN, Human Rights Watch and Amnesty International in their reports on Eritrea](#).

For these reasons it is considered that paragraph 1.3.11 of the guidance which concludes that "Although a person may be able to demonstrate that they would be at real risk of mistreatment or inhuman and degrading treatment as a result of the conditions of military/national service, it cannot be said that every single person undertaking some form of military training as part of their national service requirement would face such risk. The application of any such harm or mistreatment appears to be arbitrary" is inconsistent with the COI presented below on [Conditions in military and national service](#).

It is also considered that the following section of the guidance is inconsistent with the available COI:

Excerpt from the Eritrea CIG on National (incl. Military) Service

1.3 Consideration of Issues

[...] 1.3.12 Decision makers must make an assessment based on the individual facts of a person's specific case.

[...] Conditions of Military Service: Military Training

[...] 1.3.13 Those who are particularly likely to be at risk of mistreatment include:

(a) Conscientious objectors who are unable to perform the military service element on account of their religious beliefs and would face a disproportionate penalty as a result (see Punishment for Draft Evasion or Desertion: Conscientious Objection below).

(b) Those who have been politically active in their opposition to the Eritrean government and would be readily identifiable as such.

⁵³ Gaim Kibreab, [Some Reflections on the UK Home Office's Country Information Guidance Eritrea: National \(incl. Military\) Service & Illegal Exit](#), 25 March 2015

1.3.14 Those who may not be at real risk include:

- (a) those who have performed some element of the military service requirement without incident and could reasonably be expected to complete it.
- (b) those who have completed (been demobilized from) national service.
- (c) those who are disabled or medically unfit.
- (d) those who are educated and/or more likely to be assigned to a government or other civic post upon completion of the initial six months' military training.
- (e) women, in particular those who:
 - i. are over 27,
 - ii. are married;
 - iii. have children.

Combinations of these factors are likely to further decrease the risk.

1.3.15 Unless a person can show that they are at risk of being disproportionately punished/penalised as a result of their political or religious beliefs, a person who demonstrates they are at real risk of mistreatment would qualify for Humanitarian Protection rather than asylum.

As with the previous section, although the above guidance is presented in relation to 'Military Training', it appears to address both treatment in military training and treatment in national service. It is considered that the COI presented below on [Conditions in military and national service](#) illustrates the following additional profiles to have experienced ill-treatment in the Eritrean National Service:

- women [frequently victims of sexual violence], and those refusing sexual advances are often severely punished;
- persons perceived to protest;
- persons perceived as failing to perform duties service/allegedly not working to the best of their ability (even as a result of infirmity or illness);
- persons expressing their views on the indefinite nature of national service;
- persons raising questions about the detention of peers or their living conditions;
- persons committing minor infractions such as questioning an order of a senior officer criticising levels of pay;
- being late for work;
- noncompliance in national service;
- persons possessing holy books or digital tools;
- absences without official leave or overstaying leave.

It should be noted that this section of the guidance (and indeed the whole CIG on National (incl. Military) Service) fails to address the specific treatment of perceived draft evaders/deserters from military/national service *on return* to Eritrea who may be re-enlisted. For a discussion on this point see [A. CIG Eritrea: Illegal exit \(March 2015\)](#). As that section argues, it is considered that the COI included below on [Treatment of persons returned to Eritrea who left Eritrea illegally \(who are viewed as deserters or draft evaders\)](#) and [Treatment of refused asylum seekers on return to Eritrea](#) indicates that further risk profiles include:

- Conscription age (i.e. all those having left Eritrea between 18-50 will be perceived to have evaded or deserted military/national service)
- Having in fact deserted indefinite military/national service
- Having claimed asylum

Given these it is therefore considered that those profiles identified in the guidance at paragraph 1.3.14 "who may not be at real risk" are redundant.

Conditions of Military Service: National Service and 'Slave Labour'

Excerpt from the Eritrea CIG on National (incl. Military) Service

1.3 Consideration of Issues

[...] Conditions of Military Service: National Service and 'Slave Labour'

1.3.16 In terms of whether the open-ended and potentially indefinite nature of national/military service amounts to mistreatment because it constitutes a form of slave labour, the most up-to-date information available from inside Eritrea suggests, in general, military/national service lasts for around four years. Some persons may serve longer than this; others may serve around 18 months. How long a person may serve appears to be arbitrary but involves doing six months' basic military training and the remaining time spent either continuing with military service or in a government or civic post (see Duration of National Service in Practice in the information section).

1.3.17 The Eritrean government have stated that, from November 2014, national service resorted back to an 18 month limit, consisting entirely of military service (i.e. no civic/government posting). This includes those who would have been required to commence service before this date but did not due to them leaving Eritrea (see Moves to Time-Limit National Service in the information section).

1.3.18 Military service may in future be limited to 18 months but it has generally been for up to 4 years, and on occasion may have been extended indefinitely. However, a person is unlikely to be able to demonstrate that they are at real risk of being subject to extended or indefinite military service such as to amount to inhuman and degrading treatment or punishment or slave labour, unless there are particular factors that put them at such risk. Consideration needs to be given to the individual circumstances of the person when considering whether they have demonstrated such risk.

1.3.19 Where the person is at risk, unless they can show that this is as a result of their political or religious beliefs, they would qualify for Humanitarian Protection rather than asylum.

It is considered that highlighted paragraph 1.3.16 above which states that "the most up-to-date information available from inside Eritrea suggests, in general, military/national service lasts for around four years" is inconsistent with the body of available COI presented on this issue below, see [Evidence of indefinite conscription/ lack of existence of demobilisation from military/national service](#).

The COI presented on this issue illustrates that military/national service is reported to be obligatory, universal and of an indefinite duration, with the initial 18-month period of service frequently extended indefinitely, institutionalized in 2002 with the introduction of the Warsai Yikaalo Development Campaign (WYDC). Sources also report that "many conscripts serve for over a decade", that "some conscripts have served for nearly two decades" and that "most serve 17 years or more", and that men older than 50 (conscription age) have been forced to perform militia duty. Only one demobilization programme has been reported to be implemented; a World Bank-funded project which ended in 2005. It is reported that there are a few former combatants who are not demobilised even though the cause they volunteered to fight for had come to an end de facto in May 1991 and de jure in May 1993.

It is also reported that this indefinite military conscription continues to be a top push factor for flight from Eritrea, with UNHCR reporting as recently as mid November 2014 that "recent arrivals told us that they were fleeing an intensified recruitment drive into the mandatory and often open-ended national service".⁵⁴ See [Evidence that indefinite conscription is a driver of migration from Eritrea](#).

Indeed, the practice of indefinite national service is referred to in section '2.5 Duration of National Service in Practice' of the CIG (paragraph 2.5.1; 2.5.2; 2.5.3 and 2.5.4). That is, the only sources of COI which suggests that national service is not indefinite are two of the interlocutors of the heavily criticised Danish Immigration Service FFM report; Western embassy (C) and Western embassy (D):

⁵⁴ UNHCR, [Sharp increase in number of Eritrean refugees and asylum-seekers in Europe, Ethiopia and Sudan](#), 14 November 2014

Excerpt from the Eritrea CIG on National (incl. Military) Service

Section 2: Information

[...] 2.5.5 The sources consulted by Danish Immigration Service's Fact-Finding Mission (FFM) Report, 'Eritrea – Drivers and Root Causes of Emigration, National Service and the Possibility of Return', published in November 2014 and updated in December 2014, made the following observations as to the length of national service in practice:

'International Organisation (A) said 'Normally you will have to work for the National Service when you become 18 years of age. The age of enrolment into the National Service is not clearly defined and some are working for the National Service for up to ten years and more before being "demobilized"'

International Organisation (B) said 'There is lack of clarity on timeframes of different components of National Service or whether rules and procedures are applied in a uniform manner to all recruits.' 40 They also added that '... the main problem with the National Service is that in some cases it may be 'open-ended', i.e. people can never be certain that they will be released after the obligatory 18 months service.'

A Western embassy (B) explained that 'there are no written laws regulating this. National Service is a very 'foggy' issue, and when one will be released from National Service, i.e. demobilized, depends very much on one's specific skills and the individual employer. However, there are indications that young people are now released from National Service after a shorter period of service than was previously the case.'

A Western embassy (C) stated that 'it seems to be arbitrary when people are released or demobilized from National Service, whether from a military or civilian role, after serving the obligatory 18 months. In practice people would apply to their employer or military commander for demobilization. If he or she approves the recommendation to demobilize a person, the recommendation would be sent to the central authorities for final approval. But the guidance on what reasons would justify a recommendation for demobilisation are internal only and in reality a large part of the decision to demobilize people is left to the individual employer or military commander. It was added that National Service is not really indefinite, but when it ends is arbitrary.'

The same source had also '...heard of people in their forties who were still in National Service, but in general three to four years of National Service seemed to be norm today.'

A Western embassy (D) stated that 'The National Service is unpredictable and in principle indefinite.' but that 'Today it is easier to be released from the service and to young people today National Service seems to be limited to a couple of years.'

It therefore appears that the guidance of the COI is based on selected sources from the Danish Immigration Service FFM report, and fails to take into account the wealth of sources which document indefinite national service. See [Evidence of indefinite conscription/ lack of existence of demobilisation from military/national service.](#)

The guidance at paragraph 1.3.17 states "The Eritrean government have stated that, from November 2014, national service resorted back to an 18 month limit, consisting entirely of military service (i.e. no civic/government posting). This includes those who would have been required to commence service before this date but did not due to them leaving Eritrea (see Moves to Time-Limit National Service in the information section)". However, this guidance is not fully consistent with the COI included in the CIG on this point:

Excerpt from the Eritrea CIG on National (incl. Military) Service

Section 2: Information

[...] Moves to Time-Limit National Service

2.5.6 The Danish Immigration Service's Fact-Finding Mission (FFM) Report, 'Eritrea – Drivers and Root Causes of Emigration, National Service and the Possibility of Return', published in November 2014 and updated in December 2014, stated:

'The Eritrean Ministry of Foreign Affairs admitted that "Eritrea has some human rights issues and that one of the real issues is the open-ended National Service". The ministry added that the National Service is being discussed in the government but no specific information about whether or when it

would undergo change was provided. Finally the ministry stated that “the Eritrean government and the EU and the embassies of the European countries are in an ongoing and constructive dialogue”

2.5.7 On 24 November 2014, Asmarino Independent reported that ‘an Eritrean website, reputed for pushing propaganda for the Eritrean regime has today announced that the Eritrean national service will be reinstated to its legally sanctioned 18 months limit.’

2.5.8 During a meeting with the UK delegation from the Foreign and Commonwealth Office and the Home Office during its visit to Asmara, 9–11 December 2014, the Eritrean President’s Adviser Yemane Gebreab, confirmed that ‘from November 2014 national service is reverting to a duration of 18 months. This will now be all based in the military (although there are some civilian type jobs within the military). This has started with the 27th round and people have been informed. We have had meetings with students and families at Sawa. We do not want to publicise this by a presidential announcement – this is not how we wish to do things.’. He also added that ‘Everyone still in education will benefit from this along with anyone who has not yet reported for national service.’

2.5.9 During a separate meeting with the UK delegation from the Foreign and Commonwealth Office and the Home Office during its visit to Asmara, 9–11 December 2014, the Eritrean Foreign Minister Osman Saleh, confirmed that ‘We have 18 months’ military service now. Meetings have been held in the governorates to inform the whole population throughout the country.’

Firstly, it should be noted that as the COI at paragraph 2.5.6 indicates, details of a change in length of military/national service were not shared by the Eritrean Ministry of Foreign Affairs with the Danish Immigration Service when it visited Eritrea in October 2014 for its FFM.

Moreover, the guidance at 1.3.17 suggests that policy change “includes those who would have been required to commence service before this date but did not due to them leaving Eritrea”. However this is not consistent with the notes of the meeting presented above at 2.5.8 which states that “Everyone still in education will benefit from this along with anyone who has not yet reported for national service”. That is, the COI appears only to apply to those who have *not yet* reported/commenced national service, but the guidance appears to also apply to those who are *returned* having draft evaded. It is considered that this is a crucial difference that requires further explanation. Indeed, published reports from the UK Foreign and Commonwealth Office suggest that the policy change applies only to new entrants (not also returnees):

- [UK Foreign and Commonwealth Office, Human Rights and Democracy Report 2014 - Section XII: Human Rights in Eritrea – Country of Concern, 13 March 2015](#)
[...] Military service
Proclamation 82 of 1995 provides for all eligible Eritrean citizens to perform eighteen months of national service, which in recent practice has been either military or civilian in nature. Following the outbreak of war with Ethiopia in 1998, the government extended the period of national service to an undetermined length for each individual, with demobilisation dependent on individual circumstance. **Some individuals have continued to perform national service for several years. However, the Eritrean government reports that it has informed members of the most recent intake that their period of service will not extend beyond eighteen months.** [...]
- [UK Foreign and Commonwealth Office, Eritrea - Country of Concern: latest update 31 December 2014, 21 January 2015](#)
[...] During the last three months, Eritrea continued in practice to fall short of many of its commitments in international and domestic law. However, it also continued to take steps to engage with the international community on important human rights issues. [...]
The government of Eritrea has given **informal assurances that it intends to make its national service programme more consistent with international standards.** Senior government officials have given assurances to representatives from several countries that it will henceforth be conducted strictly in accordance with the 1995 proclamation which introduced it, and that **new entrants to the programme will not be obliged to serve more than the eighteen months provided for in that proclamation.** If observed in practice, this consistency and transparency on the length of national

service will make it significantly more compliant with international standards, and more comparable with national service programmes in many other countries. [...]

Moreover, it is noteworthy that the purported policy guidance is not reported to apply to those perceived to have *deserted* national service, either in country or on return, who as detailed above in the discussion on [A. CIG Eritrea: Illegal exit \(March 2015\)](#), are reported to be re-enrolled in military/national service on return.

It should also be noted that six sources published after the date of the supposed policy change (November 2014) continue to document that military/national service is of indefinite duration. Notably, this includes the March 2015 Oral Update by Mr. Mike Smith, Chair of the Commission of Inquiry on Human Rights in Eritrea. See [Evidence of indefinite conscription/ lack of existence of demobilisation from military/national service](#). Similarly, several sources which provide COI below on [Evidence that indefinite conscription is a driver of migration from Eritrea](#) were published after November 2014. Indeed, a number of organisations/individuals that did specifically respond to the military/national service duration announcement were not convinced of its implementation in practice:

- [European External Policy Advisors, Rewarding repression: Proposals to aid the Eritrean government, 1 April 2015](#)
[...] **Hastily drawn up and poorly considered plans by several governments appear about to provide succour and support to one of Africa's most notorious regimes. The process is led by the European Union, which is planning to provide a substantial bilateral aid package worth € 312 million to Eritrea.** This is almost a three-fold increase from 2009, and comes despite scathing assessments of the human rights of Eritrea by bodies including Amnesty International and Human Rights Watch. A group of international scholars, who have worked on the Horn of Africa for many years, has united with Eritrean activists and former Eritrean diplomats to denounce the proposal. The plans are driven by a desire to cut the number of Eritrean refugees flowing out of the country and seeking asylum in Europe and beyond. These proposals will not halt this exodus. Nor will it do anything to prevent hundreds of Eritreans dying while crossing the Sahara and the Mediterranean. **The current plans come after vague assurances that Eritrea's policy of indefinite military conscription will be reduced to a period no longer than 18 months. But President Isaias Afewerki, who rules the country with a rod of iron, has made no official policy announcement to this effect.** Rather, an official UN Commission of Inquiry on Eritrea, has been repeatedly denied the opportunity to visit to country, to undertake a comprehensive and authoritative review of its human rights practices. [...]
- [\[Joint academic\] Statement on EU asylum and aid policy to Eritrea, 31 March 2015](#)
[...] **9. It is clear that there is no evidence that the government of Eritrea has implemented any change in its human rights regime, including its conscription practices. Instead it has given hearsay promises about what it may do so in the future**—promises that are vigorously disputed in great depth and detail by the testimonies of refugees who have fled the country within the past twelve months. [...]
- [Gaim Kibreab, Some Reflections on the UK Home Office's Country Information Guidance Eritrea: National \(incl. Military\) Service & Illegal Exit, 25 March 2015](#)
[...] Information obtained from Eritrea, including from the Sawa military camp indicate that no such information was disseminated to students or conscripts. Conscription is continuing as before. The 28th cohorts began their service at Sawa in August 2014 and those who did not pass their matriculation were assigned to the army and other ministries or departments, including the firms of the ruling party, the PFDJ.
[...] Additionally neither the Home Office nor Eritrean officials say anything about the hundreds of thousands who joined the ENS before November 2014, i.e. cohorts 1-26. [...]

- [United Nations, Oral Update by Mr. Mike Smith, Chair of the Commission of Inquiry on Human Rights in Eritrea at the 28th session of the Human Rights Council, 16 March 2015](#)
[...] We also take note of the recent announcement made by the Government to bring back National Service to 18 months for new recruits. **We reiterate our interest in receiving further information on this new development.** We would like to encourage the Eritrean Government to consistently follow up on its engagements with real change on the ground. The Commission remains available to visit and is ready to engage in a dialogue with the State of Eritrea. [...]

- [Human Rights Watch, Denmark: Eritrea Immigration Report Deeply Flawed, 17 December 2014](#)
[...]“The Danish report seems more like a political effort to stem migration than an honest assessment of Eritrea’s human rights situation,” said Leslie Lefkow, deputy Africa director. **“Instead of speculating on potential Eritrean government reforms,** host governments should wait to see whether pledges actually translate into changes on the ground.” [...]
The November report from the Danish Immigration Service, largely based on interviews with anonymous diplomatic and other sources in Eritrea, contains contradictory and speculative statements about Eritrea’s human rights situation. The sources also often qualify their statements, noting that there is no independent access to detention centers, that the fate of people returned to Eritrea is unclear, and that **government reforms of the national service conscription are rumored, but not confirmed.** There is no indication that the authors of the report interviewed victims or witnesses of human rights violations in Eritrea, and a prominent Eritrean academic consulted for the report has publicly criticized it.
[...] Eritrea’s dire human rights situation has been widely reported, including by a UN special rapporteur on Eritrea who has published several authoritative and damning reports on conditions. **Human Rights Watch has not found any significant improvement in the human rights conditions in the past year.** [...]
European governments should not make major policy changes toward Eritrea until they see the commission of inquiry findings, Human Rights Watch said. [...]

It should also be noted that the Eritrean government previously ordered that the maximum 18-month term of national service be adhered to in 2011, which as the COI included at [Evidence that indefinite conscription is a driver of migration from Eritrea](#) indicates, was not achieved in practice:

- [UK Foreign and Commonwealth Office, Human Rights and Democracy Report 2013 - Section XI: Human Rights in Countries of Concern – Eritrea, 10 April 2014](#)
[...] Military service
Obligatory and indefinite national service continues to be a major driver for illegal migration. Proclamation 82/1995 limits national service to 18 months, yet some conscripts have served for nearly two decades. **In 2011, the government ordered that the maximum 18-month term of national service be adhered to, and that conscripts be allowed to complete their period of service in their own districts, allowing access to families. We are not yet able to assess whether this is happening in practice.** Conscripts are often required to perform non-military activities such as harvesting and construction work for the government and state-owned companies, which may amount to forced labour. There are reports that military officials have used conscripts to perform personal tasks. An additional feature of 2013 has been an increase in the burden on citizens of compulsory armed civilian militia duties. [...]

For further evidence of Eritrea falling short of implementing its international human rights commitments, not cooperating fully with international human rights bodies and government announcements not leading to change on the ground, see [Historical lack of goodwill of Eritrean government to implement change](#).

It is therefore considered that until there is evidence of a government policy with respect to military/national service duration being widely implemented, it is premature to conclude that

indefinite national service has been abolished. Indeed, the guidance in the CIG seems to recognise this at paragraph 1.3.18 in which it states “Military service may in future be limited to 18 months but it has generally been for up to 4 years, and on occasion may have been extended indefinitely”.

As the available COI continues to document indefinite conscription, not a period of four years, and illustrates the harsh conditions that military/national service conscripts face, it is considered that the COI does not support the guidance at paragraph 1.3.18 that “a person is unlikely to be able to demonstrate that they are at real risk of being subject to extended or indefinite military service such as to amount to inhuman and degrading treatment or punishment or slave labour, unless there are particular factors that put them at such risk”.

It should be noted that the position of the most recent report of the UN Special Rapporteur on the situation of human rights in Eritrea is that (emphasis added) “**national service in Eritrea does not constitute service of a purely military character**. Furthermore, conscription for military/national service is normally for a reasonable period of time, from one to three years, and not of an indefinite character. **Since the length of national service in Eritrea is of an indefinite nature, it effectively constitutes forced labour** as provided for in article 8, paragraph 3 (a) of the Covenant”.⁵⁵

Punishment for Draft Evasion or Desertion: General

Excerpt from the Eritrea CIG on National (incl. Military) Service

1.3 Consideration of Issues

[...] Punishment for Draft Evasion or Desertion: General

1.3.20 Decision makers must note that a person in the UK is highly likely to also raise issues related to the punishment or penalties imposed for leaving Eritrea illegally. Therefore, this section must be read alongside the country information and guidance on Eritrea: Illegal Exit.

1.3.21 The Asylum Instruction on Military Service and Conscientious Objection explains that in order for a punishment to be considered disproportionately harsh or severe, it would need to be of a particularly serious nature. Long prison sentences will not normally be enough to engage the protection of the Convention.

1.3.22 The most up-to-date information available from inside Eritrea suggests that those who refuse to undertake or abscond from military/national service are not viewed as traitors or political opponents. It is unlikely that a person would be detained/imprisoned on return as a result.

1.3.23 Even those who have repeatedly deserted or evaded – or have deserted or evaded a critical post – are unlikely to be detained/imprisoned or, if they are, not for any significant length of time. In recent years, the attitude of the Eritrean Government also appears to be more relaxed and pragmatic. The likely outcome for evasion or desertion is the requirement to return to military/national service (see Desertion and Evasion in Practice in the information section).

1.3.24 In light of this, a person is unlikely to be at real risk of harm or mistreatment on return because they are a deserter/draft evader.

1.3.25 However, those who have been politically active in their opposition to the Eritrean government and would be readily identifiable as such are likely to be at risk on return. Punishment for Draft

In paragraph 1.3.22, the CIG guidance asserts that “The most up-to-date information available from inside Eritrea suggests that those who refuse to undertake or abscond from military/national service are not viewed as traitors or political opponents”. However, only one source of COI is included in the CIG to evidence this point; the “UN Agency” consulted by the Danish Immigration Service FFM (the second highlighted paragraph below):

⁵⁵ UN, [Report of the Special Rapporteur on the situation of human rights in Eritrea, Sheila B. Keetharuth](#), 13 May 2014, paragraph 71

Excerpt from the Eritrea CIG on National (incl. Military) Service

Section 2: Information

[...] 2.9 Desertion and Evasion in Practice

[...] Penalties

[...] 2.9.5 Sources referred to in the Danish Immigration Service's Fact-Finding Mission (FFM) Report, 'Eritrea – Drivers and Root Causes of Emigration, National Service and the Possibility of Return', published in November 2014 and updated in December 2014, when discussing penalties for evasion and desertion made the following observations:

'International Organisation (B) stated that "Lack of cooperation with the National Service will now and then be punished" and that "non-compliance with the recruitment process is considered a sign of disobedience. The punishment could be more serious depending on the specific circumstances, e.g. if a person has deserted from more important work in National Service"'

The same source added that "If a National Service evader or a deserter who has left Eritrea illegally returned to Eritrea, he or she would be detained for a short period of time, i.e. a couple of days or one week, and then re-enrolled in National Service. As an additional punishment, they could be sent off to duties at military posts near the Ethiopian border."

'A UN Agency suggested that "National Service evaders and deserters are maybe penalized if apprehended but it was doubted that they are actually imprisoned. It was added that the government does not consider emigrants as traitors'.

'A Regional NGO based in Asmara cautioned that "The penalty for desertion and evasion from National Service is not well documented, and there is no clear code of procedure or jurisprudence. The penalty may vary depending on who you are and where you are serving your National Service, i.e. desertion from critical sectors such as the fire brigade would probably be considered a more serious offence than deserting from work in a government run garage or the Ministry of Agriculture."

The same source added that "No-one will be killed or punished physically by beatings, rape or other forms of human rights violations. In recent years the most likely penalty for desertion from National Service would be detention for three to four months particularly for women."

