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**Eritrea**

**Submission to the United Nations Human Rights Committee**

**125th session, 04-29 March 2019**

**Consideration of Eritrea in the absence**

**of a State report**

**Submitted on 13 February 2019 by**

**the East and Horn of Africa Human Rights Defenders Project**

**NGO in Special Consultative Status with ECOSOC**

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### **Introduction**

1. DefendDefenders (The East and Horn of Africa Human Rights Defenders Project) is a regional civil society organisation established in 2005. It seeks to strengthen the work of human rights defenders (HRDs) throughout the East and Horn of Africa sub-region by reducing their vulnerability to the risk of persecution and by enhancing their capacity to effectively defend human rights. DefendDefenders focuses its work on Burundi, Djibouti, Eritrea, Ethiopia, Kenya, Rwanda, Somalia (together with Somaliland), South Sudan, Sudan, Tanzania, and Uganda.
2. In this submission, which is adapted from a submission to the 32nd session of the Working Group on the Universal Periodic Review (UPR), during which Eritrea was reviewed (28 January 2019), DefendDefenders examines Eritrea’s com­pli­ance with its obli­ga­tions with regard to the rights to freedom of opinion and expression, freedoms of association and peaceful assembly, and with regard to HRDs. Additionally, the submission includes developments in the human rights field with regard to the Eritrean Government’s lack of meaningful cooperation with the United Nations (UN). These shed additional light on Eritrea’s stance with regard to the UN human rights system as well as on its failure to comply with its reporting requirements under the International Covenant on Civil and Political Rights (ICCPR).

### **Freedom of opinion and expression (Article 19)**

* 1. Since it was first subjected to heightened international attention because of alle­ged grave human rights violations and abuses, Eritrea has maintained a consis­tent position with regard to international bodies and mechanisms. While the Government prai­ses the UPR – the only existing universal, peer-review mecha­nism – as being, in its words, “objective” and, in essence the only legitimate me­ch­anism to exa­mine a country’s human rights situation, it denounced UN Human Rights Council (HRC) country-specific reso­lutions and mechanisms, including the UN Special Rap­porteur and the UN Com­mission of Inquiry (CoI) on Eritrea, as being “selective,” “bia­sed,” and “politicised.” DefendDefenders condemns the failure of Eritrea, which took a seat as a member of the HRC on 1st January 2019,[[1]](#footnote-1) to submit a State Party report to the UN Human Rights Committee (hereafter “the Committee”). As Eri­trea has refused to engage with the HRC and its special procedures, below, some references are made to recommendations it received in the framework of the UPR. Suc­ces­sive reports of the Special Rapporteur and the CoI[[2]](#footnote-2) contain a range of rec­om­mendations on these and other human rights issues, including human rights vio­lations that may amount to crimes against humanity, as per the CoI’s findings.
	2. During the second cycle of the UPR, in 2014, the Government of Eritrea received 20 recommendations related to restrictions placed on the right to freedom of opinion and expression, out of which it committed to implement seven.[[3]](#footnote-3)
	3. Among other recommendations, Canada urged Eritrea to “take all necessary measures to ensure respect for human rights including the right of freedom of expression as it pertains to the press and other media”[[4]](#footnote-4) and to “guarantee the right to free expression, opinion, conscience and religion.”[[5]](#footnote-5) However, Eritrea has yet to live up to its commitment to ensure respect for the right to free ex­pres­sion. The 1997 Constitution, which guarantees freedom of opinion, speech and the media, has never been implemented and violations of these freedoms continue unabated.
	4. In 2015, Eritrea topped the list of the “10 Most Censored Countries” by the Committee to Protect Journalists (CPJ).[[6]](#footnote-6) From 2016 to 2018, Reporters Without Borders (RSF) has ranked Eritrea in the bottom two (together with the Democratic People’s Republic of Korea) of the 180 countries included in its annual World Press Freedom Index. Independent press and private media was effectively shut down in 2001. All domestic media is controlled by the Government, and two out of four Internet service providers prohibit access to sites unapproved by the Government. Persons using Internet cafés are subjected to surveillance. Eritrea periodically jams satellite radio transmissions by opposition groups.[[7]](#footnote-7)
	5. The Eritrean Government continues to quash dissenting views, opinions, and independent media workers. At the time of writing, at least 15 journalists remain in prison.[[8]](#footnote-8) Since 2010, at least 32 have gone into exile.[[9]](#footnote-9)
	6. Of the several journalists who are detained, Dawit Isaak, a Swedish-Eritrean national, and Seyoum Tsehaye, the former head of the national television, have been detained *incommunicado* since 2001, without access to legal counsel or their family.[[10]](#footnote-10) It is also believed that seven of the editors and publishers arrested in 2001 following the crackdown on press freedom have died in detention.[[11]](#footnote-11) On 6 July 2017, the European Parliament adopted a resolution calling for the immediate release of, *inter alia*, Dawit Isaak.[[12]](#footnote-12)
	7. As noted by the CoI on Eritrea in March 2015, “the Government has curtailed most freedoms, from movement to expression; from religion to association. It has created a condition in which individuals feel that they have hardly any choice with regard to the main decisions in their lives: where to live, what career to pursue, when to marry or who to worship.”[[13]](#footnote-13)
	8. Eritrean authorities regularly use intimidation and harassment to clamp down on free expression beyond its borders. For instance, they initiated several libel suits against Dutch newspapers, a radio station, a website, the Dutch Government, and academics who have written or disseminated criticism of the Eritrean Government. Most of these cases have already been rejected, but they have sparked vociferous attacks by social media users defending the Government narrative.[[14]](#footnote-14) It remains unclear to what extent, and how many of, these social media users act within a chain of command and how many do it upon their own initiative.
	9. On 19 February 2017, the exiled Eritrean Forum Radio reported that two journalists working for the state-owned Eritrean Radio and Television Agency were jailed on suspicion of attempting to flee the country, which is considered an act of treason by authorities.[[15]](#footnote-15)

