



Eritrea - Researched and compiled by the Refugee Documentation Centre of Ireland on 19 January 2010

Treatment of military deserters and their families

The *United States Department of State* covering events of 2008 notes in its February 2009 report that:

"Military police periodically set up roadblocks in Asmara and on roads between cities to find draft evaders and deserters" (United States Department of State (25 February 2009) *2008 Human Rights Report: Eritrea*, Section 2d. 'Freedom of Movement, Internally Displaced Persons, Protection or Refugees, and Stateless Persons').

This report also states:

"The government continued to authorize the use of lethal force against individuals resisting or attempting to flee during military searches for deserters and draft evaders, and the practice reportedly resulted in deaths during the year. Several persons detained for evading national service died after harsh treatment by security forces. There were reports that individuals were severely beaten and killed during roundups of young men and women for national service. In May there were reports of summary executions and of individuals shot on sight near the Djibouti border, allegedly for attempting to flee military service. In June international news reports maintained that the Eritrean military shot at their own defecting soldiers who broke rank along the Djibouti border, instigating the Djibouti-Eritrea border conflict. In subsequent interviews with human rights groups, soldiers who broke rank claimed that the government issued a "shoot to kill" proclamation for deserters and escapees" (ibid, Section 1a 'Arbitrary or Unlawful Deprivation of Life')

The report also notes:

"The law and ratified but unimplemented constitution prohibits torture; however, there were numerous reports that security forces resorted to torture and beatings of prisoners, particularly during interrogations. There were credible reports that several military conscripts died following such treatment. Security forces severely mistreated and beat army deserters, draft evaders, persons attempting to flee the country without travel documents and exit permits, and members of certain religious groups. Security forces subjected deserters and draft evaders to such disciplinary actions as prolonged sun exposure in temperatures of up to 120 degrees Fahrenheit and the binding of hands, elbows, and feet for extended periods. No known action was taken during the year to punish perpetrators of torture and abuse." (ibid, Section 1c 'Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment')

The report also states:

“The government deployed military and police throughout the country, using roadblocks, street sweeps, and house-to-house searches to find deserters and draft evaders. Security forces continued to detain and arrest parents of individuals who evaded national service duties or fled the country, along with their family members; however, unlike in previous years, there were no reports that such parents were fined or forced to turn their children in to the government. Government officials entered households and confiscated the property and livestock of draft evaders” (ibid, Section 1f ‘Arbitrary Interference with Privacy, Family, Home, or Correspondence’)

In December 2009 a paper by *Conscience and Peace Tax International* reports:

“Avoidance or attempted avoidance of military service by any means is punishable by a fine and two years imprisonment. It is revealing that Eritrea has found it necessary to stipulate that imprisonment will be extended to three years in the case of those who deliberately render themselves permanently incapable of performing military service...Eritreans who leave the country to avoid military service and return at above the age of 40 are liable to imprisonment for five years, or until the age of 50, whichever is longer. Those who are still within the recruitment age on return are not only liable for military service on return, but are also subject to military punishment. Under the current semi-permanent state of mobilisation, the stipulated penalties are significantly increased. If the returnee is classified as a deserter, having been enlisted before escape, the minimum five-year sentence is increased to life imprisonment; if the desertion was from active service, the death penalty may apply. Moreover, military justice is in fact imposed summarily. There are many reports of torture and extrajudicial executions...Even persons who have documentary evidence that they have completed their active military service find themselves at risk of punishment as evaders of reserve responsibilities if they leave the country while still of military age. Exit visas, including for purposes of study abroad, are routinely denied to men aged below 54 years and women below 47 years, also, since 2006, to children aged 11 and above, on the grounds that they are approaching military service age. In individual cases this reasoning has been extended to children as young as 5” (Conscience and Peace Tax International (December 2009) *UPR Submission Eritrea*,p.4)

In October 2009 a research paper by the *United Kingdom Home Office* notes:

“Article 37 (Penalties) of the National Service Proclamation lists a range of sanctions which exist for avoiding national service: “Any violation of this Proclamation may be punished under more severe penalties contained in Eritrea’s criminal law. Violations of the Proclamation can be punished by imprisonment of up to two years or up to 3,000 Nakfa pecuniary penalty or both. To avoid national service by deceit or self-inflicted injury the same penalties apply, followed by national service. If the self-inflicted injury precludes national service, the prison term is extended to three years. Those who travel abroad to avoid national service who return before they are 40 years of age must then undertake national service; those who return after that age, are punished by imprisonment of five years and lose rights to own a business license or apply for an exit visa, land ownership or a job. Those who assist others in avoiding national service can receive two years’ imprisonment and/or a fine.” (National Service Proclamation of 23 October 1995)” (United

Research cited by *War Resisters International* in June 2009 states:

“Human Rights Watch reports that persons detained for evading national service are often “held incommunicado indefinitely without formal charge”. Prison conditions are reportedly harsh and include overcrowding, extreme temperatures, solitary confinement, the absence of sanitation, “starvation rations”, hard labour and mental abuse. Furthermore, an officer in charge of a military prison who subsequently fled to Djibouti explained that sentencing was completely arbitrary and commanders decide how long people remain in jail. Whether or not the sick are given access to medical treatment is left to the caprice of their superior officers: “There were no rules from Asmara on how long prisoners stay in jail, it depends on individual commanders. Prisoners can be detained up to two years. If someone is sick they usually don’t believe him, he might be trying to escape or does not want to be punished.” Amnesty International reports: “Military courts were not functioning. Military conscripts accused of a military offence such as desertion, attempted desertion or being absent without permission were arbitrarily imprisoned or punished with torture, or possibly executed in the most serious cases, on the order of their military commander” “(War Resisters International (29 June 2009) *Country report and updates: Eritrea*, pp.4-5).

This document also reports:

“Family members and relatives of draft evaders and deserters may also be at risk of persecution due to the practice of substitute service and/or punitive fines and imprisonment. Since 2005, the Government has instituted measures to address the widespread evasion of and desertion from military service, including: arrest of family members, mostly parents, of children who have not reported to the military training camp at Sawa for their final year of high school or have not reported for national service; imposition of fines on families of draft evaders; forced conscription of family members, particularly the father, of the draft evader; and withdrawal of trade licenses and closure of businesses held by members of the nuclear family of a deserter/draft evader” (ibid, p.5)

A report by *Human Rights Watch* in April 2009 notes:

“Evaders are detained in terrible conditions, and heavy penalties are imposed on the families of those who evade service or flee the country” (Human Rights Watch (16 April 2009) *Service for Life, State Repression and Indefinite Conscription in Eritrea*, p.45)

A paper from the *UNHCR* in April 2009 states:

“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 re-enlist, 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. Since military courts are not operative, punishment for military offences is carried out extrajudicially, and has been widely reported to include “shoot to kill” orders, detention for long periods, torture and forced labour. Draft evaders/deserters are reported to be frequently subjected to torture, while conscientious objectors can face extreme physical punishment as a means of forcing them to perform military service. Furthermore, extrajudicial executions are allegedly ordered by local commanders and carried out in front of military units for what might be serious military offences. In practice, the punishment for desertion or evasion is thus severe and disproportionate such as to constitute persecution” (UNHCR (April 2009) *UNHCR Eligibility Guidelines for Assessing the International Protection Needs of Asylum-Seekers from Eritrea*, pp.14-15)

This paper also states:

“Family members and relatives of draft evaders and deserters may also be at risk of persecution due to the practice of substitute service and/or punitive fines and imprisonment, and could be considered, in this respect, as a particular social group. Since 2005, the Government has instituted measures to address the widespread evasion of and desertion from military service, including: arrest of family members, mostly parents, of children who have not reported to the military training camp at Sawa for their final year of high school or have not reported for national service; imposition of fines on families of draft evaders; forced conscription of family members, particularly the father, of the draft evader; and withdrawal of trade licenses and closure of businesses held by members of the nuclear family of a deserter/draft evader” (ibid, pp.19-20)