'A well-known Eritrean intellectual noted that "There are examples of deserters who have been arrested and imprisoned in Eritrea, but in general everyone knows what to do and not to do when it comes to National Service. The source added that he knows of a student who deserted the National Service and was arrested. The student was transferred to the Sawa camp to complete his National Service. After that he returned to his studies. Many government officials, teachers, nurses etc. are returning to their jobs after having served at the National Service."

'Western embassy (A) stated that "Evaders and deserters are not imprisoned for a protracted period of time and they are not exposed to physical harm". The same source added that "Ordinary people who evade the National Service or desert from the service are not being prosecuted and imprisoned and they are not at risk of disappearances. That kind of treatment is reserved for people who have had some kind of oppositional activities i.e. political prisoners. It was emphasized that the government does not consider National Service evaders or deserters as political opponents"

'Western embassy (B) would not exclude that a National Service evader or deserter would be detained, but this would be for symbolic reasons rather than for legal reasons. The authorities would prefer to state an example rather than detain evaders and deserters systematically. It was added that the authorities are turning a blind eye to many of those who for various reasons evade or desert National Service because they are needed during harvest time or for other reasons. Detention of individual National Service evaders and deserters is purely to show the people who is in charge in Eritrea, i.e. the ruling party. Detained evaders and deserters are normally released after a few days, and as an additional punishment they are sent off to duties at military posts near the Ethiopian border. It was added that many evaders and deserters would most likely have preferred to stay in detention rather than be deployed to the border areas. It was added that even if the government wanted to arrest and prosecute evaders and deserter, it does not have the capacity to do so."

The same source also added that "The government's interest is not to imprison evaders or deserters but to have them work for the country."

'Western embassy (D) stated that "there is no information about severe penalties for trying to evade National Service."

'Western embassy (E) stated 'Just a week [prior to the interview] a number of people in Asmara receive a notice to appear for some military training. The majority did not show up as requested by

the authorities and the ones who did show up were told to go home because they were too few to go ahead with the training.’

With regards to the highlighted excerpt from the “UN Agency” above, it should be noted that the source refers in general to “emigrants” not being viewed as traitors; it is not obvious that “emigrants” also applies to persons who return/are repatriated to Eritrea. In fact given the terminology used, it is unlikely that this was the intended meaning. As detailed above in [Criticism of the 2014 Danish Immigration Service Fact-Finding Mission Report](#), as the interview questions for the Danish Immigration Service FFM report are not public, it is not clear in response to what question the interlocutors are cited. In relation to this excerpt it is therefore not clear if interlocutors were asked to address the situation for returnees who are perceived to have draft evaded/deserted military/national service.

It should be noted that as UNHCR makes clear in its response to the Danish Immigration Service FFM report, “The report contains references to “a UN agency” in Asmara, and meeting notes with a “UN Agency” are included in pp. 31-33 of the Annex to the report. For the sake of clarity and to avoid any confusion amongst readers of the FFM report, UNHCR wishes to emphasize that the information ascribed to a “UN Agency” is not information provided by UNHCR (despite the fact that the notes of the meeting with a “UN Agency” contain references to “UNHCR registered” refugees in Shire). UNHCR is not the (Asmara-based) “UN Agency” referred to throughout the report”.⁵⁶

Furthermore, this unclear position from one interlocutor of the Danish Immigration Service FFM report is inconsistent with other COI that is presented below on [Treatment of persons returned to Eritrea who left Eritrea illegally \(who are viewed as deserters or draft evaders\)](#) which indicates that persons returned to Eritrea of draft age having left illegally are viewed as deserters or draft evaders, as disloyal and unpatriotic, that draft evaders are viewed as “traitors”, and that on return (perceived) deserters or draft evaders have experienced lengthy periods of detention without charge, forced labour, torture and other forms of inhumane treatment, after which they are recalled into military/national service. It is therefore considered that the guidance above at 1.3.22 is inconsistent with the available COI.

It is important to note that whilst this section of the CIG provides guidance on ‘Punishment for Draft Evasion or Desertion’, the COI on which it relies in ‘Desertion and Evasion in Practice’ only includes one source of COI which documents the specific treatment of perceived draft evaders/deserters *on return* to Eritrea; the first highlighted excerpt in paragraph 2.9.5 above from ‘International Organisation (B)’ interviewed for the Danish Immigration Service FFM report. This excerpt is consistent with other sources of COI with regards to returnees perceived as draft evaders/deserters being likely to be re-enrolled in military/national service or detained on return as presented in [Treatment of persons returned to Eritrea who left Eritrea illegally \(who are viewed as deserters or draft evaders\)](#). However, no mention is made of the conditions of such detention or military/national service, but rather the guidance goes on to conclude that “In light of this, a person is unlikely to be at real risk of harm or mistreatment on return because they are a deserter/draft evader”. As argued above, it is considered that on the contrary, the COI presented on [Conditions in military and national service](#) and [Evidence of indefinite conscription/ lack of existence of demobilisation from military service](#) indicates that (indefinite) military/service and detention conditions are harsh.

⁵⁶ UNHCR, [Fact Finding Mission Report of the Danish Immigration Service, “Eritrea – Drivers and Root Causes of Emigration, National Service and the Possibility of Return. Country of Origin Information for Use in the Asylum Determination Process”, UNHCR’s perspective](#), December 2014

In relation to paragraph 1.3.25 of the guidance above which states that “those who have been politically active in their opposition to the Eritrean government and would be readily identifiable as such are likely to be at risk on return”, it is considered that the COI included below on [Treatment of persons returned to Eritrea who left Eritrea illegally \(who are viewed as deserters or draft evaders\)](#) and [Treatment of refused asylum seekers on return to Eritrea](#) indicates that these profiles include:

- Conscription age (i.e. all those having left Eritrea between 18-50 will be perceived to have evaded or deserted military/national service)
- Having in fact deserted indefinite military/national service
- Having claimed asylum

1.4 Policy Summary

The CIG report provides the following policy summary of its guidance section:

Excerpt from the Eritrea CIG on National (incl. Military) Service

1.4 Policy Summary

- National service – which includes an element of six months’ military training and could then extend to service in a military post – is compulsory for Eritreans aged between 18 and 50. There are very limited exemptions and no exemption on the grounds of conscientious objection.
- A requirement to undertake national/military service does not, in itself, constitute persecution or inhuman or degrading treatment. It will only do so where:
 - a. military service would involve acts, with which the person may be associated, which are contrary to the basic rules of human conduct,
 - b. the conditions of military service would be so harsh as to amount to inhuman or degrading treatment or persecution; or
 - c. where the punishment for draft evasion or desertion is disproportionately harsh or severe.
- Despite the highly militarised nature of Eritrean society and tense relations with several of its neighbours, a person is unlikely to be involved in armed conflict or acts contrary to the basic rules of human conduct.
- Conditions of military service are reportedly harsh. However, many Eritreans complete military service without suffering mistreatment. As a result, those required to perform military service are unlikely to be at real risk of inhuman and degrading treatment but may be at such risk depending on their individual facts and specific circumstances.
- The arbitrary nature of the application of any such harm or mistreatment means that any grant of leave would be of Humanitarian Protection rather than asylum unless a person can demonstrate they would be singled out as a direct result of their political or religious beliefs or other Convention reason.
- National service is generally between 18 months and 4 years. It is not reasonably likely that a person would be at risk of inhuman and degrading treatment on account of being effectively required to perform slave labour. However, consideration must be given to their individual facts and specific circumstances when assessing the likelihood and impact of such a risk.
- Evaders and deserters are unlikely to be considered traitors. Some who evade or desert are potentially liable to detention. However, it is not reasonably likely this is widespread or prolonged or to reach the Article 3 threshold. The likely “punishment” for evasion/desertion is assignment to a job in the national service programme and/or completion of military service or training.
- There may be exceptions – such as those who have been involved in high-profile opposition to the Government. Decision makers should consider each case on its facts and the individual circumstances and profile of the person.
- The lack of a civilian alternative (or the compulsory requirement to perform military training) and the disproportionate penalties for those who refuse to undertake military service means

that conscientious objectors – in particular Jehovah’s Witnesses and Pentecostals – are likely to be at risk.

- Effective state protection is not available and internal relocation is not a realistic or reasonable option for those who are at risk.
- Where a claim falls to be refused, it is unlikely to be certifiable as ‘clearly unfounded’ under section 94 of the Nationality, Immigration and Asylum Act 2002. For further information on making asylum decisions, see the Asylum Instruction on Assessing Credibility and Refugee Status, the Asylum Instruction on Humanitarian Protection and the Asylum Instruction on Discretionary Leave. For further information on certification, see the Asylum Instruction on Non-Suspensive Appeals: Certification Under Section 94 of the NIA Act 2002.

The policy summary above generally restates the guidance provided in section ‘1.3 Consideration of Issues’ (and thus the above analysis equally applies), apart from the three highlighted paragraphs above which appear to take a more restrictive position than the guidance.

The first highlighted paragraph contends that (emphasis added) “*many* Eritreans complete military service without suffering mistreatment”, however the guidance on this point was more cautious, stating (emphasis added):

Excerpt from the Eritrea CIG on National (incl. Military) Service

1.3 Consideration of Issues

[...] Conditions of Military Service: Military Training

1.3.9 There are reports that conditions at Sawa Military Training Centre are harsh with severe punishments meted out for attempted escape, insubordination, disobedience or dissent. Reports also suggest that people are arbitrarily detained and some are subjected to torture, inhuman or degrading treatment and corporal punishment. There are also reports of students falling ill and dying or committing suicide due to the conditions. However, there are also reports that students are not overworked or beaten.

1.3.10 In addition, **sources do not agree on the scale and extent of the alleged treatment**, and there has been no independent verification of the conditions during training given the lack of access by western governments, international media and international NGOs to both Eritrea generally and Sawa in particular. The Danish Fact-Finding Mission Report to Eritrea also reported the views of interlocutors in Asmara who made contrasting conclusions (see Conditions in the information section).

1.3.11 Although a person may be able to demonstrate that they would be at real risk of mistreatment or inhuman and degrading treatment as a result of the conditions of military service, it cannot be said that every single person undertaking some form of military training as part of their national service requirement would face such risk. The application of any such harm or mistreatment appears to be arbitrary.

In addition to the policy summary being inconsistent with the guidance provided, for the reasons as set out above it is considered that the position taken in the policy summary is inconsistent with the COI presented on this issue below on [Conditions in military and national service](#) which illustrate that there is strong convergence on the harsh conditions in both military training and (indefinite) national service.

The second highlighted paragraph of the policy conclusion states that “Some who evade or desert are potentially liable to detention. However, it is not reasonably likely this is widespread or prolonged or to reach the Article 3 threshold. The likely “punishment” for evasion/desertion is assignment to a job in the national service programme and/or completion of military service or training”.

Firstly, this summary does not appear to relate to the situation for perceived draft evaders/deserters on return. Moreover, by referring to “punishment” in inverted commas, it implies that a return to (indefinite) military/national service should not be viewed as such. This is clearly inconsistent with

the COI provided below on [Conditions in military and national service](#) which illustrates harsh conditions in both military training and (indefinite) national service. By not addressing the particular situation on return for perceived draft evaders/deserters on return, it also ignores the COI presented below on [Treatment of persons returned to Eritrea who left Eritrea illegally \(who are viewed as deserters or draft evaders\)](#) which indicates that persons returned to Eritrea of draft age having left illegally are viewed as deserters or draft evaders, as disloyal and unpatriotic, that draft evaders are viewed as “traitors”, and that on return (perceived) deserters or draft evaders have experienced lengthy periods of detention without charge, forced labour, torture and other forms of inhumane treatment, after which they are recalled into military/national service.

The summary also asserts that detention conditions are not reasonably likely to breach the Article 3 threshold. It is unclear what this assessment is based on; detention conditions are not specifically addressed in the preceding ‘Consideration of Issues’ section. Moreover, the COI included on ‘Detention Conditions’ in the CIG does not support this position, but rather documents “exposure to extreme heat during confinement in crowded and unventilated metal shipping containers, or in crowded basements without ventilation or sanitation” (paragraph 2.7.6) and that “detention center conditions for persons temporarily held for evading national service and militia duties were harsh, equivalent to conditions for national security detainees” (paragraph 2.7.7). COI presented below on [Conditions in military and national service](#) presents a similar picture, detailing “harsh” and “appalling” detention conditions amounting “to cruel, inhuman or degrading treatment or punishment”, including in unofficial detention centres such as mental containers, with abuse and torture being practiced and “deaths not unusual”.

Whilst the third highlighted paragraph of the Policy Summary above acknowledges that (emphasis added) “There may be exceptions – such as those who have been involved in **high-profile** opposition to the Government”, it should be noted that this profile is more restrictive than that included in the guidance section (emphasis added):

Excerpt from the Eritrea CIG on National (incl. Military) Service

1.3 Consideration of Issues

[...] Punishment for Draft Evasion or Desertion: General

1.3.23 Even those who have repeatedly deserted or evaded – or have deserted or evaded a critical post – are unlikely to be detained/imprisoned or, if they are, not for any significant length of time. In recent years, the attitude of the Eritrean Government also appears to be more relaxed and pragmatic. The likely outcome for evasion or desertion is the requirement to return to military/national service (see Desertion and Evasion in Practice in the information section).

1.3.24 In light of this, a person is unlikely to be at real risk of harm or mistreatment on return because they are a deserter/draft evader.

1.3.25 **However, those who have been politically active in their opposition to the Eritrean government and would be readily identifiable as such are likely to be at risk on return.** Punishment for Draft

That is, the policy summary adds the requirement that the opposition to the government be “high-profile”. It is not clear on what basis this assertion is made. However, as detailed above, it is considered that the COI included below on [Treatment of persons returned to Eritrea who left Eritrea illegally \(who are viewed as deserters or draft evaders\)](#) and [Treatment of refused asylum seekers on return to Eritrea](#) indicates that risk profiles include:

- Conscription age (i.e. all those having left Eritrea between 18-50 will be perceived to have evaded or deserted military/national service)
- Having in fact deserted indefinite military/national service
- Having claimed asylum abroad

Relevant COI omitted from the CIGs

Illustrative, non-exhaustive, sources of COI published between 2013-April 2015 are presented below (emphasis added) on:

- ❖ [Treatment of persons returned to Eritrea who left Eritrea illegally \(who are viewed as deserters or draft evaders\)](#)
- ❖ [Treatment of persons who refuse to undertake or abscond from military/national service](#)
- ❖ [Evidence of indefinite conscription/ lack of existence of demobilisation from military/national service](#)
- ❖ [Evidence that indefinite conscription is a driver of migration from Eritrea](#)
- ❖ [Conditions in military and national service](#)
- ❖ [Treatment of persons \(and/or their family members\) who attempt to flee](#)
- ❖ [Treatment of refused asylum seekers on return to Eritrea](#)
- ❖ [Historical lack of goodwill of Eritrean government to implement change](#)
- ❖ [Methodologies employed by UN, Human Rights Watch and Amnesty International in their reports on Eritrea](#)

Treatment of persons returned to Eritrea who left Eritrea illegally (who are viewed as deserters or draft evaders)

- [Gaim Kibreab, The Open-Ended Eritrean National Service: The Driver of Forced Migration, Paper for the European Asylum Support Office Practical Cooperation Meeting on Eritrea 15-16 October 2014](#)

[...] Penalties for Desertion or Draft Evasion

The Proclamation on NS [National Service] sets out the penalties for failure to abide by the rules, including draft evasion by 'deceit or self-inflicted mutilation, escape from, and flight from active national service or registration. Formally, the standard sanction is a fine of 3,000 Birr and/or two years' imprisonment. **Those who flee abroad with the intention of avoiding national service and who fail to return to the country before the age of 40, the punishment increases to five years' imprisonment or until the person concerned reaches 50 years of age.** Whoever fails to perform national service loses the right to own land, to obtain an exit visa to travel abroad, to work or to become self-employed. In short failure to perform national service leads to loss of full citizenship rights. [...]

[...] Does it make a difference whether a person absconds within 18 months or after?

Whether one is assigned to the military or to the ministries, departments, banks, regional administrations, firms owned by the party or one is hired out to the private sector in the post-18 months duration of the national service does not change the fact that one is a conscript (agelglot). After May 1998, regardless of the nature of one's assignment, one is a member of the national service and is consequently under the auspices of the Ministry of Defence and military discipline. All members of the national service and the WYDC regardless of the length of time and nature of work they perform are considered to be in national service.

They are all bound by the rules and regulations that regulate the national service. Therefore, whether one absconds within the 18 months or after constitutes a desertion. It does not also matter whether one absconds during the first six months of military training, during the subsequent 12 months, after 18 months or ten years in the service. **Whoever deserts from the open-ended national service whether one is assigned to work as a soldier, a teacher, a banker, engineer, lawyer, nurse, medical doctor, bricklayer, mason, truck driver, manual worker, policeman, archivist, etc. is a deserter and is dealt with severely by the authorities.** [...]

The Extent to which the ENS [Eritrean National Service] is an Important Driver of Forced Migration [...]

Nearly all post-independence Eritrean asylum seekers and refugees are national service deserters and draft evaders. The latter include children who flee even at an early age to avoid the scourge of future conscription. Some among the asylum-seekers and refugees are members of minority Christian churches, such as the Pentecostals. The results of a survey in the UK conducted by the author in 2008

show that 27 per cent, 66 per cent and 5 per cent, respectively were draft evaders, deserters and members of the minority churches. The members of the minority churches were also at the same time either draft evaders or deserters. The results of another more comprehensive survey conducted by the author in 2012 in the United Kingdom, Switzerland, Sweden, Norway, South Africa and Kenya show that among the 190 respondents, 98 per cent had served in the ENS and the WYDC when they fled Eritrea. About 2 per cent are draft evaders. [...]

➤ [Immigration and Refugee Board of Canada: Eritrea: Situation of people returning to the country after they spent time abroad, claimed refugee status, or sought asylum \(2012-August 2014\) \[ERI104941.E\], 10 September 2014](#)

[...] In correspondence with the Research Directorate, a professor of African studies and political science at Pennsylvania State University, who has published books and articles about Eritrea and the Horn of Africa, indicated that Eritreans who were authorized by the Eritrean government to leave the country do not face problems when they return, **unless they engaged in anti-government activities while abroad (Professor 26 Aug. 2014)**. Amnesty International (AI) also indicates that "[s]uspected or actual" government opponents are "at risk of detention" upon their return (AI May 2013, 30).

The Professor said that Eritreans who left the country irregularly were at a "very high risk of persecution" upon return to Eritrea, and that they face imprisonment and are closely monitored "if released from prison" (26 Aug. 2014). The Professor added that they would be considered "disloyal and unpatriotic," which is a "big mark on someone's ability to live a normal life" in Eritrea (ibid.). Similarly, a paper published by van Reisen et al. [1] indicates that Eritreans who left the country irregularly face prosecution, persecution, imprisonment, or torture upon their return (4 Dec. 2013, 49, 55). For additional information on the irregular crossing of Eritrean borders, consult the Response to Information Request ZZZ104862.

[...] **In correspondence with the Research Directorate, an associate professor at the Institute of African Affairs at the German Institute of Global and Area Studies (GIGA), who researches Eritrean militarization and diaspora, indicated that draft evaders who are later returned to Eritrea are labelled as "traitors" by the government and are detained under "inhuman conditions upon their return" (14 Aug. 2014). AI similarly states that Eritreans who are at the age of performing their military service are "particularly at risk" of arrest upon their return to Eritrea (May 2013, 30). [...]**

➤ [U.S. Department of State, Trafficking in Persons Report 2014 – Eritrea, 20 June 2014](#)

[...] Eritreans fleeing national service, persecution, or seeking economic opportunities abroad primarily migrate to Ethiopia, Sudan, Djibouti, and Yemen; in 2013, new migration routes extended from Sudan to Libya and from Libya to Europe. The government's strict exit control procedures and limited issuance of passports and exit visas effectively oblige those who wished to travel abroad to do so clandestinely, increasing their vulnerability to trafficking. As of December 2013, Sudan hosted an estimated 114,900 Eritrean refugees and asylum-seekers, with 400-600 Eritreans arriving to Sudan per month. Eritreans accounted for 78,974 of Ethiopia's registered asylum-seeker population; from October to December 2013, 3,496 new Eritrean asylum-seekers registered in Ethiopia. Smaller numbers of Eritrean refugees and asylum-seekers were registered in Uganda, Yemen, and Djibouti in the reporting period. **Some fleeing Eritreans face being shot and killed by Eritrean or Egyptian authorities or are forcibly repatriated to Eritrea, where they are sometimes detained without charge by the Eritrean government, or recalled into national service. Adolescent children who attempt to leave Eritrea are sometimes detained or forced to undergo military training despite being younger than the minimum service age of 18. [...]**

The government made few apparent efforts to identify or provide protection to trafficking victims. The government did not have procedures in place to identify trafficking victims among deported Eritreans or persons forcibly removed by Eritrean security forces from neighboring countries. The government did not ensure that potential trafficking victims were not arrested or detained; **Eritrean nationals who were deported back to the country and those fleeing Eritrea—some of whom may be trafficking victims—were highly vulnerable to being arrested, detained, tortured, forced to pay fines, and even shot on sight by military forces.** The government did not demonstrate efforts to identify potential victims among this vulnerable group. [...]

➤ [UN, Report of the Special Rapporteur on the situation of human rights in Eritrea, Sheila B. Keetharuth, 13 May 2014](#)

[...] III. Refugee situation

[...] 27. Notwithstanding the non-refoulement principle enshrined in the 1951 Convention relating to the Status of Refugees (art. 33), and specific reference to prohibition of return (“refouler”) in the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (art. 3), there have been reports of asylum seekers and refugees being returned to Eritrea “voluntarily”. The language in article 3, paragraph 1, of the Convention against Torture is compelling: “No State shall expel, return (“refouler”) or extradite a person to another State where there are substantial grounds for believing that he would be in danger of being subjected to torture”. The competent authorities must take into account, “where applicable, the existence in the State concerned of a consistent pattern of gross, flagrant or mass violations of human rights.” Unsuccessful asylum seekers and **other returnees, including national service evaders and deserters, face torture, detention and disappearance in Eritrea (see section IV.A below)**. It is therefore of paramount importance to end bilateral and other arrangements between Eritrea and third countries that jeopardize the lives of those seeking asylum. [...]

[...] 4. Draft evasion and desertion

44. The penalties for draft evasion and desertion can be up to five years imprisonment. The wording of the Proclamation violates several obligations that Eritrea has undertaken to respect under international law, including freedom of movement, the right to property and the right to work. **Citizens who avoid national service by “escaping abroad” and who do not return until the age of 40 will be “liable to punishment or to imprisonment of 5 years until the age of 50 and their rights to licence, visa, land tenure and work will be suspended.”**

45. In practice, **draft evaders, as well as deserters who are caught or deported back to Eritrea face heavy punishment, including lengthy periods of detention, torture and other forms of inhumane treatment. After the period of detention, they are forced back into the army.** Exact figures relating to national service evaders who have been executed or have died in prison from injuries during incarceration are not available. [...]

B. Conditions of national service that amount to human rights violations

2. Arbitrary arrest, detention and torture

51. **Military service escapees, as well as perceived offenders, are frequently sent to one of numerous prisons as punishment; Wi’a prison camp, situated on the Red Sea coast, south of Massawa, is a notoriously harsh one. Punishment amounting to torture, inhuman or degrading treatment, as well as detention in inhumane conditions appears to be the norm, even for trivial cases.** National service conscripts in detention are also used for hard labour.

[...] 5. Freedom of movement

[...] 60. **Further to article 17 of the National Service Proclamation, travel outside of the country is restricted for those in national service.** A national under the obligation of national service may be allowed to travel abroad upon providing a certificate of completion of or exemption from national service, or by putting up a sizable sum of money as bond. The Ministry of Defence is responsible for implementing this provision. [...]

V. Incarceration

A. Arrest and deprivation of liberty

2. Methods of arrest

81. Methods of arrest differ, depending on circumstances. For example, **those who overstay their official leave or who desert national service, may be track them down in their homes and villages by the security forces, and taken to a holding cell or prison, then back to their military unit, where they will be held. Many people are arrested at the border while attempting to cross into neighbouring countries; people are often arrested at night and taken to secret detention places, without family members knowing of their whereabouts or being able to visit them.** Furthermore, people are afraid to enquire about the whereabouts of their loved ones, lest they too are arrested and detained. [...]

➤ [Human Rights Watch, Sudan: Stop Deporting Eritreans, 8 May 2014](#)

[...] Eritrea, ruled by an extremely repressive government, requires all citizens under 50 to serve in the military for years. **Anyone of draft age leaving the country without permission is branded a deserter, risking five years in prison, often in inhumane conditions, as well as forced labor and torture.** In

2012, 90 percent of all Eritreans claiming protection in other countries were recognized as refugees or given other forms of protection.