### **Freedoms of Association and Peaceful Assembly (Articles 21 and 22)**

* 1. In the UPR’s second cycle, Eritrea received 13 recommendations regarding the rights to freedom of association and peaceful assembly, six of which officially enjoyed the support of the Government.[[16]](#footnote-16) Mexico urged Eritrea to “harmonize national laws to incorporate the International Covenant on Civil and Political Rights (ICCPR), in particular articles 9, 12, 19, 21.”[[17]](#footnote-17) Article 21 of the ICCPR protects the right to peaceful assembly. France asked Eritrea to guarantee, among other rights, freedoms of peaceful assembly and of association.[[18]](#footnote-18) Nonetheless, these recommendations remain unimplemented.
	2. Article 19 of the 1997 Eritrean Constitution enshrines freedoms of conscience, religion, expression of opinion, movement, assembly and organization; however, Eritrean citizens have consistently been denied these rights by the state and the military. Additionally, as mentioned, the Constitution remains unimplemented.
	3. There are currently no functional independent national or international non-governmental organisations (NGOs) operating in Eritrea. The Non-Governmental Organisation Administration Proclamation (2005) places severe restrictions on NGOs, including on the amount of funding which the UN or bilateral agencies can provide, and requires that donor funds flow through the Government.
	4. On 31 October 2017, security forces allegedly dispersed a protest using live ammunition in Asmara.[[19]](#footnote-19) The United States embassy in Asmara confirmed receiving reports of gunfire in several locations of Asmara due to protests.[[20]](#footnote-20) The demonstrations were apparently related to government interference in the administration of the Al Diaa Islamic School, located in the Akria district of Asmara. According to the NGO Human Rights Concern – Eritrea (HRCE), the former director of the school, Haji Musa Mohamed Nur, was arrested on 20 October 2017 after speaking at a community meeting on the Government's plans to seize and close the school down.[[21]](#footnote-21) HRCE also noted that an unknown number of protesters were detained during and after the protest, including young demonstrators ranging from 13 to 15 years old, some of whom were tortured.[[22]](#footnote-22) Videos emerged[[23]](#footnote-23) on social media of a crowd running amid gunfire on Harnet Avenue, close to the President’s office. After four months of *incommunicado* detention, Haji Mussa died in detention on 1 March 2018. The Government arrested hundreds of mourners at his funeral, some of whom are still being detained without access to contact their families or lawyers.[[24]](#footnote-24)