A July 2008 *Reuters* article states:

“Up to 25,000 Eritreans leave illegally each year, most crossing into Sudan and Ethiopia to make their way to Europe or the Middle East, diplomats and aid agencies say. Many say they are fleeing national service. Eritrea restricts exit visas and passports of military-eligible men and women under 50 and 47 respectively” (Reuters (17 July 2008) *In Eritrea, youth say frustrated by long service*)

This article also states:

“At night in Asmara, military police in distinctive sandy-colored uniforms and carrying yellow sticks patrol the streets. Diplomats say that as well as providing security, the military search for Eritreans dodging military service. Young Eritreans say they will not venture outside without an identity card and movement papers, which have biographical facts and, crucially, their national service status. Without those papers, they can be arrested” (ibid)

The article also notes:

activists say. Diplomats say Eritreans pay middlemen several thousand U.S. dollars to lead them to Sudan. If caught, the would-be migrant will spend

months in jail and be interrogated for days for information about the middlemen, according to rights groups and diplomats in Asmara. Even if they leave, activists say illegal immigrants' families can be fined up to 50,000 Nakfa (\$3,333) -- an enormous sum in a nation where the average per-capita income is \$200" (ibid)

The article also states:

"Eritrea has brokered deals with some neighboring countries to repatriate fleeing citizens, rights groups say. In June, Egypt deported up to 1,000 Eritrean asylum seekers, despite activists' concerns they might face torture at home" (ibid)

Research conducted by the *Immigration and Refugee Board of Canada* in February 2007 notes:

"The 1957 Ethiopian penal code, which, according to AI, was adopted by Eritrea at independence (AI May 2004, 23), and, according to the British embassy in Asmara, was still in force in July 2003 (UK 1 Dec. 2006, para. 23.03), details various penalties for desertion from and evasion of military service (Eritrea July 1957). For example, penalties for "refusal to perform military service," "failure to enlist," "intentional provocation of unfitness" and "fraudulent evasion of service" range from "simple imprisonment" for six months to "rigorous imprisonment" for up to fifteen years (ibid., Art. 296-299). Penalties for desertion range from five years of "rigorous imprisonment" to the death penalty (ibid., Art. 300)" (Immigration and Refugee Board of Canada (28 February 2007) *Eritrea: Military service, including age of recruitment, length of service, grounds for exemption, penalties for desertion from and evasion of military service and availability of alternative service (2005 - 2006)*)

Further research in this report states:

"Draft evaders are reported to be "frequently tortured" (HRW 18 Jan. 2006; ibid. Jan 2007; AI May 2004, 2), while conscientious objectors face "extreme physical punishment" as a means of forcing them to perform their service (US 8 Mar. 2006, Sec. 2.c). As a result, three courts ruling on immigration issues - an appellate court in the United States, the European Court of Human Rights and the United Kingdom Immigration Appeal Tribunal - have each granted asylum to Eritreans escaping conscription "on the grounds that national service is used as a measure of political repression and that anyone forcibly returned to Eritrea is likely to be tortured" (HRW 18 Jan. 2006; see also European Court of Human Rights Aug. 2005, Art. 3)" (ibid)

In January 2007 *War Resisters International* cites the following source:

"According to Amnesty International's news service No. 329, the Eritrean government in December 2006 arrested over 500 relatives, mostly parents, of young men and women who have either deserted the army or avoided conscription. Those arrested were the fathers, mothers or other relatives of men or women over the age of 18 who have either failed to report for national service since 1994, failed to attend the compulsory final school year at Sawa military training camp, abandoned their army unit, or left the country illegally. The relatives have been accused of facilitating their evasion of conscription or

flight abroad" (War Resisters International (1 January 2007) *Is it ransom or fine?*, The Broken Rifle, No 73)

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This response was prepared after researching publicly accessible information currently available to the Refugee Documentation Centre within time constraints. This response is not and does not purport to be conclusive as to the merit of any particular claim to refugee status or asylum. Please read in full all documents referred to.

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