On May 1, 2014, Sudanese authorities in eastern Sudan handed 30 Eritreans over to Eritrean security forces, according to two advocates in close telephone contact with the group at the time. Human Rights Watch also obtained further credible information confirming that the deportation took place and that six members of the group were registered refugees.

Sudanese security forces arrested the group of 30 in early February near the Libyan border and detained them for three months without charge and without access to the UN refugee agency, the two advocates said. [...]

➤ [Human Rights Concern Eritrea, Report on Child Rights Violations in Eritrea, 19 November 2013](#)

[...] Children Caught Attempting to Flee the Country

[...] Within the massive outflow of Eritreans fleeing to seek asylum in other countries in the region and beyond, there are many children who are escaping from military training or conscription, to seek asylum abroad, especially those who reside close to the border. Many fall into the hands of the Eritrean security forces and the border guards, who have a “shoot-to-kill” policy against these supposed “traitors”. If they are arrested, they are imprisoned arbitrarily without charge or trial, often tortured or sexually abused, sometimes given extra-judicial prison sentences, and finally taken to the military training camps.

There have been disturbing reports that some children have been returned to Eritrea in a family reunion programme for unaccompanied and uncared-for children.

This has involved some international relief agencies, who are working in refugee camps in Ethiopia and overseeing the returns, whose voluntary nature is questionable. **There are many cases where such children have been imprisoned and taken to military training camps after having been repatriated and initially reunited with their families.** There are also an unknown number of children among refugees in Sudan who have been **forcibly deported and handed over to the Eritrean authorities by the Sudanese security forces, and feared to have been arrested on return to Eritrea.** [...]

➤ [Immigration and Refugee Board of Canada: Eritrea: Treatment of Jeberti people by government authorities, including Jeberti returnees \(2010-August 2013\) \[ERI104540.E\], 17 September 2013](#)

[...] 3. Treatment of Jeberti Returnees

Information on the treatment of Jeberti returnees was scarce among the sources consulted by the Research Directorate within the time constraints of this Response.

The Senior Research Fellow indicated that

[g]enerally, all Eritreans who fled from the mandatory and timely unlimited national service as draft evaders or deserters face incommunicado detention of undefined periods without due process, torture and other cruel forms of treatment, if they are forcibly returned to Eritrea. There is no distinction between ethnic groups in this regard and this applies to the Jeberti in the same way as to any social group of Eritrea. There are only few exceptions w[h]ere exit visas have been granted by the state for purposes such as Pilgrimage to Mekka or government-sanctioned business trips. (15 Aug. 2013) [...]

➤ [Amnesty International, Eritrea: Twenty years of Independence, but still no freedom, 9 May 2013](#)

[...] PEOPLE EVADING OR DESERTING NATIONAL SERVICE CONSCRIPTION

[...] **Individuals of conscription age who left the country, whether legally or illegally, are also suspected of draft evasion upon return.** [...]

PEOPLE FLEEING THE COUNTRY

[...] **Some former detainees have told Amnesty International that they were also detained alongside others held in connection with unauthorised exit from the country, including people arrested for forging documentation to assist people to leave and people smugglers who arrange passage out of the country for a fee.** Former detainees have also said that they were detained along with people who had been caught moving around the country without the requisite travel permit. According to the testimonies of former detainees, some people caught moving without a travel permit have been

suspected of an intention to travel to one of the country's borders in order to flee. It is not known if all people caught without an internal travel permit are arrested, or whether in all cases arrest is based on a suspicion of intention to leave the country without authorisation.

While no reason was given to these detainees for their arrest, many told Amnesty International that they understood it to be a punishment for evasion or desertion from national service. [...]

Treatment of persons who refuse to undertake or abscond from military/national service

➤ [Amnesty International, Amnesty International Report 2014/15, 25 February 2015](#)

[...] Prisoners of conscience

Thousands of people were arbitrarily detained and held in incommunicado detention without charge or trial for various reasons, including: criticizing government policy or practice; for their work as journalists; for suspected opposition to the government; practising a religion not recognized by the state; **evading or deserting national service conscription;** or for trying to flee the country, or in the place of family members who had fled. In most cases relatives were not aware of the detainee's whereabouts. Some prisoners of conscience had been in prison without charge or trial for two decades. [...]

Military conscription

National service continued to be mandatory for all men and women aged between 18 and 50, with no provision for conscientious objection. All school pupils were required to complete their final school year at Sawa military camp, effectively conscripting children into the military. The initial 18-month period of service continued to be frequently extended indefinitely, with minimal salaries and no choice over the nature of work assigned – a system that amounted to forced labour. **Conscripts faced harsh penalties for evasion, including arbitrary detention and torture and other ill-treatment.** Children at Sawa were kept in poor conditions and received harsh punishments for infractions. [...]

➤ [Gaim Kibreab, The Open-Ended Eritrean National Service: The Driver of Forced Migration, Paper for the European Asylum Support Office Practical Cooperation Meeting on Eritrea 15-16 October 2014](#)

[...] Methods of Conscription into the ENS [Eritrean National Service]

[...] Currently, the main mechanism of conscription is through the Warsai School at Sawa in which all secondary school students at the end of 11th grade are automatically transferred to Sawa to complete 12th grade under military discipline in combination with military training. **A considerable number of citizens conscripted through varieties of ways also receive military training at Meiter military camp in the Southern Red Sea Region. These include draft evaders;** individuals absconding from active national service, rounded up people and individuals caught either planning to flee or actually crossing the borders. **Draft evaders sent to Meiter receive military training after being subjected to severe punishment for a couple of weeks or even months. However, draft dodgers who mainly comprise people who overstay authorised period of absence are often subjected to torture and indefinite detention in metal containers or underground cells.** The worst punishment is meted out to people captured fleeing the border. The authorities perceive these acts as subversion. Underground detention and torture can last up to several years for some. [...]

[...] Penalties for Desertion or Draft Evasion

The Proclamation on NS [National Service] sets out the penalties for failure to abide by the rules, including draft evasion by 'deceit or self-inflicted mutilation, escape from, and flight from active national service or registration. Formally, the standard sanction is a fine of 3,000 Birr and/or two years' imprisonment. **Those who flee abroad with the intention of avoiding national service and who fail to return to the country before the age of 40, the punishment increases to five years' imprisonment or until the person concerned reaches 50 years of age.** Whoever fails to perform national service loses the right to own land, to obtain an exit visa to travel abroad, to work or to become self-employed. In short failure to perform national service leads to loss of full citizenship rights.

In addition to the penalties imposed under the Proclamation on National Service, the penalties stipulated in the Eritrean Transitional Penal Code (ETPC) also cover military violations, including failure

to enlist, or reenlist, seeking fraudulent exemptions, desertion, absence without leave, refusal to perform military service and infliction of unfitness (injury to avoid service). **The punishment ranges from six months' to 10 years' imprisonment depending on the gravity of the act. During emergencies or mobilizations, the penalties are significantly more severe. Desertion is the most severely sanctioned and entails imprisonment for up to five years, but in times of mobilization or emergency this can increase from five years to life, or, in the gravest cases, death, for desertion from a unit, post or military duties or for failure to return to them after an authorized period of absence. [...]** **Draft evaders/deserters are routinely subjected to torture and detention under severe conditions. In reality, punishment for desertion or draft evasion is extremely severe and is considered as disproportionate constituting persecution. [...]**

The severity of punishment meted to citizens who refuse to perform national service can be indicated from the harsh treatments members of the Jehovah's Witnesses having been receiving at the hands of the Eritrean authorities.

[...] It is not only Witnesses who fail to participate in the ENS that lose citizenship rights. Whoever refuses or fails to participate in the ENS loses citizenship rights, such as the right to own or cultivate land, to work or be self-employed, and gain access to travel documents and exit visa. **In other words, whoever does not perform national service is stripped off all forms of citizenship rights. In fact, over time, refusal or failure to perform national service can result in indefinite incarceration and in exceptional cases to loss of life. [...]**

➤ [UN, Report of the Special Rapporteur on the situation of human rights in Eritrea, Sheila B. Keetharuth, 13 May 2014](#)

[...] IV. National service

[...] C. National service constituting forced labour

[...] 73. National service in Eritrea is involuntary in nature, as explicitly stated in the National Service Proclamation: "any Eritrean citizen from 18 to 50 years of age has the obligation of carrying out national service" (art. 6). There are very few exemptions to this requirement (art. 12) and conscripts are recruited without their consent to perform military service. The compulsory nature of national service in Eritrea is further highlighted by the giffas, which are aimed at rounding up those who try to avoid conscription. Furthermore, the lack of conscientious objection demonstrates the absence of any element of voluntariness.

74. As of the age of 18 years, Eritreans are obliged to carry out national service, under threat of a penalty. **Draft evaders and deserters are punished by harsh and arbitrary penalties, including detention, physical violence, sometimes amounting to torture, and the refusal of family leave for very long periods of time.** Alleged or actual failure to execute tasks during national service is also severely punished. The disproportionate nature and the fact that such punishments constitute torture, cruel, inhuman or degrading punishment are clear violations of human rights. Accordingly, national service conscripts live in constant fear; the threat of severe penalties, sometimes of a life-threatening nature, being part of their daily lives.

V. Incarceration

A. Arrest and deprivation of liberty

[...] 3. Presumed reasons for arrest and detention

82. **In Eritrea, people are arrested and detained without any formal charges. Therefore most people can only speculate about the reasons for arrest and detention; the following reasons are cited frequently : (a) evading or deserting national service and military conscription; (b) overstaying leave while serving in national service; (c) during giffas –round ups to conscript people by force into the military; (d) attempting to flee the country; (e) trumped up charges of "plotting to leave the country" or helping others to flee; (f) failing to pay a fine when a family member has fled the country; (g) held in lieu of a parent or family member having left the country; (h) inability to produce identification documents on demand; (i) journalists, for their work; (j) practicing a religion not recognized by the State; (k) failed asylum seekers and refugees who are returned to Eritrea; (l) actual or perceived critics of State policies or practice; (m) those arrested on suspicion of having participated in the attempted coup of 21 January 2013 (Forto incident), among others. [...]**

➤ [US Department of State, Country Report on Human Rights Practices 2013 - Eritrea, 27 February 2014](#)

[...] b. Disappearance

An unknown number of persons disappeared during the year and were believed to be in government detention or to have died while in detention. The government did not regularly notify family members or respond to information requests regarding the status of detainees. **Disappeared persons included** those detained for political and religious beliefs, journalists, **individuals suspected of evading national service and militia duties**, and persons with no discernible charge.

[...] c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The law and the unimplemented constitution prohibit torture, but the UN special rapporteur on human rights in Eritrea reported that “individuals arrested arbitrarily are subjected to physical and psychological torture, cruel, inhuman or degrading treatment.” Lack of transparency and access to information made it impossible to determine the numbers or circumstances of deaths due to torture or poor detention conditions.

Security forces tortured and beat army deserters, national service and militia evaders, persons attempting to flee the country without travel documents, and members of certain religious groups. **Released and escaped detainees from previous years who detailed their experiences on diaspora websites and elsewhere described prison conditions that included exposure to extreme heat during confinement in crowded and unventilated metal shipping containers, or in crowded basements without ventilation or sanitation.** [...]

Prison and Detention Center Conditions

[...] Refusal to perform military or militia service, failure to enlist, **fraudulent evasion of military service, and desertion were punishable by lengthy imprisonment. Former detainees and other sources reported detention center conditions for persons temporarily held for evading national service and militia duties were harsh, equivalent to conditions for national security detainees. Authorities placed political prisoners in solitary confinement more often than other detainees.** [...]

- [UN, Report of the Special Rapporteur on the situation of human rights in Eritrea, Sheila B. Keetharuth, 28 May 2013](#)

[...] V. Human rights violations

[...] C. Arbitrary arrest and detention, torture and prison conditions

[...] 51. The number of people arrested and detained without charge or due process amounts to thousands. **National service evaders or escapees, and those suspected of wanting to flee or caught during flight further swell detention figures** and may reach tens of thousands.

52. Invariably, detainees are held without being informed about the reason for their arrest and without an arrest warrant. **Prison conditions are life threatening, harsh, degrading and unhygienic.** Food rations are generally poor, and the nutritional value and quality of the food and water supplies provided to detainees are inadequate. Those in underground prisons do not see daylight for months at a time.

53. **Individuals arrested arbitrarily are subjected to physical and psychological torture, cruel, inhuman or degrading treatment.** The information gathered confirmed that torture is regularly used in Eritrean prisons, military barracks and at Sawa – a one-stop service consisting of a school, a military training camp and a detention facility all in one, as well as other military training camps. [...]

- [Amnesty International, Eritrea: Twenty years of Independence, but still no freedom, 9 May 2013](#)

[...] PEOPLE EVADING OR DESERTING NATIONAL SERVICE CONSCRIPTION

[...] Because of the violations inherent in the framework of national service, as well as the indefinite nature of conscription precluding other economic or educational opportunities, a large number of Eritreans have tried to avoid conscription by going into hiding or fleeing the country. There is also a high rate of desertion from national service. **The usual punishment for evading or deserting national service is arrest and detention without charge or trial.**

Amnesty International has also received information of cases in which people were arrested on the suspicion that they were intending to desert. **Many thousands of draft evaders and deserters have been detained without charge or trial since 1995. As with the cases of other political prisoners, the lack of transparency and judicial oversight mean that it is impossible to know an exact number. The testimonies of former detainees indicate that arrest on the basis of evading national service or of desertion occur on a very regular basis.**

Many thousands of people have been caught in the sporadic national service round-ups. Some groups rounded-up have been taken straight to Sawa military training camp. However, according to information received by Amnesty International, other groups have been detained and taken to prisons including Adi Abeto prison just outside Asmara.

Individuals arrested on this basis are not charged with an offence, are not brought to trial, and are not provided with access to a lawyer. Their families are not informed of their detention. Detention lengths vary. In many cases, individuals arbitrarily arrested and detained for avoiding or deserting national service conscription have told Amnesty International that they were detained for periods of one to two years. Testimony from individuals formerly detained for evading national service or suspected of intention to desert indicates that the length of detention of conscripts is the decision of their commanding officer and appears to be arbitrary with no basis in law. [...]

When caught, draft evaders and deserters have been subjected to torture and other illtreatment, including brutal beatings and being tied in contorted positions, as punishment. The families of draft evaders and deserters are also often punished. [...]

3. PRISONS AND DETENTION CONDITIONS

[...] People caught evading or deserting national service conscription, as well as people caught trying to flee the country have often been detained in the detention centres of Aderser, Adi Abeto, Mai Serwa, Sawa, Alla, Prima country, Track B, Tessenei, as well as many others. [...]

Evidence of indefinite conscription / lack of existence of demobilisation from military/national service

- [United Nations, Oral Update by Mr. Mike Smith, Chair of the Commission of Inquiry on Human Rights in Eritrea at the 28th session of the Human Rights Council, 16 March 2015](#)

[...] We are consciously using the word “pretext”: the so called “no war, no peace” situation is indeed not a status recognized under international law. It is an expression abusively used by the Eritrean authorities to disregard international human rights law as if Eritrea was in a legal limbo, while other countries have experienced the uncertainty linked to international conflicts without resorting to such drastic curtailing of freedoms and violations of rights. [...]

Under this pretext, the whole society is militarised, and national service is universal and of an indefinite duration. Most Eritreans have no hope for their future: national service, whether in a military unit or in a civil assignment, is the only thing that from the age of seventeen they can expect to spend their life doing –paid between less than one and a maximum of two dollars a day. On such wages, they struggle to fulfil their basic needs, let alone think about raising a family. [...]

In order to ensure the enforcement and perpetuation of such a system, pervasive State control and ruthless repression of perceived deviant behaviours – particularly within national service – are crucial. Hence, the creation of a network of spies that goes so deep in the fabric of social life that a man employed by national security might not know that his daughter is similarly employed. Hence, the extra-judicial executions, enforced disappearances and incommunicado detentions aiming at silencing all perceived critics and teaching a lesson to them and others –because you are never really told why you are arrested, and once you have been arrested, for how long you will be detained and where. [...]

- [UN Committee on the Elimination of Discrimination against Women, Concluding observations on the fourth and fifth periodic reports of Eritrea, 12 March 2015](#)

[...] Women's rights in the context of the national service and the refugee crisis

8. The Committee is deeply concerned about the negative impact of the **indefinite national service** on women's rights and at the insufficient measures taken by the State party to remedy this situation. It is particularly concerned about:

(a) Women and girls being forcibly recruited into the national service for **an indefinite period of time** and without formal pay, under conditions which amount to forced labour; [...]

- [Amnesty International, Amnesty International Report 2014/15, 25 February 2015](#)

[...] Military conscription

National service continued to be mandatory for all men and women aged between 18 and 50, with no provision for conscientious objection. All school pupils were required to complete their final school year at Sawa military camp, effectively conscripting children into the military. **The initial 18-month period of service continued to be frequently extended indefinitely**, with minimal salaries and no choice over the nature of work assigned – a system that amounted to forced labour. [...]

➤ [Human Rights Watch, World Report 2015 - Eritrea, 29 January 2015](#)

[...] Indefinite Conscription and Forced Labor

The threat of indefinite military conscription compels thousands of young Eritreans to flee their country. Among recent defections were 11 members of the national football team, including the coach, who fled while in Kenya in December 2013. The national football squad has lost almost 50 members in such defections over the past five years.

By law, each Eritrean is compelled to serve 18 months in national service starting at age 18 but in practice conscripts serve indefinitely, many for over a decade. One 14-year-old refugee said, "The military does not have an end, it is for life." While most young Eritreans begin military training for the last year of high school, children as young as 15 are sometimes conscripted. Desertions and refusals to report became more common in 2014. [...]

Able-bodied men older than 50 have been forced to perform militia duty several times a week without pay since 2012. They are used as armed guards and as labor on public workprojects, prompting some to flee. [...]

➤ [Immigration and Refugee Board of Canada, Eritrea and Sudan: Situation of the border region between the two countries, including military and police patrols, as well as legal crossing points; information on physical obstacles to prevent crossing, such as fences and mines; number of people legally and irregularly crossing the border \(2013-May 2014\) \[ZZZ104862.E\], 20 December 2014](#)

[...] 1. Border Crossing

[...] The paper written by van Reizen et al and presented before the European parliament indicates that young people are barred from having a travel document to leave the country due to the **obligation to serve in the military "indefinitely"** (van Reizen et al. 4 Dec. 2013, 50). Sources indicate that these restrictions force Eritreans to use irregular routes to leave the country (Humphris Mar. 2013, 16; US 19 June 2013, 163; Human Rights Watch Feb. 2014, 16). [...]

➤ [Stop National Service Slavery in Eritrea, Response to the recent report from the Danish Fact Finding Mission to Eritrea, 29 November 2014](#)

[...] Length of Service

The [Danish Fact Finding Mission to Eritrea] report **fully established the arbitrary nature of the length of service** and this is established by the fact that there wasn't a single policy document that actually supports any coherent approach to demobilisation or the 'change' in policy that is mentioned and/or alluded to. The arbitrary nature of the ENS [Eritrean National Service] is abusive in itself and a major contributory cause for the mass exodus. In the absence of a clear understanding of rights and obligations (a concern often repeated by many former recruits), it is not simply the length but the not knowing that is a cause for disillusionment. The arbitrary administration of procedures is also a perfect recipe for nepotism and corruption. [...]

➤ [Gaim Kibreab, The Open-Ended Eritrean National Service: The Driver of Forced Migration, Paper for the European Asylum Support Office Practical Cooperation Meeting on Eritrea 15-16 October 2014](#)

[...] What happens to the conscripts who serve 18 months as required by the Proclamation on National service? Do they get demobilised?

This question was briefly addressed in the preceding sections.

Nevertheless, in the following an attempt is made to show that **since the border war broke out and the introduction of the WYDC, there has been no demobilisation of members of the national service. This is in spite of the government's repeated promises.** On 12 December 2000, the Eritrean and the Ethiopian governments signed a peace agreement in Algiers under the auspices of the African Union

and to some extent the United Nations, the European Union and the government of the United States. In the immediate post-Algiers peace agreement, the Eritrean government established a National Commission for the Demobilisation and Re-integration Programme (NCDRP) and a phased demobilisation programme of some 200,000 combatants was formulated. In the first phase, some 70,000 soldiers comprising of the old combatants (Yikealo) and conscripts of the ENS [Eritrean National Service] and the WYDC referred to by the government as Warsai were expected to be demobilised by the end of January 2003. These were going to be mostly women, people with scarce skills, family needs and sicknesses. In the second phase 60,000 combatants were expected to be demobilised by the end of July 2003. Due to uncertainties concerning funding, the government did not specify the exact time when the remaining 70,000 soldiers would be demobilised. The main funder of the planned disarmament, demobilisation and reintegration (DDR) was the World Bank.

However, none of these phased demobilisation programmes were implemented. The only exception was the pilot scheme under which about 5,000 soldiers the large majority of whom were disabled during the border war and a few members of the Yikaalo (individuals who fought in the war of independence) who were old and individuals with long-term illnesses—diabetics, asthmatics, etc. The latter were individuals who were demobilised between 1993 and 1994 due to advanced age and illnesses, but were re-enlisted between May 1998 and just before the beginning of Ethiopia's Third Offensive which took place in May 2000. [...]

Not only did the Eritrean government fail to demobilise the 200,000 soldiers as agreed with international donors, but as seen before, it also extended the obligation to perform national service indefinitely under a new label known as WYDC. [...]

Towards the end of 2004, the government stated that it would demobilise 65,000 conscripts. These were supposed to be people with scarce skills. **However, notwithstanding the fact that some of the 65,000 were issued demobilisation ID cards, they were ordered to remain in their respective assignments for an additional two years without remuneration, i.e. until the end of 2006, but the government has not until this day demobilised them in spite of its promise.** The official reason the government gives every time it reneges on its promise to demobilise is the unresolved border conflict with Ethiopia. There is yet no sign of a resolution of the problem and, therefore, there is no reason to believe that the government would demobilise the 65,000 soldiers or others. **Consequently, the national service has become open-ended and consequently degenerated into forced labour or modern form of slavery. [...]**

Does it make a difference whether a person absconds within 18 months or after?

Whether one is assigned to the military or to the ministries, departments, banks, regional administrations, firms owned by the party or one is hired out to the private sector in the post-18 months duration of the national service does not change the fact that one is a conscript (ageglot). After May 1998, regardless of the nature of one's assignment, one is a member of the national service and is consequently under the auspices of the Ministry of Defence and military discipline. All members of the national service and the WYDC regardless of the length of time and nature of work they perform are considered to be in national service.

They are all bound by the rules and regulations that regulate the national service. Therefore, whether one absconds within the 18 months or after constitutes a desertion. It does not also matter whether one absconds during the first six months of military training, during the subsequent 12 months, after 18 months or ten years in the service. Whoever deserts from the open-ended national service whether one is assigned to work as a soldier, a teacher, a banker, engineer, lawyer, nurse, medical doctor, bricklayer, mason, truck driver, manual worker, policeman, archivist, etc. is a deserter and is dealt with severely by the authorities. [...]

The Extent to which the ENS is an Important Driver of Forced Migration [...]

Although the overwhelming majority of post-independence Eritrean refugees and asylum seekers in Sudan and Ethiopia (and consequently everywhere else in the world) are deserters and draft evaders and members of the prohibited minority churches, **there are a few former combatants who are not demobilised even though the cause they volunteered to fight for had come to an end de facto in May 1991 and de jure in May 1993. [...]**

➤ [U.S. Department of State, Trafficking in Persons Report 2014 – Eritrea, 20 June 2014](#)

[...] The government continued to subject its citizens to forced labor of a non-military nature in its compulsory national service, **often for periods of indefinite duration**, and in its citizen militia, whose

members were also sometimes obliged to carry out public works such as tree-planting and dam-building. [...]

➤ [UN, Report of the Special Rapporteur on the situation of human rights in Eritrea, Sheila B. Keetharuth, 13 May 2014](#)

[...] IV. National service

28. In 1995, National Service Proclamation No. 82/1995 formalized national service in Eritrea. National service was viewed as a means of giving effect to the “historical responsibility” that “present and future generations” shoulder to preserve “a free and sovereign Eritrea as a legacy of thousands of martyrs” (preface). It took but a short time for national service to veer from its “noble objective” as a nation-building programme to become one of the main drivers spurring thousands of Eritreans to flee the country, despite the perils encountered on escape routes and a future fraught with uncertainty in foreign lands. [...]