### **The Situation of Human Rights Defenders (HRDs)**

* 1. In the second UPR cycle, Eritrea received four recommendations related to the protection of HRDs, journalists, and civil society organisations (CSOs), and accepted to implement two of them.[[25]](#footnote-25) Belgium recommended that Eritrea ensure that any physical or moral harm against journalists or HRDs is investigated and the perpetrators duly prosecuted.[[26]](#footnote-26) Tunisia requested Eritrea to ensure a conducive climate for the work of HRDs, civil society activists and journalists.[[27]](#footnote-27)
	2. The operating environment in the country remains extremely harsh, forcing many Eritreans to flee the country, out of fear, in particular, of being conscripted into indefinite national service. Heavy surveillance coupled with arbitrary arrests and detention without access to a lawyer or court ensures that dissenting opinions against the state are discouraged and quashed.[[28]](#footnote-28) The Eritrean Government possesses wide-reaching surveillance capabilities that have been used to monitor the population both inside the country and within the diaspora, in particular in European countries. This has created an atmosphere of intense fear that has prevented many Eritreans from engaging on human rights related issues.
	3. Eritrea has a long history of arbitrarily detaining opposition members, journalists, and dissenters. The 11 government officials, 10 journalists and other dissidents who were arrested in September 2001 have yet to be released, and journalists Dawit Isaak, Dawit Habtemichael, Mattewos Habteab, and Wedi Itay may have died in custody,[[29]](#footnote-29) though reports of their deaths are unconfirmed by the Government.
	4. While public gatherings are rare, when they do occur, peaceful protesters are met with arrest and detention. In January 2015, protesters in a small town were arrested and detained in military prison. Some protesters were shot.[[30]](#footnote-30) Similarly, student protests in Asmara in October 2017 were suppressed with live ammunition. HRDs are silenced and at constant risk of being detained without due process or respect for basic rights of the defence and fair trial guarantees.
	5. HRDs in exile are also at risk. Often, diaspora activists have to deal with security threats to their friends and family in Eritrea, a form of reprisal that is related to “guilt by association.” In its detailed report of June 2016, the CoI noted that several witnesses mentioned that their families had faced threats, arbitrary detention, and disappearance “for the alleged wrongs of one family member.”[[31]](#footnote-31)