30. The Proclamation stipulates that all Eritreans between the ages of 18 and 40 have the “compulsory duty to perform active national service”, consisting of six months of military training and 12 months of active military service and development tasks in military forces for a total of 18 months (art. 8); reserve duties are foreseen until the age of 50. **However, conscription for an indefinite period was institutionalized in 2002 with the introduction of the Warsai Yikaalo Development Campaign (WYDC).** [...]

A. Violations of Eritrea’s human rights obligations under international law

1. Length of service

35. As noted above, according to the National Service Proclamation, national service was initially supposed to last 18 months. **However, following the war between Eritrea and Ethiopia (1998-2000), in 2002, the Government introduced the Warsai Yikaalo Development Campaign (WYDC), which extended the duration of conscription indefinitely.** According to reports submitted by the Government of Eritrea to the International Labour Organization Committee of Experts on the Application of Conventions and Recommendations (ILO Committee of Experts), the population has been engaged in considerable programmes, within the framework of the WYDC, mainly in reforestation, soil and water conservation, as well as reconstruction activities, as part and parcel of food security programmes. Both national service and the WYDC were originally viewed as means of “social change, economic development, socialization, national building and for transmitting the social and political values developed during 30 years of war”. [...]

36. **Since then, the Government has transformed the national service into an indefinite conscription, through which conscripts spend most of their working lives in the service of the State. A World Bank-funded demobilization project ended in 2005, with the demobilization of 60,000 soldiers. However, in the so-called “no war–no peace” context, the demobilization of the 200,000 soldiers envisaged by the project did not happen. No further thorough demobilization programme has been undertaken to date.**

37. The indefinite nature of the national service goes beyond the normal length as stipulated in the Proclamation and thus deprives conscripts of their liberty, in violation of article 9 of the International Covenant on Civil and Political Rights. In its jurisprudence, the Human Rights Committee stated that during a period of military service, restrictions exceeding the exigencies of normal military service or deviating from the normal conditions of life within the armed forces amount to deprivation of liberty. [...]

75. **Conscripts are not free to leave national service before they have been officially demobilized. However, as already indicated, there is no comprehensive demobilization programme in Eritrea** (see section IV.A.1 above) and many conscripts serve in the military for most of their working lives for a paltry salary. [...]

➤ [UK Foreign and Commonwealth Office, Human Rights and Democracy Report 2013 - Section XI: Human Rights in Countries of Concern – Eritrea, 10 April 2014](#)

[...] Military service

Obligatory and indefinite national service continues to be a major driver for illegal migration. Proclamation 82/1995 limits national service to 18 months, yet some conscripts have served for nearly two decades. In 2011, the government ordered that the maximum 18-month term of national service be adhered to, and that conscripts be allowed to complete their period of service in their own districts, allowing access to families. We are not yet able to assess whether this is happening in

practice. Conscripts are often required to perform non-military activities such as harvesting and construction work for the government and state-owned companies, which may amount to forced labour. There are reports that military officials have used conscripts to perform personal tasks. An additional feature of 2013 has been an increase in the burden on citizens of compulsory armed civilian militia duties. [...]

➤ [UN Human Rights Council, Report of the Working Group on the Universal Periodic Review* Eritrea, 7 April 2014](#)

38. Austria commended Eritrea for inviting OHCHR to visit the country. It expressed concern about the lack of due judicial process, questionable detentions and poor detention conditions, and remarked **that indefinite military conscription constituted forced labour and deepened poverty**, while the lack of free press curtailed freedom of expression. [...]

58. Switzerland remained concerned about extrajudicial executions, forced disappearances, **indefinite national service**, arbitrary detention and restricted freedoms. It expressed the wish for civil society to play a greater role. Noting the promotion of education, it invited Eritrea to improve civil and political rights. [...]

63. **Italy was concerned about reports of torture and indefinite conscription amounting to forced labour.** It recognized efforts to boost trade and investment to alleviate poverty and improve living standards. It noted that some population groups were more vulnerable to discrimination. [...]

74. The Netherlands remained concerned about severe restrictions on freedom of expression, association and religion, **prolonged military service**, arbitrary detention, torture, prisoner maltreatment, extrajudicial killings and secret prisons. It urged Eritrea to allow ICRC unrestricted access to prison facilities. . [...]

II. Conclusions and/or recommendations**

[...] 122.55. End indefinite national service and begin a phased demobilization for those serving for more than the statutory 18 months, and allow substitute service for conscientious objectors (Norway); [...]

122.57. End conscription of persons for indefinite periods into national service and cease forced participation of persons in the citizen militia and other national projects (United States of America); [...]

[...] 122.60. Establish provisions for conscientious objections to military service and bring an end to indefinite, involuntary conscription or national service — a severe form of forced labour —, in particular of children (Germany);

122.61. End the practice of indefinite national service and allow substitute service for conscientious objectors (Croatia); [...]

122.63. Implement Proclamation No. 82/1995, limiting national service obligations and cease the practice of obliging citizens to serve in an armed civilian militia (United Kingdom of Great Britain and Northern Ireland);

122.65. End the practice of indefinite national service and initiate demobilization for those who have completed the statutory 18 months of service (Austria);

122.66. Immediately end the practice of indefinitely extending military service, a system which amounts to forced labour (Canada); [...]

122.143. Put an end to the practice of indefinite national service and take measures, in consultation with its partners, to put an end to migration and human trafficking affecting thousands of Eritreans, including children (France); [...]

➤ [US Department of State, Country Report on Human Rights Practices 2013 - Eritrea, 27 February 2014](#)

[...] b. Prohibition of Forced or Compulsory Labor

[...] The law prohibits forced labor and slavery. The law's definition of forced labor excludes activities performed as part of national service or other civic obligations, and labor protections limiting hours of work and prohibiting harsh conditions did not apply to persons engaged in national service. The state of emergency, declared in 1998 because of a border war with Ethiopia, remained in effect during the year. **As a result, despite the 18-month limit on national service under the law, the government did not demobilize many conscripts from the military as scheduled** and forced some to serve indefinitely under threats of detention, torture, or punishment of their families. [...]

[...] **Military service was routinely prolonged indefinitely.** Persons performing national service could not resign from their jobs or take new employment, generally received no promotions or salary increases, and could not leave the country legally because they were denied passports or exit visas. Those conscripted into the military or other public works projects performed standard patrols and border monitoring, in addition to labor such as agricultural terracing, planting, road maintenance, and laying of power lines. Working conditions were often harsh and sometimes involved physical abuse. [...]

➤ [Human Rights Watch, World Report 2014: Eritrea, 21 January 2014](#)

[...] Indefinite Conscriptio and Forced Labor

Eritrea conscripts all men and unmarried women into “national service.” Although Eritrean law limits national service to 18 months, **most conscripts serve for much of their working lives.** [...]

Since mid-2012, all men in their 50s, 60s, and 70s are compelled to perform militia duty: carrying military weapons; reporting for training; and going on periodic patrols. [...]

➤ [UN Human Rights Council, Summary prepared by the Office of the High Commissioner for Human Rights in accordance with paragraph 15 \(b\) of the annex to Human Rights Council resolution 5/1 and paragraph 5 of the annex to Council resolution 16/21 : Eritrea, 1 November 2013, A/HRC/WG.6/18/ERI/3](#)

[...] 7. Right to work and to just and favourable conditions of work

58. HRCE [Human Rights Concern Eritrea] stated despite the official length of service being 18 months, **most have served 17 years or more.** JS 3 [Eritreans for Human and Democratic Rights and Release Eritrea] stated that the perpetual military service of all young men and women aged **between 18 and 50 has been extended to those between 50 and 70.** Elderly men and women were made to train and carry Kalashnikov rifles with a view to be militias protecting the cities. HRCE recommended that the Government of Eritrea end the practice of indefinitely extending military service, initiate demobilization for those who have completed 18 months of service, and offer the option of civilian national service. HRW made a similar call. [...]

➤ [United Nations, Report of the Monitoring Group on Somalia and Eritrea pursuant to Security Council resolution 2060 \(2012\): Eritrea, 25 July 2013](#)

[...] II. Internal and regional context

A. Internal political dynamics in Eritrea

[...] 10. During the course of its current mandate, the Monitoring Group has documented a number of high-level defections of military and Government officials. These are taking place amid continuing waves of emigration of Eritrea’s youth as well as **defections from the ranks of national service conscripts, a vast number of whom are required to serve indefinitely.** The Group has obtained details from nine Eritrean sources who receive first-hand information from within Eritrea of increasing frictions between President Isaias Afwerki and his core informal network of military and intelligence loyalists, on the one hand, and a number of civilian and military officials on the other, particularly military regional commanders and ministers who occupy more formal positions in the Government. This network loyal to the President appears to be drawn from the shadow structures of the regime, which are also designated to conduct covert regional intelligence operations, maintain an illicit international revenue collection and procurement apparatus and service a private armed force loyal to the President’s inner circle. [...]

➤ [Women’s Refugee Commission, Young and Astray: An Assessment of Factors Driving the Movement of Unaccompanied Children and Adolescents from Eritrea into Ethiopia, Sudan and Beyond, 28 May 2013](#)

[...] In May 2002, Isaias Afeworki extended the NSP, which mandates a minimum of 18 months national service for all Eritreans between 18 and 45 years of age, in what is now referred to as the Warsai-Yikaalo Development Campaign (WYDC). The WYDC formalizes the indefinite nature of national service and establishes a two-tiered workforce to serve both military and labor market needs. Refugees fleeing from Eritrea suggest that **the actual age of forced conscription can be as high as between 50 and 55 years.** [...]

- [Amnesty International, Eritrea: Twenty years of Independence, but still no freedom, 9 May 2013](#)
[...] PEOPLE EVADING OR DESERTING NATIONAL SERVICE CONSCRIPTION
The initial national service period is 18 months long, generally consisting of six months' military service followed by 12 months' deployment in military or government service. However, this period is **frequently extended indefinitely**. Much of the adult population of Eritrea is currently engaged in mandatory national service; **many of them have been conscripted for over ten years**.
[...] The system of **indefinite**, involuntary conscription imposed in Eritrea amounts to forced labour and a violation of human rights. Furthermore, it provides a context for other human rights violations, including the violent methods used to enforce conscription, the lack of any recognition of a right to conscientious objection, detention without charge or trial of those who evade or desert, and the detention of and reprisals against their family members. [...]

Evidence that indefinite conscription is a driver of migration from Eritrea

- [UK Foreign and Commonwealth Office, Human Rights and Democracy Report 2014 - Section XII: Human Rights in Eritrea – Country of Concern, 13 March 2015](#)
[...] Obligatory national service continues to be a major driver for emigration and illegal migration. [...]
- [Human Rights Watch, World Report 2015 - Eritrea, 29 January 2015](#)
[...] Indefinite Conscription and Forced Labor
[...] The threat of indefinite military conscription compels thousands of young Eritreans to flee their country. [...]
Able-bodied men older than 50 have been forced to perform militia duty several times a week without pay since 2012. They are used as armed guards and as labor on public workprojects, prompting some to flee. [...]
- [Joint report by Eritrean Diaspora organisations, “Listen to our Agony”, December 2014](#)
[...] Introduction
Eritrea is haemorrhaging people. As many Eritreans are fleeing their country, seeking refuge in the rest of the world, as Syrians. Yet Syria is in the grip of a deadly civil war and Eritrea is not. **Eritreans are driven into exile by** the regime's gross violations of human rights and **the endless military service** which has created a cycle of poverty. [...]
- [UNHCR, Sharp increase in number of Eritrean refugees and asylum-seekers in Europe, Ethiopia and Sudan, 14 November 2014](#)
[...] During the first ten months of 2014, the number of asylum-seekers in Europe from Eritrea has nearly tripled. In Ethiopia and Sudan, neighbouring Eritrea, the number of Eritrean refugees has also increased sharply. [...] There are currently more than 216,000 Eritrean refugees in Ethiopia and Sudan. Sudan has been hosting Eritrean refugees for more than forty years, which makes it one of Africa's most protracted refugee situations. Eritreans started to arrive in Ethiopia in 2002, after the end of the conflict between the two countries. **The recent arrivals told us that they were fleeing an intensified recruitment drive into the mandatory and often open-ended national service.** [...]
- [OHCHR - UN Office of the High Commissioner for Human Rights, We Know How Many Eritrean Children Reach Europe On Their Own, But Not How Many Die Trying – United Nations Expert, 28 October 2014](#)
[...] The United Nations Special Rapporteur on Eritrea, Sheila B. Keetharuth, has expressed alarm about continuing human rights violations in the country resulting in mass departures. She warned the United Nations General Assembly about the high number of children fleeing from Eritrea without their parents.

“By mid-October, more than 4,000 Eritrean minors had arrived in Italy since the beginning of the year, including more than 3,200 children travelling without their parents,” Ms. Keetharuth said, quoting recent data collected by the United Nations Refugee Agency.

“The numbers provided only reflect those who make it to Europe. We do not know how many children perish along the flight,” the human rights expert stressed. “In all circumstances, unaccompanied minors require special protection.”

The children risk their lives, travelling on their own or with friends, to escape from looming military training and conscription amounting to forced labour, to join family members or in the hope of finding their rights protected across borders. They are very vulnerable and run the risk of exposure to abuse and violence, including falling in the hands of traffickers and smugglers who ask for ransoms from their families.

Eritreans are escaping systematic and widespread human rights violations, such as indefinite forced conscription and violations in the context of the national service, arbitrary arrests and detention, incommunicado detention, inhumane prison conditions, extrajudicial killings, disappearances and torture. [...]

- [Gaim Kibreab, The Open-Ended Eritrean National Service: The Driver of Forced Migration, Paper for the European Asylum Support Office Practical Cooperation Meeting on Eritrea 15-16 October 2014](#)

[...] The Extent to which the ENS [Eritrean National Service] is an Important Driver of Forced Migration Although the ultimate cause of forced migration in post-independence Eritrea is due to interplay between deeply entrenched and inextricably interconnected patterns of economic, social, political, environmental and human rights violations, as well as the pervasive inequalities that characterise the global NorthSouth divide in living standards reinforced by the dense transnational networks that interconnect Eritreans world-wide; since 2002, **the single most important driver of forced migration has been the open-ended ENS, its concomitant the WYDC and the resulting devastating social and economic consequences that have undermined the long-standing tenuous livelihood systems in the country.**

Nearly all post-independence Eritrean asylum seekers and refugees are national service deserters and draft evaders. The latter include children who flee even at an early age to avoid the scourge of future conscription. Some among the asylum-seekers and refugees are members of minority Christian churches, such as the Pentecostals. The results of a survey in the UK conducted by the author in 2008 show that 27 per cent, 66 per cent and 5 per cent, respectively were draft evaders, deserters and members of the minority churches. The members of the minority churches were also at the same time either draft evaders or deserters. The results of another more comprehensive survey conducted by the author in 2012 in the United Kingdom, Switzerland, Sweden, Norway, South Africa and Kenya show that among the 190 respondents, 98 per cent had served in the ENS and the WYDC when they fled Eritrea. About 2 per cent are draft evaders. [...]

- [UN, Report of the Special Rapporteur on the situation of human rights in Eritrea, Sheila B. Keetharuth, 13 May 2014](#)

[...] III. Refugee situation

25. **While there are numerous human rights violations that incite Eritreans to leave the country, the indefinite national service and arbitrary arrests and detention, or fear thereof, are the top push factors for flight.** The fear and experience of a lengthy national service incite many Eritreans, particularly young people, but also older people, to leave the country in large numbers, a process that has started to deplete entire villages, and which has the potential of negatively impacting the country's social landscape.

26. An exponentially high number of people leave Eritrea, despite the life-threatening risks faced while attempting to flee the country and during flight. [...]

[...] IV. National service

28. In 1995, National Service Proclamation No. 82/1995 formalized national service in Eritrea. National service was viewed as a means of giving effect to the “historical responsibility” that “present and future generations” shoulder to preserve “a free and sovereign Eritrea as a legacy of thousands of martyrs” (preface). It **took but a short time for national service to veer from its “noble objective” as a nation-building programme to become one of the main drivers spurring thousands of Eritreans to**

flee the country, despite the perils encountered on escape routes and a future fraught with uncertainty in foreign lands. [...]

Conditions in military and national service

- [United Nations, Oral Update by Mr. Mike Smith, Chair of the Commission of Inquiry on Human Rights in Eritrea at the 28th session of the Human Rights Council, 16 March 2015](#)

[...] We are consciously using the word “pretext”: the so called “no war, no peace” situation is indeed not a status recognized under international law. It is an expression abusively used by the Eritrean authorities to disregard international human rights law as if Eritrea was in a legal limbo, while other countries have experienced the uncertainty linked to international conflicts without resorting to such drastic curtailing of freedoms and violations of rights. [...]

Under this pretext, the whole society is militarised, and national service is universal and of an indefinite duration. Most Eritreans have no hope for their future: national service, whether in a military unit or in a civil assignment, is the only thing that from the age of seventeen they can expect to spend their life doing –paid between less than one and a maximum of two dollars a day. On such wages, they struggle to fulfil their basic needs, let alone think about raising a family. [...]

In order to ensure the enforcement and perpetuation of such a system, pervasive State control and ruthless repression of perceived deviant behaviours – particularly within national service – are crucial. Hence, the creation of a network of spies that goes so deep in the fabric of social life that a man employed by national security might not know that his daughter is similarly employed. Hence, the extra-judicial executions, enforced disappearances and incommunicado detentions aiming at silencing all perceived critics and teaching a lesson to them and others –because you are never really told why you are arrested, and once you have been arrested, for how long you will be detained and where.

Eritrea is a country where detention is an ordinary fact of life, experienced by an inordinate number of individuals – men and women, old and young, including children; **where detention centres are official and unofficial, above ground and underground, metal containers in forbidding heat or mere fences with no shelter for inmates in punishing cold;** where once in one of them, there is a likelihood that you will be subject to torture to extract a confession or to simply punish behaviours.

And what are the behaviours that trigger such punishments? Let me use the words of some of the victims we have interviewed:

“When you look at them with judging eyes, they punish you”

“The [military] doctor did not listen to me. The first time I talked to him, he hit me. I again complained. He said go and take a shower, there is no medicine.”

“The guards used to try to have sexual activity with the women there. When we refused them, we were punished, simply for refusing. We were forced to roll in the hot sand and lie in the sun.”

“If we did not walk quickly enough during military training, they beat us or shackle us in the ‘otto’ position [feet and hands tied behind the back and lying face down] and force us to stay under the direct sun at mid-day for three hours. I was punished like this, because I had drunk water without permission. A peer denounced me to the officers; in return, he was allowed to take a rest.” [...]

- [UK Foreign and Commonwealth Office, Human Rights and Democracy Report 2014 - Section XII: Human Rights in Eritrea – Country of Concern, 13 March 2015](#)

[...] **Civilian national service has often included work for government and stateowned companies on low salaries, exposing the government to the allegation of using forced labour.** The government has also reported informally that current and future intakes of national service members will be required only to perform military and not civilian service. [...]

- [UN Committee on the Elimination of Discrimination against Women, Concluding observations on the fourth and fifth periodic reports of Eritrea, 12 March 2015](#)

[...] Women's rights in the context of the national service and the refugee crisis

8. The Committee is deeply concerned about the negative impact of the indefinite national service on women's rights and at the insufficient measures taken by the State party to remedy this situation. It is particularly concerned about:

(a) Women and girls being forcibly recruited into the national service for an indefinite period of time and without formal pay, **under conditions which amount to forced labour**;

(b) Reports that **women in national service are frequently victims of sexual violence, including rape**, committed by officers and male recruits **and that those refusing sexual advances are often severely punished**;

(c) The large and increasing number of Eritrean women and girls, including unaccompanied children, who flee the country and become refugees in third countries to avoid national service, and who frequently become victims of violence, human trafficking and smuggling;

(d) Reports that many girls drop out of school, become pregnant and/or are forced to enter child marriages to avoid enrolment at the Sawa Military Training Centre and national service;

(e) The proliferation of small arms and the accessibility of firearms to individuals in the framework of the national service and their impact on the security of women. [...]

Women in detention

40. The Committee is concerned about reports that **women in detention, including secret detention, are subjected to multiple forms of violence, including sexual violence**, by male guards and that cases are not adequately prosecuted. It notes with concern that there is no independent monitoring body in place to visit places of detention. [...]

➤ [Amnesty International, Amnesty International Report 2014/15, 25 February 2015](#)

[...] Military conscription

National service continued to be mandatory for all men and women aged between 18 and 50, with no provision for conscientious objection. All school pupils were required to complete their final school year at Sawa military camp, effectively conscripting children into the military. **The initial 18-month period of service continued to be frequently extended indefinitely, with minimal salaries and no choice over the nature of work assigned – a system that amounted to forced labour**. Conscripts faced harsh penalties for evasion, including arbitrary detention and torture and other ill-treatment. **Children at Sawa were kept in poor conditions and received harsh punishments for infractions**. [...]

Torture and other ill-treatment

Torture and other ill-treatment was reported to be widely used as punishment, interrogation, and as coercion. Common methods included tying prisoners in painful positions for long periods and prolonged solitary confinement.

Appalling prison conditions amounted to cruel, inhuman or degrading treatment or punishment.

Many detainees were held in overcrowded underground cells or metal shipping containers, often in desert locations, suffering extremes of heat and cold. Food, water and sanitation were inadequate. [...]

➤ [Human Rights Watch: World Report 2015 - Eritrea, 29 January 2015](#)

[...] Indefinite Conscription and Forced Labor

[...] Conscripts receive inadequate pay to support family members, a financial plight exacerbated by food-price inflation in 2014. **Conscripts are also subject to military discipline and are harshly treated throughout their long service. Perceived infractions result in incarceration and in physical abuse often amounting to torture. The length of incarceration and type of physical abuse inflicted is at the whim of military commanders and jailers. Female conscripts are frequently sexually abused by commanders**.

While some conscripts work in civil service jobs at conscript pay, others are used as forced labor on construction sites and government-owned farms. The Eritrean construction industry is a government monopoly that uses forced conscript labor. In 2013, Human Rights Watch found that several hundred conscripts had been used by state-owned Segen Construction Co. to build infrastructure at the Bisha mine, Eritrea's only operating mineral mine. Bisha is majority-owned by Nevsun Resources, a Canadian mining company. Nevsun has expressed "regret if certain employees of Segen were conscripts" during the mine's construction, but insists there are no ongoing abuses. Segen remains a contractor at Bisha. **Able-bodied men older than 50 have been forced to perform militia duty several times a week without pay since 2012**. They are used as armed guards and as labor on public workprojects, prompting some to flee [...]

Arbitrary Arrest, Prolonged Detention, and Inhumane Conditions

[...] **Prisoners are held in vastly overcrowded underground cells or shipping containers, with no space to lie down, little or no light, oppressive heat or cold, and vermin. Food, water, and sanitation are inadequate, beatings and other physical abuse are common, deaths not unusual.** Some of the leaders of an attempted 2013 takeover of the Ministry of Information died in prison in 2014, according to unconfirmed reports. [...]

➤ [Freedom House, Freedom in the World 2015 - Eritrea, 28 January 2015](#)

[...] D. Freedom of Expression and Belief: 0 / 16

[...] Practicing religion during national military service is banned, including for religious leaders.

Academic freedom is constrained. **Students in their last year of secondary school are subject to obligatory military service at Sawa Military Training Center, where conditions are harsh.** Academics practice self-censorship and the government interferes with their course content and limits their ability to conduct research abroad. Eritrea's university system is effectively closed, replaced by regional colleges whose main purposes are military training and political indoctrination.

F. Rule of Law: 0 / 16

[...] **Torture, arbitrary detentions, and political arrests are common. Prison conditions are harsh,** and outside monitors such as the International Committee of the Red Cross are denied access to detainees. Juvenile prisoners are often incarcerated alongside adults. In some facilities, inmates are held in metal shipping containers or underground cells in extreme temperatures. Prisoners are often denied medical treatment and many suffer poor physical health due to the overcrowded and unsanitary conditions in which they are held. The government maintains a network of secret detention facilities.

G. Personal Autonomy and Individual Rights: 2 / 16

[...] Government policy is formally supportive of free enterprise, and citizens are in theory able to choose their employment, establish private businesses, and operate them without harassment. **In reality, a conscription system ties most able-bodied men and women—even those under age 18—to obligatory military service and can also entail compulsory labor for enterprises controlled by the political elite.** The official 18-month service period is open-ended in practice, and conscientious-objector status is not recognized. [...]

Sexual abuse of women during military service is a serious problem. [...]

➤ [Guardian, Eritreans sue Canadian mining firm Nevsun over human rights abuses, 9 December 2014](#)

[...] **Three Eritrean refugees have filed a lawsuit against a Canadian mining firm over claims that it conspired with the Eritrean government to force them and other conscripted workers to work at a copper mine for long hours while receiving little pay and living in squalid conditions.**

The men, who now live in an Ethiopian refugee camp, say they were conscripted into the Eritrean army before being **made to work “unfairly long hours without enough salary, proper medical services, good shelter [or] enough food”.** They worked for the Bisha Mining Share Company (BMSC), which is operated jointly by Vancouver-based Nevsun Resources and Segen Construction, an Eritrean state-owned contractor.

Eritrea's harsh national service programme, which requires all citizens over the age of 18 to enlist in the military or work for state-run companies, was linked to the exploitation of workers in the country's mining sector in a 2013 report by Human Rights Watch (HRW). The Eritrean government holds a 40% stake in Bisha mine (pdf).

One of the refugees involved in the lawsuit, Gize Yebeyo Araya, said through his lawyers that he worked at Bisha until March 2011. **He said Segen paid him less than 500 nakfa (£20) a month to dispose of dangerous chemicals, including sulphur, that were generated during the mining process.** “[My] work consisted of laying a large plastic sheet on the ground to hold the toxic chemical waste,” he said. “The heat was extreme when working. I got serious burns from the sun. I still have the scars from some of these burns on my face. Because of these conditions, and because of how little we were fed, I was always weak and exhausted.” [...]

Despite the denials that conscripted labour is used at Bisha, **Gize said it was “openly known” that Eritrean staff at the mine were soldiers.** The Canadian company should have insisted on better

working conditions for local workers, Gize said. "Nevsun ... could have given us protection from such exploitation, but it never did. It is due to this reason that I felt I needed to sue Nevsun." [...]

➤ [Stop National Service Slavery in Eritrea, Response to the recent report from the Danish Fact Finding Mission to Eritrea, 29 November 2014](#)

[...] The range of human rights violations taking place in Eritrea is vast and well established both in many reports from reputed human right organisations as well as from the special rapporteur on human rights in Eritrea. Any comprehensive effort in addressing the outflow of refugees out of Eritrea will also need to address these and many other violations in order to develop a coherent policy on dealing with Eritrean refugees:

1. Violation of religious rights. The report glosses over this, particularly the existence of systematic persecution against minority religious groups, including the banning of the Evangelical and Pentecostal denominations.
2. The presence of violation against women in the national service. **Many former recruits have given their testimonies through various channels about the sexual abuse and threats of sexual harassment against women in the ENS [Eritrean National Service].** Yet, there is not even a cursory attempt in the report to look into this.
3. Arbitrary arrests and disappearances. **Sudden disappearances are common, and it is commonly understood that this has to do with their political views or for being considered a challenge to the regime. At the ENS this could be for simply failing to obey the whims of senior officers.**
4. The lack of freedom of association or expression and the associated punishments for attempting to exercise those rights. **ENS recruits are prohibited from exercising their faith, possessing holy books or digital tools whilst in military training and during service.** Yet the report talks about the availability of satellite channels, smart phones and internet connections.
5. Freedom of Movement. The majority of the youth are predominantly conscripts of the military training and thereafter of the national service, and their movement within the country is restricted. Conscripts need temporary pass I.D., which are available, on average, once a year per recruit, and are usually granted for a visit to families or under special circumstances. Yet, the report neglects this, and focuses on 'people' not requiring travel permits to move within the country. [...]

➤ [Human Rights Watch, Eritrea: UN Names Commission of Inquiry, 26 November 2014](#)

[...] The Human Rights Council adopted a resolution on June 27 to establish the Commission of Inquiry to investigate human rights violations in Eritrea "since independence" in 1991. **The commission should investigate allegations of serious human rights violations, including the detention and torture of prisoners and indefinite military service with appalling conditions and forced labor for conscripts.** It should also recommend appropriate accountability mechanisms, including criminal prosecution, for those responsible for the abuses.

The impetus for the Human Rights Council to form a Commission of Inquiry came from activists in the Eritrean diaspora and young Eritreans who had left their country. The establishment of the commission is an acknowledgement from the international community that their calls for ending the government's abusive practices have been heard.

According to the United Nations High Commissioner for Refugees (UNHCR), almost 5 percent of Eritrea's population has fled the country. Many evoke the human rights situation and concerns over military conscription as the reason for their decision to leave. A national service law permits the Eritrean government to conscript citizens to perform compulsory military service for 18 months. But in practice most conscripts serve for years and **face arbitrary detention and mistreatment if they protest or flee. While in national service, conscripts are used as forced labor in private or semi-public construction and agriculture projects.**

Torture, cruel and degrading treatment, and forced labor are routine for both conscripts and detainees. Detention conditions are appalling, with detainees typically held in overcrowded cells - sometimes underground - or in shipping containers that reach searing temperatures by day and are freezing at night. [...]

➤ [Human Rights Watch, "Make Their Lives Miserable"; Israel's Coercion of Eritrean and Sudanese Asylum Seekers to Leave Israel, 9 September 2014](#)

[...] Overly Restrictive Interpretation of Refugee Law on Eritrean Asylum Cases

[...] Eritrean conscripts are forced into years or decades of military service, which constitutes illegal forced labor, and while serving are at risk of being subjected to cruel military punishment and torture. Deserters and draft evaders are detained for lengthy periods in terrible conditions without trial and some are tortured. [...]

➤ [US Department of State, 2013 International Religious Freedom Report - Eritrea, 28 July 2014](#)

[...] Legal/Policy Framework

[...] The government requires all young people who are physically and mentally capable to perform a term of national service that includes military training. The government civilian militia program requires most males and some females between the ages of 18 and 70, not currently performing military portions of national service and not serving in the military, to attend militia training, to carry out various public works projects, and to accept government-provided weapons. The law does not provide for conscientious objector status, **nor are there alternative activities for persons willing to perform national service but unwilling to engage in military or militia activities. The penalties for noncompliance include lengthy detention, hard labor, and physical abuse, as well as withholding government documents and entitlements such as passports and ration cards.** [...]

Government Practices

[...] The government continued to require students in their final year of high school to attend the Sawa Training and Education Camp, which included six months of military training. **Authorities at the Sawa Camp reportedly abused trainees, particularly those whose religious beliefs included objections to bearing arms.** Students who did not want to attend military training at Sawa, including some conscientious objectors, sometimes left the country illegally, despite a shoot-to-kill order for attempting such action. [...]

➤ [UN, Report of the Special Rapporteur on the situation of human rights in Eritrea, Sheila B. Keetharuth, 13 May 2014](#)

[...] IV. National service

[...] B. Conditions of national service that amount to human rights violations

2. Arbitrary arrest, detention and torture

1. Right to life and security of the person

50. The lives of those serving in the military should not be avoidably put at risk “without a clear and legitimate military purpose”. **A common punishment in Eritrea for military offences such as desertion, absence without official leave or overstaying of leave without permission and self-harming to avoid national service is exposure to extreme climatic conditions, which may in effect lead to death.** The Special Rapporteur has not been able to confirm whether an independent and prompt inquiry into any suspicious death or alleged violation of the right to life is carried out.

51. Military service escapees, **as well as perceived offenders, are frequently sent to one of numerous prisons as punishment; Wi’a prison camp, situated on the Red Sea coast, south of Massawa, is a notoriously harsh one. Punishment amounting to torture, inhuman or degrading treatment, as well as detention in inhumane conditions appears to be the norm, even for trivial cases. National service conscripts in detention are also used for hard labour.**

3. Women in national service

53. The military draft also applies to women. **Women are particularly vulnerable and at risk of sexual violence during military service** by both officers with responsibilities in the chain of command and by peers.

54. **Army commanders force women to submit to their sexual advances; those who resist are usually punished in different ways, including psychological violence, through harsh treatment; assignment to unduly heavy military duties or denial of leave to visit family.** In addition to their regular military duties, women are also expected to perform domestic chores, such as cooking and cleaning for military commanders, who often use female conscripts as maids.

55. **Women face severe consequences following sexual violence during national service:** those who become pregnant are sent back to their families and face stigmatization and reclusion, as those responsible for the pregnancies are not accountable. Given that sexual assault and rape are not usually discussed, in order to protect family reputation, a culture of silence perpetuates a climate of impunity. In addition to the fact that rape is a criminal offence, all those acts amount to a violation of the right to dignity that is inherent to every human being.

56. Furthermore, fear of national service, fueled by knowledge about sexual violence against women during national service, is so widespread that many young girls deliberately drop out of school so as to marry and have children, or their families may force them to do so as a means of “saving their daughters”. Such a strategy has a negative impact on the education of girls, many of whom are unable to access further education and are thus forced to accept low-skilled jobs. Women who have been recruited into national service tend to adopt the same strategies to be demobilized as early as possible. Exemption from military service for nursing mothers has encouraged early pregnancies. [...]

4. Situation in Sawa

[...] 58. The fact that students are required to spend their last year of secondary schooling at Sawa and undergo three months of military training during that period is proof that even the right to education has a compulsory military component attached to it. Owing to the harsh conditions at Sawa Military Training Centre, some students have tried to escape, even if the risk of being caught and facing severe punishment are high. **Students at Sawa are subjected to various types of violations, some amounting to torture, inhuman or degrading treatment and corporal punishment. There have been reports of students falling ill and dying or committing suicide.** [...]

6. Freedom of opinion, expression and information

61. The right to freedom of expression includes freedom to hold opinions and receive and impart information. While those rights and freedoms are not unfettered, any restrictions and conditions thereon should only be those provided by law and which are necessary in a society where the rule of law prevails (art. 19, para. 3, International Covenant on Civil and Political Rights). **In Eritrea, punitive and disproportionate treatment is meted out to conscripts for expressing their views on the indefinite nature of national service, raising questions about the detention of peers or their living conditions.** [...]

7. Freedom of thought, religion and belief

62. The practice of one’s religion while performing military service is prohibited, in violation of Eritrea’s international obligations under article 18 of the Covenant. **Those found reading religious books are punished by detention in conditions which can amount to torture.** As indicated above, even clerics are required to perform national service and carry arms, a situation that has adversely affected religious institutions, both churches and mosques, and has also proven to be a traumatizing experience for them. The conscription of clerics and laypersons has occasioned a personnel shortage for pastoral work. [...]

8. Violations of economic, social and cultural rights

[...] 65. **Right to housing, health care and food: Living conditions of conscripts are harsh.** They face extreme weather situations without adequate housing or clothing adapted for the prevailing climatic conditions. Food rations are inadequate, in both quality and quantity. While medical facilities are available in the barracks, there is a lack of medication and trained personnel. For those in remote locations, referral to hospitals in main towns can take time. Eritrea is thus not meeting its obligations under article 11 of the International Covenant on Economic, Social and Cultural Rights, which provides for the right to an adequate standard of living, including the right to adequate food, clothing and housing, for everyone, including members of the military. [...]

C. National service constituting forced labour

69. A number of human rights instruments contain standards and principles relating to forced labour. The Universal Declaration of Human Rights states that no one shall be held in slavery and servitude (art. 4) and further states that everyone has the right to free choice of employment (art. 23, para. 1). Those rights are further developed in other United Nations instruments, including the International Covenant on Civil and Political Rights (art. 8) and the International Covenant on Economic, Social and Cultural Rights (art.6, para. 1), as well as in regional instruments, including the African Charter on Human and Peoples’ Rights (art. 5). Forced labour is also prohibited by the ILO Forced Labour Convention (No. 29) and the Abolition of Forced Labour Convention 1957 (No. 105), both of which Eritrea has ratified.

70. Under international human rights law, conscription, per se, is not covered by the prohibition of forced labour. Indeed, the International Covenant on Civil and Political Rights states that “no one shall be required to perform forced or compulsory labour” (art. 8, para. 3 (a), and for the purposes of that paragraph, the term “forced or compulsory labour” shall not include “any service of a military character” (art. 8, para. 3 (c) (ii)).

71. However, national service in Eritrea does not constitute service of a purely military character. Furthermore, conscription for military service is normally for a reasonable period of time, from one to three years, and not of an indefinite character. Since the length of national service in Eritrea is of an indefinite nature, it effectively constitutes forced labour as provided for in article 8, paragraph 3 (a) of the Covenant.

72. The ILO Committee of Experts has, on several occasions, discussed whether national service in Eritrea constitutes forced labour. Article 2 of ILO Convention No. 29 defines forced labour as “all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily”.

73. National service in Eritrea is involuntary in nature, as explicitly stated in the National Service Proclamation: “any Eritrean citizen from 18 to 50 years of age has the obligation of carrying out national service” (art. 6). There are very few exemptions to this requirement (art. 12) and conscripts are recruited without their consent to perform military service. The compulsory nature of national service in Eritrea is further highlighted by the giffas, which are aimed at rounding up those who try to avoid conscription. Furthermore, the lack of conscientious objection demonstrates the absence of any element of voluntariness.

74. As of the age of 18 years, Eritreans are obliged to carry out national service, under threat of a penalty. Draft evaders and deserters are punished by harsh and arbitrary penalties, including detention, physical violence, sometimes amounting to torture, and the refusal of family leave for very long periods of time. Alleged or actual failure to execute tasks during national service is also severely punished. The disproportionate nature and the fact that such punishments constitute torture, cruel, inhuman or degrading punishment are clear violations of human rights. Accordingly, national service conscripts live in constant fear; the threat of severe penalties, sometimes of a life-threatening nature, being part of their daily lives.

75. Conscripts are not free to leave national service before they have been officially demobilized. However, as already indicated, there is no comprehensive demobilization programme in Eritrea (see section IV.A.1 above) and many conscripts serve in the military for most of their working lives for a paltry salary.

76. Furthermore, the ILO Committee of Experts has already discussed whether Eritrean national service may constitute an exception to the definition of forced labour, as stipulated in ILO Convention No. 29. The Committee of Experts has examined the following exceptions under article 2, paragraph 2: compulsory military service for work of a purely military character; cases of emergency, including war and calamities, such as fire, flood or famine; and minor communal services performed by the members of the community in the direct interest of the community. For compulsory military service to be considered as an exception to forced labour, work imposed on conscripts has to be of purely military character. In order to make sure that, in practice, compulsory military service is not diverted from its objective, the ILO Committee of Experts has repeatedly requested the Government of Eritrea to indicate what guarantees are provided to ensure that services exacted under compulsory military service laws are used for purely military ends. The Committee of Experts has also considered that compulsory national service in Eritrea exceeds the limits of the exception provided for in article 2, paragraph 2 (d), of ILO Convention No. 29 relating to work imposed in cases of emergencies. In that respect, the ILO Committee of Experts has urged the Government to take the necessary measures, “both in law and in practice, to limit the exaction of compulsory work or services from the population to genuine cases of emergency, or force majeure, that is, to circumstances endangering the existence or the well-being of the whole or part of the population, and to ensure that the duration and extent of such compulsory work or services, as well as the purpose for which it is used, is limited to what is strictly required by the exigencies of the situation”. Finally, the ILO Committee of Experts has pointed out that the existing large-scale and systematic practice of imposing compulsory labour on the population within the framework of the national service programme is also incompatible with ILO Abolition of Forced Labour Convention No. 105, which prohibits the use of forced or compulsory labour as a method of mobilizing and using labour for purposes of economic development. [...]

V. Incarceration

[...] **Conditions of detention**

83. Detention entails restriction on the right to liberty and freedom of movement, and is permitted by law only in very strict circumstances. Additional safeguards are laid down in article 9 of the International Covenant on Civil and Political Rights to protect against arbitrariness and providing for

those detained to be able to question the legality of such detention. International law prescribes that persons in detention should continue to enjoy their guaranteed fundamental freedoms and human rights, including their right to human dignity, and the detaining authority shall ensure that the needs of detainees in custody are met.

84. **Severe overcrowding in prisons is a major issue that spawns several other problems relating to the health, hygiene and nutrition of those in custody:** 80 inmates can be held in an underground cell of 10 m by 15 m, with poor ventilation, no windows or light. The holding cells have no sanitation facilities and prisoners are only allowed out 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 prone to respiratory complaints or diseases and diarrhoea. **Medical facilities are minimal and detainees with chronic health problems do not have easy access the right kind of medication or treatment, thus endangering their lives.** Referral to hospitals takes time.

85. Food is of poor nutritional quality and inadequate in quantity, thus exposing those in custody to malnutrition. Meals invariably consist of bread and lentils and access to drinking water is limited. Inmates sleep on the floor without proper bedding.

86. **Torture and ill-treatment are prevalent, with prisoners being more vulnerable during the early days in custody,** for example, during interrogation and investigation, if any. The Special Rapporteur briefly described methods of torture used, in her previous report.

87. In its UPR report, Eritrea stated that torture was criminalized in the domestic legal system and that “evidence collected under such event is inadmissible in courts of law”. However, in practice, there is no legal recourse nor measures to prevent torture concretely. Furthermore, Eritrea has still not ratified the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which it had undertaken to do during the first UPR cycle.

88. **Incommunicado detention and solitary confinement are also prevalent,** their nontransparent nature raising many questions, especially with regard to aspects of solitary confinement that are not regulated by law. Isolation can be construed as inhuman or degrading treatment or torture, if a prisoner is held in solitary confinement for an extended period of time. Several questions may also be raised in connection with health issues; for example, as to whether a medical examination is carried out before and/or during such confinement, and whether detainees held in isolation have access to a doctor on request. More importantly, there is no appeal or review system in Eritrea for solitary confinement.

89. Contrary to international standards, it is exceptional for family and friends to have access to those held in custody in Eritrea. Indeed, families are not informed of where their relatives are being held, for what reason, nor for how long they will be kept in custody. Inmates themselves may not have such information. The detaining authorities regularly move prisoners from one prison to another, sometimes very far from their family base, and consequently, they may not get visits for the entire duration of their detention, which can last for months and even years. Contact with family is random, and usually dependent on the goodwill of released detainees to provide family with information.

90. **While prisoner deaths occur due to deterioration in health and inadequate medical treatment, poor sanitation or torture, secrecy and lack of access to records make it impossible to determine the exact number of deaths in custody.** Some families learn about the fate of their relatives only when informed of their death in custody, though not of the cause of death. Sometimes, released detainees face the dilemma of whether or not to inform family members of the death of their loved ones for fear of reprisal or simply because they do not have the courage to dishearten parents or spouses. Contact with family and friends is not a privilege, but a right for all those in custody, and prisoners should not be deprived of that right or prohibited from communicating with the outside world as a disciplinary measure.[...]

➤ [UN Human Rights Council, Report of the Working Group on the Universal Periodic Review* Eritrea, 7 April 2014](#)

[...] 37. Australia was disappointed that no special procedures mandate holder had been permitted to visit Eritrea, and that the country’s Constitution had still not been implemented. **It was concerned about reports of torture, harsh prison conditions, incommunicado detention and compulsory military service.**

38. Austria commended Eritrea for inviting OHCHR to visit the country. It expressed concern about the lack of due judicial process, questionable detentions and poor detention conditions, and **remarked**

that indefinite military conscription constituted forced labour and deepened poverty, while the lack of free press curtailed freedom of expression. [...]

48. Croatia noted efforts to educate girls and attain the MDGs related to gender equality. It welcomed efforts to eradicate FGM, but was concerned that the incidence of FGM remained high. It expressed concern about **non-recognition of conscientious objection to military service and the impact of indefinite military service on children and society**. [...]

63. **Italy was concerned about reports of torture and indefinite conscription amounting to forced labour**. It recognized efforts to boost trade and investment to alleviate poverty and improve living standards. It noted that some population groups were more vulnerable to discrimination. [...]

104. Germany deplored the lack of progress in the human rights situation since the first UPR cycle and noted that none of the accepted recommendations it had made had been implemented. **It expressed deep concern at the continued forced labour of conscripts**. [...]

67. Lithuania strongly encouraged Eritrea to cooperate with the Special Rapporteur on the situation of human rights in Eritrea and other special procedures mandate holders. It was concerned at Eritrea's failure to implement previous recommendations and expressed concern about restrictions to freedom of assembly and expression and that **rape and sexual violence during military service were widespread**. [...]

II. Conclusions and/or recommendations**

[...] 122.55. End indefinite national service and begin a phased demobilization for those serving for more than the statutory 18 months, and allow substitute service for conscientious objectors (Norway); 122.56. Abolish military conscription and compulsory military training, particularly for children (Australia);

122.57. End conscription of persons for indefinite periods into national service and cease forced participation of persons in the citizen militia and other national projects (United States of America);

122.58. Prohibit the participation of minors in military service and accept the practice of conscientious objection (Spain);

122.59. Modify the regulation on conscription and organize it in a way consistent with the respect for human rights (Italy);

122.60. Establish provisions for conscientious objections to military service and bring an end to indefinite, involuntary conscription or national service — a severe form of forced labour —, in particular of children (Germany);

122.61. End the practice of indefinite national service and allow substitute service for conscientious objectors (Croatia);

122.62. Recognize the right to conscientious objection to military service in law and practice (Croatia);

122.63. Implement Proclamation No. 82/1995, limiting national service obligations and cease the practice of obliging citizens to serve in an armed civilian militia (United Kingdom of Great Britain and Northern Ireland);

122.64. Take appropriate steps with a view to releasing all imprisoned conscientious objectors without delay (Croatia);

122.65. End the practice of indefinite national service and initiate demobilization for those who have completed the statutory 18 months of service (Austria);

122.66. Immediately end the practice of indefinitely extending military service, a system which amounts to forced labour (Canada); [...]

122.143. Put an end to the practice of indefinite national service and take measures, in consultation with its partners, to put an end to migration and human trafficking affecting thousands of Eritreans, including children (France); [...]

➤ [US Department of State, Country Report on Human Rights Practices 2013 - Eritrea, 27 February 2014](#)

[...] b. Prohibition of Forced or Compulsory Labor

[...]The law prohibits forced labor and slavery. The law's definition of forced labor excludes activities performed as part of national service or other civic obligations, and labor protections limiting hours of work and prohibiting harsh conditions did not apply to persons engaged in national service. The state of emergency, declared in 1998 because of a border war with Ethiopia, remained in effect during the year. As a result, despite the 18-month limit on national service under the law, the government did

not demobilize many conscripts from the military as scheduled **and forced some to serve indefinitely under threats of detention, torture, or punishment of their families.** [...]

[...] Military service was routinely prolonged indefinitely. Persons performing national service could not resign from their jobs or take new employment, generally received no promotions or salary increases, and could not leave the country legally because they were denied passports or exit visas. Those conscripted into the military or other public works projects performed standard patrols and border monitoring, in addition to labor such as agricultural terracing, planting, road maintenance, and laying of power lines. **Working conditions were often harsh and sometimes involved physical abuse.** [...] **Refusal to perform military or militia service**, failure to enlist, fraudulent evasion of military service, and desertion were punishable by lengthy imprisonment. **Former detainees and other sources reported detention center conditions for persons temporarily held for evading national service and militia duties were harsh, equivalent to conditions for national security detainees. Authorities placed political prisoners in solitary confinement more often than other detainees.** [...]

➤ [Human Rights Watch, World Report 2014: Eritrea, 21 January 2014](#)

[...] Indefinite Conscription and Forced Labor

Eritrea conscripts all men and unmarried women into “national service.” Although Eritrean law limits national service to 18 months, most conscripts serve for much of their working lives. **Conscripts are routinely used as forced labor on essentially civilian jobs.** In 2013, Human Rights Watch reported that conscripts were used by a state-owned construction company, Segen Construction Co., engaged by Canadian mining firm Nevsun Resources, to build infrastructure at its Bisha gold mine. **Former conscripts described working long hours for minimal food rations, primitive lodging, and wages too low to sustain themselves, much less their families. They were not allowed to leave the work site.**

Children as young as 15 are inducted and sent for military training, according to recent interviews by refugee agencies. **They and other recruits are regularly subject to violence and ill-treatment for raising questions or for other perceived infractions. Beatings, torture, and prolonged incarcerations are common. Women are subject to sexual violence from military commanders, including rape. No mechanisms for redress exist.** [...]

➤ [Human Rights Concern Eritrea, Report on Child Rights Violations in Eritrea, 19 November 2013](#)

[...] Militarization of the Education System and Child Soldiers

[...] Female minors are reportedly commonly raped and sexually exploited both in the detention centres and military training camps. **Many girls are reportedly forced to be “sex slaves” for the army officers.** [...]