### **Cooperation with international and regional human rights systems**

* 1. Despite the Government’s refusal to grant UN experts access to the country, the latter have been able to document systematic, widespread, and gross human rights violations over the years. According to the Chairman of the CoI, Mike Smith, “the many violations in Eritrea are of a scope and scale seldom seen anywhere else in today’s world” and “a culture of impunity is firmly entrenched throughout the country.”[[32]](#footnote-32) In light of its findings on the these violations, some of which may amount to crimes against humanity,[[33]](#footnote-33) the CoI urged referral of the Eritrean situation to the International Cri­minal Court (ICC).[[34]](#footnote-34)
	2. Eritrea remains one of the least-cooperating states on the international scene. Since the mandate of the Special Rapporteur on the situation of human rights in Eritrea was established in 2012, the Government has consistently denied the mandate-holder access to its territory. At the March 2018 enhanced interactive dialogue on its situation, Eritrea was not present to take the floor as the concerned country, which amounted to a *de facto* boycott of the debate. This was not an isolated incident, but part of a larger pattern.
	3. At the time of writing, pending visit requests by UN special procedures included requests from the Spe­cial Rapporteurs on torture and other cruel, inhuman or degrading treatment or punishment (2005; reminders sent in 2007 and 2010); freedom of religion or belief (2004; reminders sent in 2005 and 2006); extrajudicial, summary or arbitrary executions (2010); the right to food (2003); freedom of opinion and expression (2003; reminders sent in 2005 and 2015); freedoms of peaceful assembly and association (request sent in 2018); and the Working Group on arbitrary detention (request sent in 2018).
	4. However, Eritrea has not contented itself with refusing to cooperate with UN human rights bodies and mechanisms; it has also attacked the HRC and its mech­anisms, sometimes descending at a personal level against appointed experts and officials. For instance, Eritrea referred to the CoI as “ignorant” and motivated by “a sinister politi­cal agenda,” calling its first report “a travesty of justice.”[[35]](#footnote-35) It has also deliberately attacked, threatened, and stigmatised HRDs, CSOs, and UN experts, including the SR and members of the CoI. In June 2015, as the latter travelled to Geneva to present their initial findings, they were follo­wed by pro-Government protesters. As the Commission’s Chairperson put it: “We had the op­portu­nity to experience, in a token way, [a campaign of intimidation] in Geneva, where we were followed in the streets and in our hotels and vilified in blogs online where the words of our report have been twisted and misquoted.” He added: “Of course this is trivial compared to the day to day experience of people in Eritrea itself, but it is indicative of a determination on the part of the autho­rities to control anyone they perceive as a critic.”[[36]](#footnote-36)
	5. In April 2018, after submitting its first-ever report to the African Commission on Human and Peoples’ Rights (ACHPR), Eritrea was reviewed by the latter at its 62nd session, which was held in Nouakchott, Mauritania. While the submission of a report was in itself a positive step, the Eritrean Government was unable to meaningfully address any of the 70 questions raised by ACHPR commissioners.
	6. In October 2018, Eritrea was elected a member of the Human Rights Council for a three-year term (2019-2021), in an election that was deprived of competition. The number of candidates was equal to the number of seats available for its re­gional group (“clean slate”). As a member of the Council, Eritrea is required to “uphold the highest standards in the promotion and protection of human rights [and to] fully cooperate with the Council.”[[37]](#footnote-37) On 28 January 2019, Eritrea was reviewed in the framework of the UPR. More than a third of all state inter­ven­tions (33 out of 89) mentioned cooperation with the UN human rights system and regional mechanisms, and 28 recommendations were focused on coope­ra­tion with the UN and regional human rights systems.[[38]](#footnote-38) Other issues that were frequently raised during the review include: indefinite national service; slavery and forced labour; administration of justice and independence of the judiciary; political prisoners; the situation of human rights defenders and journalists; free­dom of opinion and expression; freedoms of peaceful assembly and association; freedom of religion or belief; sexual and gender-based violence; implementation of the Constitution; and the need for Eritrea to hold free and fair elections.
	7. The delegation of Eritrea offered a blanket denial to recommendations regarding forced labour and slavery; imprisonment and torture of returning Eritreans from abroad (the head of delegation declared: “This is a mockery. Such things do not happen”); and prisoners of conscience (“factually unfounded and far from the truth,” according to the delegation). Eritrea is due to provide its answers to the recommendations it received by the Council’s 41st session (June-July 2019).

### **Recommendations to the Government of Eritrea**

1. DefendDefenders urges the Government of Eritrea to adhere to human rights standards as set out in the ICCPR, the International Covenant on Economic, Social and Cultural Rights (ICESCR), and the African Charter of Human and Peoples’ Rights, *inter alia*.
2. Eritrea should immediately implement the 1997 Constitution to set out the structures of the Government and outline corresponding powers and responsibilities. If implemented, the Constitution sets out a foundation for the protection of fundamental rights and freedoms.
3. Eritrea should extend a standing invitation to all special procedure mandate-holders so they can visit, monitor and report on the relevant human rights issues. It should allow access, as a matter of priority, to the SR on the situation of human rights in Eritrea, whose mandate was renewed at the 38th session of the UN Human Rights Council and implement the recommendations contained in the SR’s last report to the Council (A/HRC/38/50, paras. 110-131).