Only a small proportion of the 12th grade finalists are selected for further education in the “vocational colleges” which were created when the well-known and respected University of Asmara was permanently closed down by the government for political reasons in 2006. The remaining school-leavers are assigned either to the military or to government companies with the status and conditions of service of conscripts. **In addition to military duties, conscripts are often forced to perform manual labour in harsh conditions on farms and roads, in buildings construction, down mines, or on work tasks in the numerous prisons throughout the country.** [...]

➤ [UN Human Rights Council, Summary prepared by the Office of the High Commissioner for Human Rights in accordance with paragraph 15 \(b\) of the annex to Human Rights Council resolution 5/1 and paragraph 5 of the annex to Council resolution 16/21 : Eritrea, 1 November 2013, A/HRC/WG.6/18/ERI/3](#)

[...] 7. Right to work and to just and favourable conditions of work

[...] 59. JS 3 [Eritreans for Human and Democratic Rights and Release Eritrea, Enfield, United Kingdom] stated that the **youth in the national service were forced to do unpaid, labour intensive work under harsh conditions, usually enduring abuse and maltreatment.** [...]

61. JS 2 [CIVICUS: World Alliance for Citizen Participation, Johannesburg, South Africa and Citizens for Democratic Rights in Eritrea] stated that **national service recruits were used as forced labour** in the mining industry and on a wide range of Government projects. [...]

➤ [UN, Report of the Special Rapporteur on the situation of human rights in Eritrea, Sheila B. Keetharuth, 28 May 2013](#)

[...] V. Human rights violations

[...] A. Right to life, extrajudicial killings, the shoot-to-kill policy, and death in custody

[...] 44. **Owing to the harsh conditions at the Sawa military training camp, students commit suicide or fall ill and die. In one year, two girls died.** For having failed to clean the bathroom, a female student was punished by being forced to roll on the hot ground, thus sustaining severe burns to her body. Unable to bear the pain, she leaned on a live electric wire and was electrocuted. Her friend, who was trying to rescue her, also died. When students die in Sawa, their bodies are buried in a graveyard with no tombstones. Parents are rarely informed about the death of a child. [...]

[...] C. Arbitrary arrest and detention, torture and prison conditions

54. Political prisoners, other detainees, military deserters, “refouled” refugees, failed asylum seekers and **students at Sawa are subjected to torture, cruel, inhuman and degrading treatment or punishment.** Detainees are particularly vulnerable to abuse, as they are held incommunicado, without legal procedures or safeguards, while access by family, doctors or lawyers is denied, in blatant disregard for international human rights standards. Perpetrators are not prosecuted or punished, thus perpetuating a culture of impunity. [...]

I. Gender equality issues and women’s rights

[...] 70. **Allegations of rape and sexual harassment, particularly in military and educational training camps or during interrogation, are frequent.** [...]

L. Economic, social and cultural rights

[...] 90. In addition to the unpaid work performed by national service conscripts, additional restrictions of the right to work were described in various interviews. Opportunities for private business activities are extremely limited and those who wish to undertake a self-sustaining activity are rarely granted the necessary license. Many interlocutors recounted how the Government assigned them to specific jobs, often in the context of the national service, neither respecting their individual choices nor taking into account their vocational training or degree. Furthermore, those working in public service may be dismissed or otherwise prevented from continued employment for any criticism perceived or actually made. [...]

➤ [Amnesty International, Eritrea: Twenty years of Independence, but still no freedom, 9 May 2013](#)

[...] ARRESTS IN VIOLATION OF THE RIGHT TO FREEDOM OF RELIGION OR BELIEF

[...] **National service conscripts have been detained after being caught reading the Bible or praying during their military training period at Sawa military camp.** All of these prisoners have been arbitrarily detained without charge or trial or access to a lawyer. Countless of them have been held incommunicado, in unknown locations. [...]

[...] PEOPLE EVADING OR DESERTING NATIONAL SERVICE CONSCRIPTION

According to the testimonies of former conscripts within the national service framework conscripts are assigned to a wide variety of roles, without any choice as to the nature of the work they are assigned to. Some conscripts are reportedly assigned as labour in state and private projects and enterprises, such as construction projects and road building; testimonies of former conscripts suggest that large numbers are assigned to work as agricultural labourers on large-scale farms; some reportedly work for companies owned and operated by the military or ruling party elites. Other conscripts are reportedly assigned to work in the civil service, in government departments or various roles in the military administrative infrastructure. A significant portion of conscripts are assigned to remain as soldiers after the initial six months’ military service. According to former conscripts interviewed by Amnesty International, the basic level national service salary is 450 Nakfa (approximately 30 US\$) per month. This is widely reported to be insufficient to meet the basic needs of conscripts and their families.

Female conscripts have told Amnesty International that they were subjected to rape and other forms of sexual violence during national service conscription.

“He [a Colonel] made me spend the night with him. I said I would report him to the authorities... as punishment he sent me to work in a hard place. After 15 days he came and put a gun to my head and said did you change your mind...”

Male conscripts have also reported witnessing their female counterparts be subjected to sexual harassment or sexual violence. Parents of conscripts interviewed by Amnesty International have also reported that they wanted their daughters to avoid national service conscription due to a fear of sexual violence perpetrated against female conscripts.

Under international law states must recognise and safeguard the right of everyone to gain their living by work which they freely choose or accept, and forced labour is prohibited, although this prohibition is understood to exclude military service, or alternative national service for conscientious objectors; any work or service normally required of a person under detention in consequence of a lawful order of a court or during conditional release from such detention; any service exacted in cases of emergency or calamity threatening the life and well-being of the community; or any work or service which forms part of normal civil obligations. The International Labour Organization, in commenting on Eritrea as a party to ILO Conventions has stressed that compulsory military service is excluded from the prohibition only if used for “work of a purely military character”, that any power to call up labour on emergency grounds must be confined to sudden unforeseen events calling for instant countermeasures, and that the duration, extent, and purposes of compulsory service should be limited to what is strictly required by the exigencies of the situation and to counter an imminent danger to the population; it has underlined that in the large-scale and systematic practice of imposing compulsory labour on the population within the framework of the national service programme is incompatible with ILO Conventions, which prohibit the use of forced or compulsory labour as a method of mobilizing and using labour for purposes of economic development.

The system of indefinite, involuntary conscription imposed in Eritrea amounts to forced labour and a violation of human rights. Furthermore, it provides a context for other human rights violations, including the violent methods used to enforce conscription, the lack of any recognition of a right to conscientious objection, detention without charge or trial of those who evade or desert, and the detention of and reprisals against their family members. [...]

Within the national service system, any form of criticism or insubordination is not tolerated. Conscripts in any role in the national service framework can be arrested and detained arbitrarily – with no charge, trial, judicial oversight or opportunity to challenge their detention– for minor infractions including questioning an order of a senior officer or post holder, being late for work, criticising levels of pay, questioning a commanding officer or allegedly not working to the best of their ability. One young man told Amnesty international that he had been arrested for expressing his opinion during a meeting in 2010. He had been assigned as a teacher as his national service post. He and other teachers were called to a meeting and encouraged to give feedback on the educational system. The man reported that he and a number of other participants suggested that standards would improve if the teachers’ salary was increased, and were immediately arrested. He stated that he spend four months in detention without charge in a detention centre in Keren. [...]

3. PRISONS AND DETENTION CONDITIONS

[...] TORTURE AND OTHER ILL-TREATMENT

[...] **Torture is reportedly used as punishment for prisoners detained for criticising the government, practising a religion not recognised by the state, attempted escape from national service or from the country, failure to perform duties during national service (even as a result of infirmity or illness), insubordination, or the escape of another prisoner. [...]**

- [Human Rights Watch, Hear No Evil: Forced Labor and Corporate Responsibility in Eritrea’s Mining Sector, 15 January 2013](#)

[...] Summary

[...] The country’s first modern mine, a joint venture between the government and Canadian firm Nevsun Resources, declared production in 2011 and has already produced hundreds of millions of dollars’ worth of gold. A handful of companies—from Canada, Australia, and China—are on the verge of developing other projects, and exploration firms are examining other potential sites throughout the country. **Nevsun’s experiences show that by developing projects in Eritrea, mining firms are walking into a potential minefield of human rights problems. Most notably they risk getting entangled in the Eritrean government’s uniquely abusive program of indefinite forced labor—the inaptly-named national service program.** Through this program the Eritrean government keeps an enormous number of Eritreans under perpetual government control as conscripts. Originally conceived as an 18-month program, the national service scheme now requires all able-bodied men and most women to serve

indefinitely, often for years and with no end in sight, under harsh and abusive conditions. Those who try to flee risk imprisonment, torture, and even reprisals directed against their families.

Some national service conscripts are assigned to state-owned construction companies who exercise a complete monopoly in the field. International mining firms operating in the country face intense government pressure to engage these contractors to develop some of their project infrastructure. If they do so, they run a pronounced risk of at least indirect involvement in the use—and harsh mistreatment—of forced laborers.

When Nevsun began building its Bisha mine in Eritrea in 2008 it failed to conduct human rights due diligence activity and had only limited human rights safeguards in place. At the government's insistence the Bisha project engaged Segen Construction Company as a local contractor. Segen is owned by the ruling People's Front for Democracy and Justice (PFDJ) and there is evidence that it regularly exploits conscript workers assigned to it by the government.

Human Rights Watch interviewed some Eritreans who worked at Nevsun's Bisha project in various capacities—including two who said they were conscripts forced by Segen to carry out construction work at the mine site during its initial development. There is also clear evidence that many of Segen's workers at Bisha during that period faced terrible conditions, from inadequate food supplies to unsafe housing. The workers we interviewed said that national service conscripts and other Eritrean workers lived in fear and were ordered not to complain about their plight. One former conscript told Human Rights Watch that he was captured and imprisoned after leaving the mine site without permission in order to attend a relative's funeral. [...]

Treatment of persons (and/or their family members) who attempt to flee

- [Amnesty International, Amnesty International Report 2014/15, 25 February 2015](#)
[...] Prisoners of conscience
Thousands of people were arbitrarily detained and held in incommunicado detention without charge or trial for various reasons, including: criticizing government policy or practice; for their work as journalists; for suspected opposition to the government; practising a religion not recognized by the state; evading or deserting national service conscription; **or for trying to flee the country, or in the place of family members who had fled.** In most cases relatives were not aware of the detainee's whereabouts. Some prisoners of conscience had been in prison without charge or trial for two decades. [...]
- [Human Rights Watch: World Report 2015 - Eritrea, 29 January 2015](#)
[...] Migration and Asylum
Eritreans fleeing their country have experienced horrific abuses. Since 2004, over 200,000 Eritreans have fled to remote border camps in eastern Sudan and Ethiopia, **evading Eritrean border guards with shoot to kill orders against people leaving without permission.** The lack of work prospects in or near the camps caused tens of thousands to pay smugglers to take them through Sinai to Israel. Egyptian traffickers have tortured scores of Eritreans for ransom in the Sinai Peninsula, including through rape, burning, and mutilation. Some victims said the Egyptian traffickers had tortured them to extort up to US\$40,000 from their relatives. [...]
- [Freedom House, Freedom in the World 2015 - Eritrea, 28 January 2015](#)
[...] G. Personal Autonomy and Individual Rights: 2 / 16
Freedom of movement, both inside and outside the country, is tightly controlled. Eritreans under the age of 50 are rarely given permission to go abroad, and **those who try to travel without the correct documents face imprisonment. The authorities adopt a shoot-on-sight policy toward people found in locations deemed off-limits, such as mining facilities and areas close to the border.** Eritrean refugees and asylum seekers who are repatriated from other countries are detained. Despite these risks, approximately 2,000 people flee the country every month, making Eritrea the tenth largest source of refugees in the world. **When the government's information minister failed to return to**

Eritrea following an overseas trip in 2013, his elderly father, daughter, and brother were detained; they are believed to still be in custody. [...]

The police frequently conduct round-ups of people thought to be evading national service; **those who resist can be executed on the spot. The government imposes collective punishment on the families of deserters, forcing them to pay heavy fines (approximately \$3,350) and putting them in prison if they cannot pay.** The enforced contraction of the labor pool, combined with a lack of investment and rigid state control of private enterprise, has crippled the national economy. The government levies a compulsory 2-percent tax on income earned by citizens living overseas, and those who do not pay place their relatives in Eritrea at risk of arrest. [...]

- [Gedab News, Evidence: Eritrean Government Murdered 13 Children, 23 December 2014](#)
[...] On December 22, awate.com's Gedab News reported that "**13 children who were escaping from Eritrea were gunned down and thrown in ditches somewhere between Ghindae, Eritrea, and Port Sudan, Sudan.**" **We now have information that the party responsible for their murder was the Eritrean government** and the place where the crime occurred is near Karora, in northernmost Eritrea bordering Sudan.
Although the news is being conveyed to the parents now, the massacre actually occurred in early September.
The children were gunned down while they were mounted on a truck and being escorted from Eritrea to Sudan.
The government has a shoot-to-kill policy for anyone who leaves the country "illegally." [...]
- [Immigration and Refugee Board of Canada, Eritrea and Sudan: Situation of the border region between the two countries, including military and police patrols, as well as legal crossing points; information on physical obstacles to prevent crossing, such as fences and mines; number of people legally and irregularly crossing the border \(2013-May 2014\) \[ZZZ104862.E\], 20 December 2014](#)
[...] 1.2.2 Shoot-to-kill Policy
Sources indicate that Eritrean border officials have "standing orders" to shoot-to-kill those attempting to cross the borders irregularly (UN 28 May 2013, para. 43; Professor 6 May 2014; Berhane 5 May 2014). According to van Reisen et al., this policy is applied more at the border with Ethiopia given that those caught fleeing to Ethiopia are punished with death since Eritrea is at war with that country, which explains the larger number of Eritreans fleeing to Sudan rather than Ethiopia (van Reisen et al. 4 Dec. 2013, 39). Sources indicate that those fleeing to Sudan are punished by imprisonment for between three (ibid.) and five years (Human Rights Watch 8 May 2014). They may be also subjected to torture (ibid.). However, according to the UN Special Rapporteur, an "unknown number of people" have been shot near the Eritrean borders with Djibouti, Ethiopia and Sudan, allegedly for attempting to cross the border illegally (UN 28 May 2013, para. 43). According to Berhane, Eritreans caught at the border with Sudan are "at the mercy" of Eritrean border officials who decide whether to kill the person or "make a deal to profit" from him or her (5 May 2014). The Professor also indicated that the shoot-to-kill policy is "less often applied than some years ago" as the military has become increasingly involved in human trafficking to the point of preferring to capture a refugee instead of shooting at him or her (6 May 2014). [...]
- [Gaim Kibreab, The Open-Ended Eritrean National Service: The Driver of Forced Migration, Paper for the European Asylum Support Office Practical Cooperation Meeting on Eritrea 15-16 October 2014](#)
[...] Methods of Conscription into the ENS [Eritrean National Service]
[...] Currently, the main mechanism of conscription is through the Warsai School at Sawa in which all secondary school students at the end of 11th grade are automatically transferred to Sawa to complete 12th grade under military discipline in combination with military training. **A considerable number of citizens conscripted through varieties of ways also receive military training at Meiter military camp in the Southern Red Sea Region.** These include draft evaders; individuals absconding from active national service, rounded up people **and individuals caught either planning to flee or actually crossing the borders.** Draft evaders sent to Meiter receive military training after being subjected to severe punishment for a couple of weeks or even months. However, draft dodgers who mainly

comprise people who overstay authorised period of absence are often subjected to torture and indefinite detention in metal containers or underground cells. **The worst punishment is meted out to people captured fleeing the border. The authorities perceive these acts as subversion. Underground detention and torture can last up to several years for some.** [...]

[...] Penalties for Desertion or Draft Evasion

Since military courts are not operative, punishment for military offences is carried out extrajudicially. For example, those who resist being captured while border-crossing may be shot to death in accordance with the government's "shoot to kill" policy at both sides of the Eritrean border. Human Rights Watch, for example, states, 'Eritreans flee the country by the thousands despite "shoot-to-kill" orders for anyone caught crossing the border.' **It may be worth stating that it is not all people caught crossing borders that are killed. Only those who resist being caught by running away at the border are shot at with the intention to kill or to disable. Those who surrender voluntarily are not killed. They are often subjected to torture and long periods of incarceration without being charged.**

Draft evaders/deserters are routinely subjected to torture and detention under severe conditions. In reality, punishment for desertion or draft evasion is extremely severe and is considered as disproportionate constituting persecution. [...]

[...] There have been incidents in which individuals have lost their lives resisting being captured during the notorious giffas (round ups) and when trying to cross the Eritrea-Sudan or Eritrea-Ethiopia borders to flee the country. **For example, Sudan Tribune on 22 August 2014 reported, 'Eritrean border guards have allegedly shot dead 10 Eritrean citizens as they attempted to cross into Ethiopia, a recent escapee told Sudan Tribune on Friday.'** Samuel Gedion said he was among a group of 18 Eritreans who were trying to flee to Ethiopia two weeks ago. 'Ten of them were killed, while three of us made it to Ethiopia. I am not sure on the fate of the remaining five,' he said. This is one of many incidents that resulted in loss of lives. [...]

➤ [U.S. Department of Labor, 2013 Findings on the Worst Forms of Child Labor - Part V: Country Profiles – Eritrea, 30 September 2014](#)

[...] The Government of Eritrea also engages in a compulsory practice, whereby, in order to graduate from high school, students are required by the Government to complete their final, 12th, year of schooling and military training at the Sawa Center for Education and Training in remote Western Eritrea. In the course of the reporting period, the Government has attempted to identify persons under age 18 while attending Sawa so that this cohort is not required to undertake required military training before reaching 18.(1, 4, 6, 7, 9-11) **Persons who attempt to flee or otherwise avoid military training and national service have in the past been subject to detention and poor treatment, including torture when caught.** During the reporting period, the Government attempted to address the phenomenon of outmigration, including flight from Sawa, and although circumstances varied considerably, penalties were less severe for those caught fleeing Sawa as long as they agreed to resume their studies and complete national service.(6, 7, 11, 12). [...]

➤ [International Crisis Group, Update Briefing Africa Briefing N°100 Eritrea: Ending the Exodus? 8 August 2014](#)

[...] IV. The Refugee Racket

Internally, the exodus is symptomatic of social malaise and growing disaffection with the regime. Externally, such a substantial, unending stream of young people from a country essentially at peace is at odds with the official self-image of a proud, self-reliant young nation.

To stem the flow, the president reportedly initially turned to Brigadier General Teklai Kifle "Manjus". Manjus fell back on his guerrilla instincts, allegedly imposing a shoot-to-kill policy for deserters and retaliation against their families. But the prevalence of conscripts in the army made implementation difficult, since it required targeting peers and undermined morale. Border garrisons faced a surge in insubordination, and more conscripts absconded.

In the face of growing desertions, Manjus allegedly sub-contracted border policing to remnants of the Rashaida paramilitary groups active in eastern Sudan that were previously trained by Eritrean forces and were backed by Asmara before the 2006 Eastern Sudan Peace Agreement). They reportedly deployed on both sides of the border to fire at deserters. "Unlike the conscripts, they had little compunction in killing deserters. But soon, they started detaining them, and ordering [them] to

contact families inside [Eritrea, asking] for a ransom to avoid execution". The money reportedly was paid in Eritrea to Manjus's representatives, mostly members of the Eritrean Defence Forces.

Once money was involved, business interests rapidly expanded in both Eritrea and Sudan. "These people paid ransoms first [to avoid being shot]; they were willing to pay [even] more to continue their [e]migration". [...]

The apparent shoot-to-kill policy evolved into a chaotic "pay-to-leave" trade in which the threat from the Rashaida ex-paramilitaries "was crucial to generate revenues". [...]

➤ [UN, Report of the Special Rapporteur on the situation of human rights in Eritrea, Sheila B. Keetharuth, 13 May 2014](#)

[...] II. Methodology

[...] B. Brief update on the situation of human rights in Eritrea

[...] 24. Guilt by association continued, with parents asked to pay substantial fines of 50,000 Nafka (ERN) for each family member who has left the country, although the parents often have no knowledge of their children's plans. In the high-profile case, in which the former Minister of Information failed to return to Eritrea after a trip abroad, his elderly father, his 15-year-old daughter and his brother were arrested and detained; they remain in detention to date. [...]

38. The military police carries out routine conscription round-ups, known as "giffas", in homes, workplaces, the street or other public places, with the aim of rounding up persons considered fit to serve, draft evaders and those who escaped from national service; including minors. Opposing such a round-up can lead to on-the-spot execution, **as deadly force is permitted against those resisting or attempting to flee, in violation of the fundamental right to life, liberty and security of the person, provided for in article 3 of the Universal Declaration of Human Rights.** [...]

5. Reprisal against family members

46. In cases where draft evaders and deserters remain untraceable, members of their families are often punished instead, in line with the "guilt by association" policy. Such reprisal can take the form of an obligation to pay 50,000 ERN (approximately USD 3,350), a sum that most **Eritreans cannot afford, and/or a family member may be detained for an undefined period of time until the amount is paid. Other types of reprisal include suspension or non-renewal of business licences**, which can lead to the closure of businesses, or taking possession of the property belonging to the family. [...]

V. Incarceration

A. Arrest and deprivation of liberty

[...] 3. Presumed reasons for arrest and detention

82. **In Eritrea, people are arrested and detained without any formal charges. Therefore most people can only speculate about the reasons for arrest and detention; the following reasons are cited frequently :** (a) evading or deserting national service and military conscription; (b) overstaying leave while serving in national service; (c) during giffas –round ups to conscript people by force into the military; **(d) attempting to flee the country; (e) trumped up charges of "plotting to leave the country" or helping others to flee; (f) failing to pay a fine when a family member has fled the country; (g) held in lieu of a parent or family member having left the country;** (h) inability to produce identification documents on demand; (i) journalists, for their work; (j) practicing a religion not recognized by the State; (k) failed asylum seekers and refugees who are returned to Eritrea; (l) actual or perceived critics of State policies or practice; (m) those arrested on suspicion of having participated in the attempted coup of 21 January 2013 (Forto incident), among others. [...]

➤ [US Department of State, Country Report on Human Rights Practices 2013 - Eritrea, 27 February 2014](#)

[...] a. Arbitrary or Unlawful Deprivation of Life

The government committed arbitrary killings and subjected detainees to harsh and life-threatening prison conditions, which resulted in deaths.

Open Doors USA reported on the deaths of Christians Belay Gebrezgi, Yosief Kebedom Gelai, and Wehazit Berhane, all of whom authorities had arrested due to their religious beliefs, while in detention during the year.

Deaths resulted from the continued authorized use of lethal force against individuals resisting or attempting to flee military service, or attempting to leave the country clandestinely. In early March security forces killed two men trying to cross the border into Ethiopia.

There were no developments in the reported arbitrary killings in 2012. [...]

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

[...] **Security forces tortured and beat army deserters, national service and militia evaders, persons attempting to flee the country without travel documents, and members of certain religious groups. Released and escaped detainees from previous years who detailed their experiences on diaspora websites and elsewhere described prison conditions that included exposure to extreme heat during confinement in crowded and unventilated metal shipping containers, or in crowded basements without ventilation or sanitation.** [...]

Arrest Procedures and Treatment of Detainees

[...] There were occasional reports, particularly from rural areas, that security forces detained and arrested the parents or spouses of individuals who evaded national service or fled the country. [...]

➤ [Integrated Regional Information Network, Sudan and Egypt implicated in human trafficking, 12 February 2014](#)

[...] The UN Refugee Agency (UNHCR) says 300,000 Eritreans had sought asylum outside their country by the beginning of 2013. The majority left after 2004, fleeing widespread human rights abuses, including mandatory and indefinite military service, arbitrary arrest and detention, and severe restrictions on freedom of expression and movement. **Most leave without the exit permits required by Eritrean law, risking severe punishment if they are caught.** In the last decade, tens of thousands have registered as refugees at camps in eastern Sudan and Ethiopia, but most have quickly moved on in search of better conditions and opportunities. [...]

➤ [Human Rights Watch, "I Wanted to Lie Down and Die" Trafficking and Torture of Eritreans in Sudan and Egypt, 11 February 2014](#)

[...] I. Background

Fleeing Eritrea

[...] Those fleeing Eritrea take serious risks. Eritrean law requires Eritreans leaving the country to hold an exit permit which the authorities only issue selectively, **severely punishing those caught trying to leave without one.**³ When Eritreans succeed in leaving the country without permits, the authorities often punish their relatives. **Border guards have shoot-to kill orders against people leaving without permits.** In this environment, the smuggling and trafficking of Eritreans to Sudan has flourished. The UN has documented some Eritrean officials' collusion with abusive Sudanese traffickers in eastern Sudan. [...]

³ Exit permits may be issued to government employees, athletes, Eritrean women over 47 and men over 54. Human Rights Watch, Ten Long Years: A Briefing on Eritrea's Missing Political Prisoners, September 2011, <http://www.hrw.org/reports/2011/09/24/ten-long-years>.

➤ [Human Rights Watch, World Report 2014: Eritrea, 21 January 2014](#)

[...] Reprisals against Family Members

Family members of some draft evaders or national service deserters have been punished by fines of Nakfa 50,000 (US\$3,333) and by detention, in a country with, according to the World Bank, per capita income in 2012 of \$560.

Families are also punished when relatives living abroad fail to pay a 2 percent tax on foreign income, retroactive to 1992, or to contribute "national defense" fees. Punishments include revocation of resident families' business licenses, confiscation of houses and other property, and refusal to issue passports to allow reunification of children and spouses with overseas parents or spouses. [...]

➤ [UN Human Rights Council, Summary prepared by the Office of the High Commissioner for Human Rights in accordance with paragraph 15 \(b\) of the annex to Human Rights Council resolution 5/1 and paragraph 5 of the annex to Council resolution 16/21 : Eritrea, 1 November 2013, A/HRC/WG.6/18/ERI/3](#)

[...] 20. HRCE [Human Rights Concern Eritrea] stated that an unknown number of people have been shot near the Eritrean borders for attempting to leave Eritrea illegally, in line with standing orders to implement a shoot to kill policy. It recommended that the Government of Eritrea

revoke the shoot to kill policy and institute humane policies for the control of its borders and for the treatment of detainees, civilians and those seeking refuge. [...]

➤ [Amnesty International, Torture in Eritrea: 'Every night you hear shouts and cries of people being beaten', 2 June 2013](#)

[...] Kidane Isaac says he never thought he was going to see hell, but that was before he was arrested and incarcerated in some of Eritrea's notorious detention centres.

"Every night you hear shouts and cries of people being beaten. I remember I was beaten very terribly, with metal bars," he told Amnesty International from his home in Israel where he now lives as an asylum-seeker.

Kidane was 18 years old and had been working as a construction worker when he was detained as he attempted to flee the country to escape indefinite conscription to national service. For six months, Kidane was held in three different detention centres. He described terrible conditions in the prisons, where torture and other ill-treatment, including severe beatings, were common. [...]

Former detainees describe conditions as "hell". Cells are usually severely overcrowded with prisoners forced to sleep cortiello: crammed together, only able to sleep on their sides, unable to move. Many cells have no sanitation facilities and prisoners are only allowed out to use toilets once or twice a day; food is usually minimal and drinking water is also severely limited; infectious diseases are widespread. In many detention centres some prisoners are held in underground cells, and the use of metal shipping containers is common. In both types of cell, detainees suffer extreme heat during the day and severe cold at night. [...]

➤ [UN, Report of the Special Rapporteur on the situation of human rights in Eritrea, Sheila B. Keetharuth, 28 May 2013](#)

[...] V. Human rights violations

A. Right to life, extrajudicial killings, the shoot-to-kill policy, and death in custody

43. An unknown number of people have been shot near the Eritrean borders with Djibouti, Ethiopia and the Sudan, allegedly for attempting to cross illegally. Border military personnel have standing orders to implement a shoot-to-kill policy to those attempting to flee. The policy was confirmed in the discussions and interviews held by the Special Rapporteur with several former military personnel who had been required to implement it, as well as with those who had been victims of the practice. The account of a young woman who was shot while crossing the border in 2012 was particularly harrowing. After her first attempt to cross failed, she was imprisoned at Sawa detention centre for almost a year, without her family being informed. When she attempted to cross the border again, she was shot seven times, in the leg, foot, hand and breast, but still managed to escape. She had to be hospitalized for nine months. [...]

D. Guilt by association

57. Family members are frequently punished for the conduct of another family member, especially in the case of draft evasion and desertion. In accordance with the policy of "guilt by association", families may be fined Nakfa 50,000 (\$3,333) for the evasion or desertion of a relative. Those who do not or cannot pay may have their property confiscated or be jailed, which adds to the already large number of arrests and cases of detention in Eritrea. [...]

➤ [Amnesty International, Eritrea: Twenty years of Independence, but still no freedom, 9 May 2013](#)

[...] Summary

[...] **Those in detention include** actual or suspected critics or opponents of the government, politicians, journalists, members of unregistered religious groups as well as those which are registered, **people caught trying to evade or desert indefinite national service conscription or caught trying to flee the country - those caught on the borders** and those who have sought asylum in other countries but who are forcibly returned after they have not been given access to asylum procedures or after their claims have been rejected in those countries. **Family members have been arrested in place of individuals who have fled the country.** Many of the architects of Eritrea's independence languish in isolation cells and shipping containers, alongside thousands of other prisoners of conscience and political prisoners, for trying to exercise their rights. [...]

With no known exceptions, none of these political prisoners or prisoners of conscience has ever been charged or tried, given access to a lawyer or been brought before a judge or a judicial officer to assess the legality and necessity of the detention. There is no independent judiciary in Eritrea, and there are no avenues for individuals or their families to legally challenge this system of arbitrary detention. These rights are also laid out in Eritrea's Constitution, which was ratified by the National Assembly in 1997, but has never been implemented.

According to the testimonies of former detainees received by Amnesty International, torture and other ill-treatment are commonplace, used for the purposes of punishment, for example of government critics and dissenters, and draft evaders; for interrogation, **for example, people who attempted to flee the country are tortured to extract information on who assisted them;** and for coercion – adherents of religions not recognised by the state have reported that they were tortured to force them to recant their religion. The secrecy with which prisoners are detained makes them particularly vulnerable to torture and other ill-treatment or unlawful killing. There have been many – unofficial and unconfirmed – reports of deaths in detention as a result of torture, detention conditions and denial of medical care. Detention conditions fall far short of international standards and in themselves amount to cruel, inhuman or degrading treatment or punishment. Detainees are frequently held in underground cells or in metal shipping containers, often in desert locations and therefore subject to extremes of heat and cold. Food, water and sanitation are scarce. [...]

Testimonies collected by Amnesty International indicate that many people are caught in the act of trying to flee, and suggest that when they are caught, most, if not all, are subjected to arbitrary arrest and detention without charge. [...]

PEOPLE FLEEING THE COUNTRY

[...] **While a policy to shoot to kill anyone sighted crossing the border reportedly remains in place, it seems that this policy is not consistently implemented.** Testimonies collected by Amnesty International indicate that many people are caught in the act of trying to flee, and suggest that when they are caught, **most, if not all, are subjected to arbitrary arrest and detention without charge.**

[...] Because of the restrictions on reporting and exchange of information in Eritrea, most of the information obtained by Amnesty International on the arbitrary arrest and detention without charge of people caught trying to flee the country, comes from the testimonies of individuals who were arrested and detained trying to flee the country and who then had successfully made another attempt to flee. **None of those arrested while trying to flee the country, interviewed by Amnesty International, had been charged with a crime, brought before a court or provided with access to a lawyer. None were told the reason for their arrest or informed of the duration of their detention. The periods of detention reported by people arrested on this basis vary, but many former detainees reported a period of between one and two years' detention.** In addition to the arbitrary nature of the detention itself, its duration appears to be decided by senior commanders and prison authorities.

A number of people detained for attempting to flee, interviewed by Amnesty International, said that they were detained with large groups of people held for the same reason.

[...] Some people detained for attempting to flee the country interviewed by Amnesty International said they were held incommunicado, with no contact with the outside world, while some others were permitted visitors. This appeared to be dependent on which detention centre the person was held in.

[...] **Some people caught trying to flee were reportedly subjected to torture as a punishment and for the purposes of interrogation.** Former detainees told Amnesty International they were interrogated about who assisted them to leave the country, how much did they pay, and other related questions.

[...]

PUNISHMENT OF FAMILY MEMBERS OF THOSE WHO HAVE FLED THE COUNTRY

According to testimonies of people who have fled the country, as well as other information received by Amnesty International, it is frequent for family members of people who have successfully fled to be arrested and detained, apparently as punishment for the acts of their relative. This is particularly the case where people who have fled are of national service age, but has also reportedly occurred in the cases of high-profile members of the government who have fled.

Many people who fled the country while of national service age, deserting or evading conscription have told Amnesty International that their family was subjected to reprisals. Families are subjected to a fine, widely reported to be 50,000 Nakfa (approximately US\$ 3,800). In some cases, families have reportedly paid this in instalments if they cannot afford to pay the full amount in one payment.

According to testimonies received by Amnesty International, in some cases where families have not been able to pay, a family member has been arrested and detained. [...]

Treatment of refused asylum seekers on return to Eritrea

- [Freedom House, Freedom in the World 2015 - Eritrea, 28 January 2015](#)
[...] G. Personal Autonomy and Individual Rights: 2 / 16
[...] Eritrean refugees and asylum seekers who are repatriated from other countries are detained. [...]
- [Immigration and Refugee Board of Canada: Eritrea: Situation of people returning to the country after they spent time abroad, claimed refugee status, or sought asylum \(2012-August 2014\) \[ERI104941.E\], 10 September 2014](#)
[...] In a statement delivered at the Third Committee of the 68th Session of the UN General Assembly, the Permanent Representative of Eritrea to the UN indicated that, concerning returnees, Eritrea maintains a policy of voluntary repatriation of its nationals wherever they may be. And it opposes any forced repatriation or expulsions. Eritreans who are repatriated face no persecution and are encouraged and assisted to reintegrate to their respective families and societies. (Eritrea 24 Oct. 2013, 3) [...] The Constitution of Eritrea of 23 May 1997 includes provisions related to a person's right to life and liberty, human dignity, and privacy, as well as clauses related to arrest, detention and fair trial (Eritrea 1997, Art. 15-18). Sources indicate that the provisions of the Constitution of Eritrea have not been implemented (US 27 Feb. 2014, 13; Human Rights Watch 20 June 2013). [...]
In correspondence with the Research Directorate, a professor of African studies and political science at Pennsylvania State University, who has published books and articles about Eritrea and the Horn of Africa, indicated that Eritreans who were authorized by the Eritrean government to leave the country do not face problems when they return, **unless they engaged in anti-government activities while abroad (Professor 26 Aug. 2014)**. Amnesty International (AI) also indicates that "[s]uspected or actual" government opponents are "at risk of detention" upon their return (AI May 2013, 30).
The Professor said that Eritreans who left the country irregularly were at a "very high risk of persecution" upon return to Eritrea, and that they face imprisonment and are closely monitored "if released from prison" (26 Aug. 2014). The Professor added that they would be considered "disloyal and unpatriotic," which is a "big mark on someone's ability to live a normal life" in Eritrea (ibid.). Similarly, a paper published by van Reisen et al. [1] indicates that Eritreans who left the country irregularly face prosecution, persecution, imprisonment, or torture upon their return (4 Dec. 2013, 49, 55). For additional information on the irregular crossing of Eritrean borders, consult the Response to Information Request ZZZ104862.
In correspondence with the Research Directorate, Aaron Berhane, publisher and editor-in-chief of the Toronto-based Mefth newspaper [2] who was the former editor-in-chief and co-founder of the Eritrean newspaper Setit [3], indicated that "[a]ny Eritrean refugee who is deported to Eritrea faces imprisonment" (Berhane 1 Sept. 2014). Similarly, AI indicates that Eritreans who are returned to the country after having their refugee application rejected are arbitrarily arrested and detained without charge (AI June 2013) [...]
AI also indicates **that adherents of religions not recognized by authorities are at risk of detention upon their return** (AI May 2013, 30). Corroborating information could not be found by the Research Directorate within the time constraints of this Response. [...]
Sources indicate that the arrest of Eritrean returnees can take place immediately upon their return (Berhane 1 Sept. 2014; AI May 2013, 30). Detainees may be held incommunicado (ibid.; UN 28 May 2013, para. 54). According to the UN Special Rapporteur, they are imprisoned without access to family members, lawyers, or doctors, and without legal procedure (ibid.). Detention conditions are characterized by unhygienic environment, poor food quality and water supply, and sometimes underground cells without the possibility to see the daylight (ibid., para. 52). Human Rights Watch indicates that former prisoners describe the existence of underground cells or shipping containers with "oppressive heat and insects" (20 June 2013).

Speaking about the forced return of Eritreans from Sudan, the UNHCR spokesperson indicated that the UNHCR does not have monitors in the country (UN 4 July 2014). [...]

A Human Rights Watch researcher who conducts research on Eritrea and was interviewed by The Guardian indicated that "[t]orture is widespread in Eritrea and any dissenters are dealt with in the harshest of manners" (quoted in The Guardian 27 June 2014). **Sources indicate that torture and ill-treatment is inflicted on many returned asylum-seekers (AI May 2013, 30; Berhane 1 Sept. 2014). According to Berhane, "[s]ince the Eritrean government sees returnees as spies and defectors, officials torture them in every way to find something" (ibid.). [...]**

Methods of torture include:

- long periods of time in controlled positions (Berhane 1 Sept. 2014; AI June 2013, 5; UN 28 May 2013, para. 55);
- pistols pointed at detainees during interrogations, exposure to insects (ibid.);
- beatings with sticks, whipping with electric wires, being forced to "walk on sharp objects barefoot," or to "roll on the ground over sharp stones" (AI June 2013, 5). [...]

➤ [Human Rights Watch, "Make Their Lives Miserable"; Israel's Coercion of Eritrean and Sudanese Asylum Seekers to Leave Israel, 9 September 2014](#)

[...] The Fate of Eritreans and Sudanese Returning Home

Human Rights Watch has been unable to obtain information about the fate of any of the Eritreans returning to Eritrea from Israel but has documented **torture of Eritreans returned to their country in 2012 from other countries**. Amnesty International has also documented similar abuses. [...]

150 Human Rights Watch, World Report 2014 (New York: Human Rights Watch, 2014), <http://bit.ly/1ruTeR9>, p.115.

151 Amnesty International, "Eritrea: 20 Years of Independence but Still No Freedom," May 2013, <http://bit.ly/1uzgpJn> (accessed August 13, 2014).

➤ [UN, Report of the Special Rapporteur on the situation of human rights in Eritrea, Sheila B. Keetharuth, 13 May 2014](#)

[...] III. Refugee situation

[...] 27. Notwithstanding the non-refoulement principle enshrined in the 1951 Convention relating to the Status of Refugees (art. 33), and specific reference to prohibition of return ("refouler") in the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (art. 3), there have been reports of asylum seekers and refugees being returned to Eritrea "voluntarily". The language in article 3, paragraph 1, of the Convention against Torture is compelling: "No State shall expel, return ("refouler") or extradite a person to another State where there are substantial grounds for believing that he would be in danger of being subjected to torture". The competent authorities must take into account, "where applicable, the existence in the State concerned of a consistent pattern of gross, flagrant or mass violations of human rights." **Unsuccessful asylum seekers and other returnees, including national service evaders and deserters, face torture, detention and disappearance in Eritrea (see section IV.A below). It is therefore of paramount importance to end bilateral and other arrangements between Eritrea and third countries that jeopardize the lives of those seeking asylum. [...]**

V. Incarceration

A. Arrest and deprivation of liberty

[...] 3. Presumed reasons for arrest and detention

82. **In Eritrea, people are arrested and detained without any formal charges. Therefore most people can only speculate about the reasons for arrest and detention; the following reasons are cited frequently :** (a) evading or deserting national service and military conscription; (b) overstaying leave while serving in national service; (c) during giffas –round ups to conscript people by force into the military; (d) attempting to flee the country; (e) trumped up charges of "plotting to leave the country" or helping others to flee; (f) failing to pay a fine when a family member has fled the country; (g) held in lieu of a parent or family member having left the country; (h) inability to produce identification documents on demand; (i) journalists, for their work; (j) practicing a religion not recognized by the State; (k) **failed asylum seekers and refugees who are returned to Eritrea**; (l) actual

or perceived critics of State policies or practice; (m) those arrested on suspicion of having participated in the attempted coup of 21 January 2013 (Forto incident), among others. [...]

➤ [US Department of State, Country Report on Human Rights Practices 2013 - Eritrea, 27 February 2014](#)

[...] d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons

[...] Emigration and Repatriation: In general citizens had the right to return, but citizens residing abroad had to show proof that they paid the 2 percent tax on foreign earned income to be eligible for some government services, including passport renewals. **Persons known to have broken laws abroad, contracted serious contagious diseases, or been declared ineligible for political asylum by other governments had their visas and visa requests to enter the country considered with greater scrutiny than others did.** [...]

➤ [Human Rights Watch, World Report 2014: Eritrea, 21 January 2014](#)

[...] Eritreans who were forcibly repatriated to Eritrea from Middle Eastern countries and then fled again told Human Rights Watch in 2012 they had been incarcerated in cramped cells and beaten shortly after their return. They displayed scars from beatings and electric shocks. One escapee reported that several prisoners in his group of returnees died from their beatings. [...]

➤ [Human Rights Concern Eritrea, Report on Child Rights Violations in Eritrea, 19 November 2013](#)

[...] Children Caught Attempting to Flee the Country

[...] Within the massive outflow of Eritreans fleeing to seek asylum in other countries in the region and beyond, there are many children who are escaping from military training or conscription, to seek asylum abroad, especially those who reside close to the border. Many fall into the hands of the Eritrean security forces and the border guards, who have a "shoot-to-kill" policy against these supposed "traitors". If they are arrested, they are imprisoned arbitrarily without charge or trial, often tortured or sexually abused, sometimes given extra-judicial prison sentences, and finally taken to the military training camps.

There have been disturbing reports that some children have been returned to Eritrea in a family reunion programme for unaccompanied and uncared-for children.

This has involved some international relief agencies, who are working in refugee camps in Ethiopia and overseeing the returns, whose voluntary nature is questionable. **There are many cases where such children have been imprisoned and taken to military training camps after having been repatriated and initially reunited with their families.** There are also an unknown number of children among refugees in Sudan who have been **forcibly deported and handed over to the Eritrean authorities by the Sudanese security forces, and feared to have been arrested on return to Eritrea.** [...]

➤ [Immigration and Refugee Board of Canada: Eritrea: Treatment of Jeberti people by government authorities, including Jeberti returnees \(2010-August 2013\) \[ERI104540.E\], 17 September 2013](#)

[...] 3. Treatment of Jeberti Returnees

Information on the treatment of Jeberti returnees was scarce among the sources consulted by the Research Directorate within the time constraints of this Response.

The Senior Research Fellow indicated that

[g]enerally, all Eritreans who fled from the mandatory and timely unlimited national service as draft evaders or deserters face incommunicado detention of undefined periods without due process, torture and other cruel forms of treatment, if they are forcibly returned to Eritrea. There is no distinction between ethnic groups in this regard and this applies to the Jeberti in the same way as to any social group of Eritrea. There are only few exceptions w[h]ere exit visas have been granted by the state for purposes such as Pilgrimage to Mekka or government-sanctioned business trips. (15 Aug. 2013)

Similarly, in correspondence with the Research Directorate, an Amnesty International (AI) representative stated that "all returnees, of whatever ethnic identity, are treated with suspicion and hostility if forcibly returned to Eritrea; most, according to reports we receive, are arbitrarily

detained and tortured for information about their attempts to claim asylum abroad" (3 Sept. 2013). [...]

- [Amnesty International, Israel: Deportations of asylum-seekers must stop, 7 June 2013](#)
[...] Anyone within the active national service age bracket of 18 to 40 years old who is forcibly returned to Eritrea will be suspected of national service evasion. Furthermore, the Eritrean government **considers any request for asylum in other countries to be an act of treason**. Other failed asylum-seekers, as well as suspected opponents of the government and adherents of a religion other than the four recognized by the state, face a significant risk of being subjected to detention without charge, trial or access to a lawyer, torture and other ill-treatment upon return to Eritrea. [...]
- [UN, Report of the Special Rapporteur on the situation of human rights in Eritrea, Sheila B. Keetharuth, 28 May 2013](#)
[...] V. Human rights violations
[...] B. Enforced disappearances and incommunicado detention
45. Relatives of those who are arrested and detained are rarely informed, but tend to find out by chance through other detainees who have been released. **In addition, Eritrean nationals who are repatriated after a failed refugee or asylum application usually disappear upon their return. The practice of enforced disappearance is used to intimidate people, to install a climate of fear and to deter people from claiming their rights.** [...]
[...] C. Arbitrary arrest and detention, torture and prison conditions
54. Political prisoners, other detainees, military deserters, **"refouled" refugees, failed asylum seekers** and students at Sawa **are subjected to torture, cruel, inhuman and degrading treatment or punishment**. Detainees are particularly vulnerable to abuse, as they are held incommunicado, without legal procedures or safeguards, while access by family, doctors or lawyers is denied, in blatant disregard for international human rights standards. Perpetrators are not prosecuted or punished, thus perpetuating a culture of impunity. [...]
M. Refugees and trafficking
94. Eritreans in flight have been victims of trafficking and human rights violations in countries of transit and where they have sought asylum. The forcible and supposedly voluntary return of Eritrean citizens to their country of origin or to third countries, despite warnings from UNHCR and other international organizations, is also a cause for grave concern. **Returnees and failed asylum seekers face disappearance and detention.** [...]
- [Women's Refugee Commission, Young and Astray: An Assessment of Factors Driving the Movement of Unaccompanied Children and Adolescents from Eritrea into Ethiopia, Sudan and Beyond, 28 May 2013](#)
[...] Security in Shagarab
[...] In 2011, more than 350 deportations were recorded by UNHCR in eastern Sudan.³⁶ Between January and October 2012, 54 individuals are recorded to have been deported by the authorities to Eritrea; **due to limitations placed upon UNHCR, monitoring within Eritrea is not possible and the status of individuals post-deportation to Eritrea is unknown.** [...]
- [Amnesty International, Eritrea: Twenty years of Independence, but still no freedom, 9 May 2013](#)
[...] Summary
[...] **Those in detention include** actual or suspected critics or opponents of the government, politicians, journalists, members of unregistered religious groups as well as those which are registered, people caught trying to evade or desert indefinite national service conscription or caught trying to flee the country - those caught on the borders and **those who have sought asylum in other countries but who are forcibly returned after they have not been given access to asylum procedures or after their claims have been rejected in those countries**. Family members have been arrested in place of individuals who have fled the country. Many of the architects of Eritrea's independence languish in isolation cells and shipping containers, alongside thousands of other prisoners of conscience and political prisoners, for trying to exercise their rights. [...]

With no known exceptions, none of these political prisoners or prisoners of conscience has ever been charged or tried, given access to a lawyer or been brought before a judge or a judicial officer to assess the legality and necessity of the detention. There is no independent judiciary in Eritrea, and there are no avenues for individuals or their families to legally challenge this system of arbitrary detention. These rights are also laid out in Eritrea's Constitution, which was ratified by the National Assembly in 1997, but has never been implemented.

According to the testimonies of former detainees received by Amnesty International, torture and other ill-treatment are commonplace, used for the purposes of punishment, for example of government critics and dissenters, and draft evaders; for interrogation, for example, people who attempted to flee the country are tortured to extract information on who assisted them; and for coercion – adherents of religions not recognised by the state have reported that they were tortured to force them to recant their religion. The secrecy with which prisoners are detained makes them particularly vulnerable to torture and other ill-treatment or unlawful killing. There have been many – unofficial and unconfirmed – reports of deaths in detention as a result of torture, detention conditions and denial of medical care. Detention conditions fall far short of international standards and in themselves amount to cruel, inhuman or degrading treatment or punishment. Detainees are frequently held in underground cells or in metal shipping containers, often in desert locations and therefore subject to extremes of heat and cold. Food, water and sanitation are scarce. [...]

RETURNED ASYLUM SEEKERS

According to testimonies and other information received by Amnesty International, asylum seekers whose applications have been rejected or who have not been granted access to asylum procedures, who have been forcibly-returned to Eritrea by various other countries 63 have been arbitrarily arrested and detained without charge.