6.1 Regarding freedom of expression

1. Unconditionally release all journalists and HRDs who have been arbitrarily detained for expressing opinions that are not in line with the Government’s views.
2. Review existing legislation and amend it to bring it in line with international standards and strengthen protection of the right to freedom of expression and opinion.

6.2 Regarding freedoms of association and peaceful assembly

1. Hold to account, in fair trials, members of security forces who applied excessive force causing injury and deaths during protests.
2. Review existing legislation and amend it to bring it in line with international standards and strengthen the protection of the rights to freedom of association and peaceful assembly.

6.3 Regarding HRDs

1. Immediately bring all human rights violations, including those committed against HRDs, documented by the Special Rapporteur and the CoI on human rights in Eritrea, to an end.
2. Release all prisoners of conscience and provide them with adequate remedies, including full rehabilitation.
3. Immediately set up an independent oversight and complaint mechanism to investigate and review cases on persons detained arbitrarily and denied access to their lawyers or families.
	1. Regarding cooperation with the UN human rights system
4. Desist from any attack against UN officials and experts.
5. Allow the SR on Eritrea unfettered access to the country, including to training camps and detention facilities.
6. Respond positively to pending visit requests by special procedure mandate-holders.
1. “Eritrea: election to UN rights council is not a shield from scrutiny,” 15 October 2018,

[www.defenddefenders.org/press\_release/eritrea-election-to-un-rights-council-is-not-a-shield-from-scrutiny/](http://www.defenddefenders.org/press_release/eritrea-election-to-un-rights-council-is-not-a-shield-from-scrutiny/) (accessed on 13 February 2019). [↑](#footnote-ref-1)
2. See the webpages of the Special Rapporteur ([www.ohchr.org/EN/HRBodies/SP/CountriesMandates/ER/Pages/SREritrea.aspx](http://www.ohchr.org/EN/HRBodies/SP/CountriesMandates/ER/Pages/SREritrea.aspx)) and Commission of inquiry ([www.ohchr.org/EN/HRBodies/HRC/CoIEritrea/Pages/commissioninquiryonhrinEritrea.aspx](http://www.ohchr.org/EN/HRBodies/HRC/CoIEritrea/Pages/commissioninquiryonhrinEritrea.aspx)) (both accessed on 13 February 2019). [↑](#footnote-ref-2)
3. UPR Info, “Database on recommendations,” [www.upr-info.org/database/](http://www.upr-info.org/database/) (accessed on 4 July 2018). [↑](#footnote-ref-3)
4. A/HRC/26/13, 122.67 (Canada). [↑](#footnote-ref-4)
5. A/HRC/26/13, 122.154 (France). [↑](#footnote-ref-5)
6. Committee to Protect Journalists, “10 Most Censored Countries,” April 2015, [cpj.org/2015/04/10-most-censored-countries.php](https://cpj.org/2015/04/10-most-censored-countries.php), (accessed on 12 July 2018). [↑](#footnote-ref-6)
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13. “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, [www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=15699&LangID=E#sthash.Rrt4FueR.dpuf](http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=15699&LangID=E#sthash.Rrt4FueR.dpuf), (accessed on 12 July 2018). [↑](#footnote-ref-13)
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25. See footnote 12 above. [↑](#footnote-ref-25)
26. A/HRC/26/13, 122.152 (Norway). [↑](#footnote-ref-26)
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37. UN General Assembly resolution 60/251, “Human Rights Council,” A/RES/60/251, paragraph 9. [↑](#footnote-ref-37)
38. Draft report of the Working Group on the Universal Periodic Review, 7 February 2019, Document No. A/HRC/WG.6/32/L.11. See recommendations featured in paragraphs no. 131.44 to no. 131.57 and no. 131.60 to no. 131.73. [↑](#footnote-ref-38)