As with other forms of arbitrary arrest and detention without charge or trial it is difficult to follow the cases and discover the fate of many forcibly returned asylum-seekers, due to the lack of transparency around these detentions, the failure of the authorities to inform families of the arrests, and because many of these detainees are held incommunicado with no contact with the outside world. However, **Amnesty International has received information, from former detainees and Eritrean human rights defenders in exile, as well as other sources, on numerous cases of individuals and groups of returned asylum-seekers who have reportedly been arbitrarily detained and subjected to torture or other ill-treatment, and it is believed that this may apply to a significant majority of forcibly-returned asylum seekers.**

Anyone of national service age is particularly at risk of arrest upon return, as their flight from the country would have involved an evasion of or desertion from national service – itself an 'offence' which is met with arbitrary arrest and detention without charge, as described above. Suspected or actual opponents of the government are also particularly at risk of detention upon return, as are adherents of religions not recognized by the state. As described above, arrests on these bases are violations of the rights to freedom of opinion and expression, freedom of religion or belief. Arrest as punishment for fleeing the country is also a violation of the right to freedom of movement, including the right to leave one's own country, as described in the preceding chapter.

As well as receiving reports of individuals and groups of asylum-seekers forcibly returned to Eritrea being arrested and detained, **Amnesty International has interviewed refugees and asylum-seekers who had previously been forcibly-returned to Eritrea, before fleeing the country for a second time. These individuals reported that upon return they were arrested and detained without charge. In each case reported to Amnesty International, the arrest took place immediately upon the arrival of the individual in Eritrea. Periods of detention reported to Amnesty International range from a number of days to a number of years.** In addition to the arbitrary nature of the detention itself, its duration appears to be decided by senior commanders and prison authorities.

Testimonies of returned asylum-seekers indicate that the act of claiming asylum is perceived by the authorities as involving a criticism of the government and – as with all other forms of dissent – is therefore not tolerated. Forcibly-returned asylum-seekers interviewed by Amnesty International were tortured both as a form of punishment for perceived criticism of the government, and for the purposes of interrogation. According to accounts given by escaped detainees, Eritrean security officials were particularly interested in how asylum seekers fled the country, who assisted them, and what they said against the Eritrean government during their asylum application process. **Returnees**

have reported that under torture, or threat of torture, they were forced to state that they have committed treason by falsely claiming persecution in asylum applications.

In June 2008 the Egyptian authorities organised a mass forcible return of Eritreans to Eritrea.⁶⁵ By late June, up to 1,200 asylum-seekers had been forcibly returned.⁶⁶ Between 23 December 2008 and 18 January 2009 they forcibly returned three further groups, totaling 62 people.⁶⁷ All are believed to have been detained on arrival. Although pregnant women and women with young children were released after several weeks in detention, the vast majority of these returned asylum seekers remained in detention and were reportedly transferred to military camp prisons and other detention centres, including 740 reportedly at Wi'a military camp prison. Their fate remains unknown.

In May 2008 German immigration authorities forcibly returned asylum-seekers Yonas Haile Mehari and Petros Aforiki Mulugeta to Eritrea, after their asylum claims were rejected. After they fled the country for a second time, the two men reported that when they were forcibly returned they were both arrested and detained upon arrival at the airport in Asmara.

According to the testimonies of the two men, they were interrogated about their reasons for leaving Eritrea and how they had left. They said they were also questioned repeatedly about their asylum application in Germany. They were accused of committing treason by discrediting the Eritrean government in applying for asylum, and were threatened with severe punishment. They were also asked to name people who helped them. In June 2008 the two men were transferred to prison in Wi'a, where they were detained in appalling conditions. After over a year of detention, without charge, trial, access to a lawyers or their families, both men were separately transferred to military hospitals for treatment for wounds resulting from the conditions of detention including infected sores and blisters on the skin caused by contact with the excessively hot surfaces of the walls and floor of the detention cells. Both subsequently escaped Eritrea again. [...]

3. PRISONS AND DETENTION CONDITIONS

[...] TORTURE AND OTHER ILL-TREATMENT

[...] Amnesty International received consistent reports from former detainees that torture, or the threat of torture, is also practised for punishment and interrogation in the cases of forcibly returned asylum-seekers – those whose asylum claims lodged in other countries have been rejected or who have not been given access to asylum procedures and who are sent back to Eritrea. **Returned asylum-seekers have been subjected to torture and other ill-treatment as punishment – often for deserting national service, but also for suspected criticism of the government to foreign entities in the course of trying to claim asylum. Torture is also used in these cases for the purposes of interrogation – about how the person fled and what they said against the government during their asylum proceedings.**

"They asked many questions, 'When did you leave Eritrea? why did you leave? Where did your escape start? Did you pay money for it? How much? Who has provided you with this passport?' They wanted to hear a lot of names: names of friends, of people who had been giving us money, whom we had been giving money as well as names of the people smugglers. They issued direct threats: 'You betrayed your country! You are a traitor! Traitors will be punished! You have stated that Eritrea is a dictatorship during your hearings on asylum, you've discredited our government and this constitutes treason.'" – Former detainee on interrogation in detention.⁸⁰

"They didn't beat me during the interrogations but I was severely threatened: 'You're traitors, traitors to your own country! Beating you would be not enough, you are going to receive a worse punishment than that and you'll deserve it'. Soon, we were nervous wrecks. We wondered: 'What exactly do they mean by 'a worse punishment'? Are we going to be killed?'"

– detainee whose asylum claim was rejected and was forcibly-returned to Eritrea. [...]

- [Rachel Humphris, Ph.D student COMPAS University of Oxford, Refugees and the Rashaida: human smuggling and trafficking from Eritrea to Sudan and Egypt, UNHCR New Issues in Refugee Research Paper No. 254, March 2013](#)

[...] In addition, Eritreans who apply for asylum in another country are considered traitors and may be subject to life imprisonment or the death penalty. It is therefore impossible for many to return. [...]

Historical lack of goodwill of Eritrean government to implement change

- [UK Foreign and Commonwealth Office, Human Rights and Democracy Report 2014 - Section XII: Human Rights in Eritrea – Country of Concern, 13 March 2015](#)
[...] For much of 2014, **Eritrea continued to fall short of domestic implementation of its international human rights commitments. It did not cooperate fully with international human rights bodies and made no progress in implementing its 1997 constitution, which provides for democratic government and fundamental rights and freedoms.** However, in the latter part of the year the Eritrean government took some positive steps in its engagement with the international community on human rights. It participated in the Universal Periodic Review (UPR) process of the UN Human Rights Council (HRC) and ratified the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT). There remained serious shortcomings in the rule of law, reports of arbitrary and inhumane detention, and limits on media freedom and freedom of speech. [...]
- [OHCHR news, UN human rights expert meets with Eritrean refugees and migrants in Belgium, 9 March 2015](#)
[...] “Due to lack of access to Eritrea,” she said, “I have been engaging with Eritrean refugees and migrants outside of their home country, and all others concerned by human rights in Eritrea, including those who consider themselves to be victims of alleged human rights violations, human rights defenders and other civil society actors.”
The human rights expert has made several official requests to visit Eritrea since her appointment in November 2012, which have so far not been granted. She has repeatedly urged the Eritrean authorities to cooperate with her mandate in order to address the country’s human rights challenges. During her mission, Ms. Keetharuth will interview Eritrean refugees and migrants about the situation of human rights in Eritrea **to corroborate allegations of widespread and systematic violations of human rights in Eritrea contained in reports she has received from different sources.** [...]
- [Joint report by Eritrean Diaspora organisations, “Listen to our Agony”, December 2014](#)
[...] Lessons learnt
[...] **Repeated attempts to win over the regime have ended in failure. Past promises of reform, made by Eritrean diplomats, carry no weight.** The political prisoners remain in detention, democratic rights are denied and there is no freedom of conscience or religious expression. Rather, as the EU’s experiences in 2001 and 2009 indicate, any softening of pressure is regarded by President Isaias as a sign of the weakness of international resolve. The regime believes it can out-last any external criticism. [...]
- [Human Rights Watch, Denmark: Eritrea Immigration Report Deeply Flawed, 17 December 2014](#)
[...] “If the Eritrean government is really ready to carry out human rights reforms, it needs to give the UN commission of inquiry access so that it can make an objective assessment of progress,” Lefkow said. **“The Eritrean government’s willingness to cooperate with the commission of inquiry will be the first test of whether it is ready to change course.”** [...]
- [Stop National Service Slavery in Eritrea, Response to the recent report from the Danish Fact Finding Mission to Eritrea, 29 November 2014](#)
[...] Recent developments
Although there are various changes mentioned and alluded to, however, none of the stated ‘changes’ can be supported by any official policy or procedural changes announced by the government, and therefore cannot be relied upon to sustain a policy change for determining the fate of returned asylum seekers. [...]
Conclusion
The report highlights the arbitrary nature of Eritrean regime; indicative of how the government’s actions are based on the arbitrary wishes and whims of the dictator and the few people around him. There are no indications of policy developments or changes. Instead, as has time and again been established by former recruits (now refugees), the nature and length of the service are arbitrary. The

conditions of the training and 'education' facilities are unknown. **The treatment and attitude towards absconders is also arbitrary, and particularly so for those who are for political reasons unable to fill in the 'regret' forms and/or pay the 2% tax. [...]**

- [Gaim Kibreab, The Open-Ended Eritrean National Service: The Driver of Forced Migration, Paper for the European Asylum Support Office Practical Cooperation Meeting on Eritrea, 15-16 October 2014](#)

[...] What happens to the conscripts who serve 18 months as required by the Proclamation on National service? Do they get demobilised?

This question was briefly addressed in the preceding sections.

Nevertheless, in the following an attempt is made to show that **since the border war broke out and the introduction of the WYDC, there has been no demobilisation of members of the national service.**

This is in spite of the government's repeated promises. On 12 December 2000, the Eritrean and the Ethiopian governments signed a peace agreement in Algiers under the auspices of the African Union and to some extent the United Nations, the European Union and the government of the United States. In the immediate post-Algiers peace agreement, the Eritrean government established a National Commission for the Demobilisation and Re-integration Programme (NCDRP) and a phased demobilisation programme of some 200,000 combatants was formulated. In the first phase, some 70,000 soldiers comprising of the old combatants (Yikealo) and conscripts of the ENS [Eritrean National Service] and the WYDC referred to by the government as Warsai were expected to be demobilised by the end of January 2003. These were going to be mostly women, people with scarce skills, family needs and sicknesses. In the second phase 60,000 combatants were expected to be demobilised by the end of July 2003. Due to uncertainties concerning funding, the government did not specify the exact time when the remaining 70,000 soldiers would be demobilised. The main funder of the planned disarmament, demobilisation and reintegration (DDR) was the World Bank.

However, none of these phased demobilisation programmes were implemented. The only exception was the pilot scheme under which about 5,000 soldiers the large majority of whom were disabled during the border war and a few members of the Yikaalo (individuals who fought in the war of independence) who were old and individuals with long-term illnesses—diabetics, asthmatics, etc. The latter were individuals who were demobilised between 1993 and 1994 due to advanced age and illnesses, but were re-enlisted between May 1998 and just before the beginning of Ethiopia's Third Offensive which took place in May 2000. [...]

- [UN, Report of the Special Rapporteur on the situation of human rights in Eritrea, Sheila B. Keetharuth, 13 May 2014](#)

[...] II. Methodology

[...] A. Universal Periodic Review

15. The Working Group on the Universal Periodic Review (UPR) carried out its second review of Eritrea on 3 February 2014. The Special Rapporteur welcomed Eritrea's high-level engagement in the review of its human rights record; **however, Eritrea's poor performance with regard to implementing the recommendations made during the first review in 2009 demonstrates a lack of goodwill and commitment to address the serious human rights situation in the country.**

16. The Special Rapporteur noted positively that, in 2012, Eritrea submitted reports to the Committee on the Rights of the Child and the Committee on the Elimination of Discrimination against Women, and in January 2014, Eritrea requested the United Nations High Commissioner for Human Rights to deploy a working-level mission to the country. However, Eritrea has still not ratified the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, nor the Optional Protocol thereto, and the submission of several initial reports to human rights treaty bodies is still pending. **No special procedures mandate holder has been invited to visit the country, despite numerous calls made during the first review and reiterated in the second one.** [...]

- [UN, Report of the Special Rapporteur on the situation of human rights in Eritrea, Sheila B. Keetharuth, 28 May 2013](#)

[...] IV. Overall context

[...] C. Cooperation with human rights mechanisms

27. Eritrea has a mixed record of engagement with United Nations and African Union human rights mechanisms. It has ratified and/or acceded to a significant number of international human rights instruments, namely the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on Elimination of All Forms of Discrimination against Women and the Convention on the Rights of the Child.

28. The core treaties to which Eritrea is not a party include the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, the International Convention for the Protection of All Persons from Enforced Disappearance and the Convention on the Rights of Persons with Disabilities.

29. Eritrea participated actively in the sixth session of the universal periodic review, in November 2009. A high-level delegation from Eritrea attended the session in Geneva and provided responses to the 131 recommendations in writing prior to the consideration of the review outcome by the Human Rights Council at its thirteenth session, in March 2010, accepting almost 50 per cent of all recommendations made. The Government has reportedly taken steps for follow-up to the review, including by sending all recommendations made at its review to relevant ministries, calling for their implementation, while the United Nations country team is engaging with the Government with regard to follow-up.

30. Eritrea is due to undergo its second universal periodic review in January 2014, an opportune platform to engage positively on the situation of human rights and for the country to illustrate the concrete steps that it has taken to improve its human rights record.

31. Eritrea has not issued a standing invitation and has not agreed to any of the pending visit requests made by five special procedures mandate holders of the Human Rights Council. These include the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression (invitation requested in 2003, renewed in 2005); the Special Rapporteur on freedom of religion or belief (2004); the Special Rapporteur on the right to food (2003); the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment (2005, 2007 and 2010); and the Special Rapporteur on extrajudicial, summary or arbitrary executions (2010).

32. Eritrea is a party to the African Charter on Human and Peoples' Rights and the African Charter on the Rights and Welfare of the Child, both ratified in 1999. In 2003, the African Commission made a pronouncement on the case of 11 former officials of the Government of Eritrea detained in 2011, stating that Eritrea had violated articles 2 (freedom from discrimination), 6 (right to personal liberty and protection from arbitrary arrest), 7(1) (right to have one's cause heard) and 9(2) (right to express and disseminate one's opinion within the law) of the African Charter on Human and Peoples' Rights. The Commission urged the Government to release immediately and to compensate the detainees. Also in 2007, the African Commission reviewed the case of 18 journalists detained without trial since 2001. It ruled that Eritrea was violating articles 1 (obligations of Member States), 5 (prohibition of torture and cruel, inhuman and degrading treatment), 6 (right to personal liberty and protection from arbitrary arrest), 7(1) (right to have one's cause heard), 9 (right to information and free expression) and 18 (protection of the family and vulnerable groups) of the African Charter on Human and Peoples' Rights. The Commission called for a fair trial for the detainees and called on the Government to lift the ban on freedom of the press. Eritrea has yet to implement either ruling.

33. Recommendations by the United Nations and African Union human rights mechanisms were taken into account in the preparation of the present report. [...]

➤ [Amnesty International, Eritrea: Twenty years of Independence, but still no freedom, 9 May 2013](#)

[...] ARRESTS IN VIOLATION OF THE RIGHT TO FREEDOM OF RELIGION OR BELIEF

[...] Many Jehovah's Witnesses have been arrested for conscientious objection to military service, and have been indefinitely detained, without charge or trial. At least three of those prisoners, Paulos Eyassu, Isaac Mogos and Negede Teklemariam, arrested for conscientious objection to military service, have been detained without charge or trial since 1994. [...]

[...] PEOPLE EVADING OR DESERTING NATIONAL SERVICE CONSCRIPTION

[...] There is no exemption from military service for conscientious objectors. The government of Eritrea has not designed any service alternative to military service. Women with children are reportedly

exempt from military service, but are required to undertake various duties in the civil sector within the framework of national service. **However, this policy is unwritten, and, as with all aspects of written and unwritten national service policy, appears to be arbitrarily implemented (based on the testimonies of former conscripts and other refugees).** [...]

Methodologies employed by UN, Human Rights Watch and Amnesty International in their reports on Eritrea

- [United Nations, Oral Update by Mr. Mike Smith, Chair of the Commission of Inquiry on Human Rights in Eritrea at the 28th session of the Human Rights Council, 16 March 2015](#)
[...] The Government of Eritrea has so far not cooperated with the Commission and has left unanswered our repeated requests to visit the country and to obtain additional information that would be relevant for its investigation. In line with the established practices applied by other international commissions of inquiry, the Commission is therefore pursuing alternative avenues to obtain direct and first-hand information in a transparent, independent and impartial manner.
We have had four months so far to delve into the human rights situation in Eritrea and we have done so to an extent never achieved before. We have interviewed approximately 400 people in five different countries and received 140 written submissions. We have consulted experts and spoken with a variety of representatives from inter-governmental and non-governmental bodies. [...]
While we continue to travel, to collect testimonies and to go through information gathered to corroborate individual cases and incidents that will be brought to the attention of the Human Rights Council in our final report in June, we can already report on very clear patterns of human rights violations and on our systemic understanding of them. The dominant dimension of the situation in Eritrea appears to us to be the so-called state of “no war, no peace” often referred to by the government of Eritrea. This has become the pretext for almost all the State’s actions that generate and perpetuate human rights violations in the country. [...]
- [OHCHR news, UN human rights expert meets with Eritrean refugees and migrants in Belgium, 9 March 2015](#)
[...] The United Nations Special Rapporteur on the human rights situation in Eritrea, Sheila B. Keetharuth, today started an official visit to Belgium (9-11 March) to collect first-hand information from Eritrean refugees and migrants on the human rights situation in Eritrea.
Since 2014, Ms. Keetharuth has carried out similar information-gathering missions to Djibouti, Ethiopia, Germany, Italy, Malta and Tunisia.
“Due to lack of access to Eritrea,” she said, “I have been engaging with Eritrean refugees and migrants outside of their home country, and all others concerned by human rights in Eritrea, including those who consider themselves to be victims of alleged human rights violations, human rights defenders and other civil society actors.” [...]
- [Human Rights Watch, Denmark: Eritrea Immigration Report Deeply Flawed, 17 December 2014](#)
[...] Eritrea is one of the most closed countries in Africa, with no independent media, local nongovernmental organizations, or political opposition. The degree of government repression makes independent fact-finding in the country especially hard, including the difficulty of protecting interviewees from government reprisals. **Eritrean refugee accounts are a primary source of information for international human rights investigators for this reason.** [...]
- [UN, Report of the Special Rapporteur on the situation of human rights in Eritrea, Sheila B. Keetharuth, 13 May 2014](#)
[...] I. Introduction
[...] 10. **During the reporting period, given the lack of access to Eritrea, the Special Rapporteur collected first-hand information from Eritrean refugees residing in other countries.** She sent visit requests to 21 Member States, seven of which responded positively. From 11 to 20 November 2013,

the Special Rapporteur visited Tunisia and Malta, and from 17 to 28 March 2014, she visited Germany and Switzerland. The Special Rapporteur hopes to be able to honour the other three invitations in due course. The Special Rapporteur would like to express her thanks to the Governments of the countries that have allowed her to meet with Eritrean refugees and migrants on their territories. She appeals to the 14 Member States that have not responded, or that have responded negatively, to grant her access in order to facilitate the delivery of her mandate. [...]

II. Methodology

12. 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, since the Government continues to refuse to cooperate fully with the Special Rapporteur and to permit her access to the country, despite the Council's call in its resolution 23/21, she collated the necessary information through alternative means, as described in her first report.** [...]

➤ [UN, Report of the Special Rapporteur on the situation of human rights in Eritrea, Sheila B. Keetharuth, 28 May 2013](#)

[...] I. Introduction

1. In its resolution 20/20, the Human Rights Council expressed deep concern at the ongoing reports of grave violations of human rights by the Eritrean authorities against their own population and fellow citizens, and decided to appoint a special rapporteur on the situation of human rights in Eritrea for a period of one year. The Council requested the Special Rapporteur to submit a report at its twenty-third session. It also called upon the Government of Eritrea to cooperate fully with the Special Rapporteur, to permit access to visit the country and to provide the information necessary for the fulfilment of the mandate. **The Special Rapporteur on the situation of human rights in Eritrea took up her mandate on 1 November 2012.**

2. **In its resolution 21/1, the Human Rights Council decided that documentation considered by the Council under its complaint procedure relating to the situation of human rights in Eritrea should be transmitted to the Special Rapporteur.** The Council invited the Special Rapporteur to investigate further the allegations contained in the submitted complaints and the circumstances of the individuals mentioned in the submitted communications and to report thereon to the Council at its twenty-third session. [...]

II. Approach to the mandate

[...] 6. **Despite the lack of access to Eritrea, as well as other obstacles and challenges, the Special Rapporteur reached out to a broad range of stakeholders in the preparation of the present report.** In the implementation of her mandate, she is committed to giving a voice to Eritreans who have experienced violations directly or indirectly and whose fundamental freedoms and human rights have been breached. [...]

III. Methodology

8. **Since the appointment of the Special Rapporteur, she has repeatedly expressed her wish to engage with the Government of Eritrea.** In December 2012, she wrote to the President of Eritrea, explaining her intention to be guided by the international human rights norms and standards to which Eritrea is a party in the implementation of her 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 to visit Eritrea for consultations with relevant officials from the Government as well as a range of actors. Her 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, a reply to her request was still pending.** [...]

10. **Owing to the lack of access, the Special Rapporteur decided to collect first-hand information from Eritreans who had recently left the country with a view to inform her assessment of the situation of human rights in Eritrea, by means of interviews with victims of human rights violations. Initially, she submitted visit requests to all neighbouring countries with a sizable Eritrean refugee population. Of the 11 requests sent, three positive responses were obtained, two Governments responded negatively and six Governments have not yet replied.**

11. In view of the pressing deadlines for submission of the present report and **the challenges faced in**

obtaining first-hand information, the Special Rapporteur accepted the invitations granted by the Governments of Djibouti and of Ethiopia to interview Eritrean refugees on their territory.

12. A positive reply from an additional country was much appreciated; however, as it was received when other arrangements had already been made, the Special Rapporteur would like to explore the possibility of rescheduling a visit at a later date. She also addressed a request to visit one European country to meet with the Eritrean diaspora there, a request that will be explored for a future report.

13. From 30 April to 9 May 2013, the Special Rapporteur carried out a mission to Djibouti and Ethiopia. In Ethiopia, she visited the main reception centre administered by the Administration for Refugee and Returnee Affairs in Endabaguna, and the Adi-Harush and Mai-Aini refugee camps in the Tigray region. In Djibouti, she met with urban refugees and those based in the Ali Addeh refugee camp, as well as military deserters detained at the Nagad Police Academy. The Special Rapporteur paid courtesy calls to the authorities in both countries. She would like to thank the Governments of Djibouti and of Ethiopia for their invitation and the cooperation and flexibility shown during her visit to their countries.

14. The Special Rapporteur also participated in the fifty-third ordinary session of the African Commission on Human and Peoples' Rights in Banjul, from 9 to 12 April 2013. She was able to present her vision of and approach to the mandate during a briefing with the members of the Commission. **While in Banjul, she also addressed the NGO Forum preceding the session, and was invited to attend a side event, held on 10 April 2013, on the situation of human rights in Eritrea organized by human rights defenders. Interaction in Banjul was useful for the collection of information from various stakeholders.**

15. The present report was also based on information gathered from a variety of other sources, including governmental, non-governmental and intergovernmental sources. The information contained in the submissions forwarded to the Special Rapporteur pursuant to Human Rights Council resolution 21/1 was also an important source. The Special Rapporteur held meetings with a broad range of actors, such as government representatives, human rights defenders, civil society representatives and academics.

16. In addition, the Special Rapporteur developed a questionnaire aimed at gathering information about allegations of specific human rights violations in Eritrea. The questionnaire was uploaded to the website of the Office of the United Nations High Commissioner for Human Rights, and is available as a tool for those who wish to inform the Special Rapporteur about specific human rights violations. Since the beginning of April 2013, she has received more than 200 e-mails and letters with requests for meetings, mainly from Eritreans in the diaspora in Europe, Canada and the United States of America. The Special Rapporteur continues to encourage those requesting meetings to provide written submissions. She expresses her gratitude to all interlocutors for their support in the implementation of her mandate. [...]

➤ [Amnesty International, Eritrea: Twenty years of Independence, but still no freedom, 9 May 2013](#)

[...] METHODOLOGY

[...] Eritrea is one of the most closed countries in the world. Major restrictions on freedom of expression, including on exchange of information, the severe risk of reprisals against people found criticising the government, including in reporting human rights violations, as well as the lack of local human rights civil society to monitor and document violations, place significant obstacles on obtaining information on human rights violations from inside the country.

For these reasons, Amnesty International's research for this report is based on interviews with Eritrean refugees and asylum-seekers in other countries, including family members of prisoners of conscience and political prisoners. [...]

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