

Subject: Responses to the Questionnaire regarding Contemporary forms of Slavery, including its causes and consequences

In response to the Questionnaire of the Special Rapporteur on contemporary forms of slavery, including its causes and consequences, the Government of the State of Eritrea submits the following response to the Special Rapporteur of the aforementioned subject.

1. National legal framework which criminalize contemporary forms of slavery

In accordance to Article 16(3) of the Constitution of Eritrea, 1997, no person shall be held in slavery or servitude nor shall any person be required to perform forced labour not authorized by law. This provision is one of the rights of all persons mentioned in chapter 3 of the Constitution of Eritrea. This constitutional provision is the basic principle that strictly prohibits slavery, servitude and forced labour in all of their forms from being done against all persons. Art 565 of the Transitional Penal Code of Eritrea, 1991 states:

1.1 Whosoever:

- (a) Enslaves another, sells, alienates, pledge or buys , or trades or traffics in or exploits ; or
- (b) Keeps or maintains another in a condition of slavery, even in a disguised form, is punishable with rigorous imprisonment from five to twenty years, and a fine not exceeding twenty thousand dollars.

- 1.2** Those that knowingly carry off, transport or conduct, whether by land, by sea or by air, persons thus enslaved, in order to deliver them at their place of destination, or who aid and abet such traffic, whether within the territory of the Eritrea or abroad, are liable to the same punishments.

This provision is a principle that generally specifies the punishment for a person involved in enslavement, sale and trafficking of another person and for a person who acted as an accomplice in such a crime.

Art. 607- Organization of Human Trafficking

Whosoever makes arrangements or provisions of any kind for the traffic in women or infants and young persons, is punishable by imprisonment or, according to the circumstances of the case, especially where a professional procurer is involved or where the arrangement is fully made and intended to apply to many victims, with rigorous imprisonment not exceeding three years, and a fine which shall not be less than five hundred dollars in grave cases.

The above mentioned Article is also one of the provisions of the Transitional Penal Code of Eritrea that specifically prohibits trafficking in infants and young persons (Children) and women. As a result, it inflicts severe penalties if the victims are many in number or if the offender is professional procurer in the trafficking of Children.

This Article inflicts more severe penalties in the cases where the criminals involved in the procuring or trafficking of children under the age of fifteen are professional criminals.

2. Domestic workers, including migrant domestic workers

No national legal framework of Eritrea provides distinct rights and restrictions for domestic workers. Rather, the provisions of labour proclamation can be considered as general standards applicable to domestic workers, though special provisions in the form of a regulation have to be issued in the future. But, one thing to be borne in mind is that the issue of domestic workers should not be interpreted to mean that domestic workers have no legal ground to claim their rights pursuant to their terms of contract and the minimum standards stated out in the provisions of the labour law proclamation, by raising an argument that a relevant regulation has not been issued by the minister.

Regarding the minimum working conditions, title six of the Labor Proclamation expresses hours of work, wages, the employment of children and young persons, occupational safety and health are specified with the purpose to limit the conditions provided in the provisions of the Labour Proclamation 118/2001 as well as to regulate the minimum working conditions. Some of the high emphases given to working conditions of the Labor Proclamation are pointed out below:

- Article 41 of the Labor Proclamation compels any employer to pay equal starting wages;
- Article 48(1) of the Labour Proclamation insists that regular working hours shouldn't exceed more than eight hours a day and forty-eight hours a week;
- Article 68 of the Proclamation illustrates that an employment of a young person under the age of fourteen is prohibited and a young worker shouldn't be assigned to work between 6 P.M. and 6 A.M.;
- Young person should not be made to work for more than seven hours per day according to article 68 of the Labour Proclamation;
- With regard to occupational safety and health, both articles 71 and 72 of the same Proclamation also oversee the liability of an employer for an injury or disease sustained from workplaces and
- Article 143 of the Labour Proclamation states that, it is the mandate of the labour inspection service to inspect the implementation of the provisions of the Proclamation.

3. Reporting mechanisms of human rights violations

Both the labour inspectors and the police of Eritrea play important roles in fighting contemporary forms of slavery. While labor inspectors monitor workplaces and take measures to ensure that conditions of work prescribed by law are respected, the Police have the power to identify perpetrators and to take corrective measures. The transitional Penal Code and the criminal procedural laws describe the penalties to be imposed by the judicial body. Thus, the basic foundation of the law enforcement machinery lies under an effective judicial

system of Eritrea, which is a key element in the efficient prosecution of offenders and strict application of penal sanctions.

Furthermore, according to article 157 (1) of the Labour Proclamation, offense committed in violation of the Proclamation or regulations issued pursuant to the Proclamation should be heard and decided by first instance labour courts. In this sense, the inspectors must have the right to submit their complaints to the first instance labour court. Secondly, article 146 of the Labour Proclamation stated that an employer, who obstructs inspectors from accomplishing their duties, should be answerable for an offense. Such acts are: preventing the inspector from entering into workplace or staying in the premises, refusing to let the inspector examine the records or documents necessary in discharging his/her mandate, concealing data relating to employment accidents and circumstance in which they occur, and performing an act or omission which inappropriately delays or interferes with the discharge of the labor inspectors function.

4. **Time series data on the number of domestic migrant workers**

Eritreans Working Over seas			
Year	Male	Female	Total
2003	145	391	536
2004	34	100	134
2005	4	32	36
2006	157	629	786
2007	296	848	1,144
2008	303	798	1,101
2009	205	589	794
2010	225	246	571
2011	118	236	354
2012	89	545	634
2013	36	157	193
2014	65	354	419
2015	13	201	214
2016	9	155	164
2017	2	86	88

5. means of conduct of Labour inspectorate

Labour inspectors in Eritrea are prohibited from having any direct or indirect interest in the workplaces under their supervision. They are also obliged to keep professional secrecy as regards manufacturing, commercial or working process, which may come to their knowledge in the course of their duties. In accordance with article 144(6) of the Labour Proclamation, for instance, labour inspector should not supervise any undertaking which he owns or in which he has a vested interest. Overall, pursuant to article 144(4), a labour inspector at any time, whether during or after he left his employment, should keep any secret of manufacturing, commercial or other working process which might come to his attention in the course of his duties under that Proclamation.

In light of the national conditions, the labour inspectors are recruited by the appointment of the Minister according to article 3(38) of the Labour Proclamation. Pursuant to article 144(5) of the Labor Proclamation a consideration is also given to the diligence and impartiality of inspectors during the appointment process. With a view to raise capacity building, the Ministry of Labour and Human Welfare in collaboration with the International Labour Office as well as with Eritrean experts has repeatedly conducted training to enhance the capacity and skill of inspectors.

6. Access to justice for victims of domestic servitude

Generally speaking, *no person in Eritrea is liable without a conviction in a court of law*. Penal labour cannot be imposed unless the Court verifies through judicial process that the offender is guilty pursuant to Articles 2 - 57 of the Transitional Penal code. Moreover, all guarantees laid down in the Transitional Penal code of Eritrea: the presumption of innocence, guarantees necessary for defense and non-retroactivity of penal law are fully respected and applied in practice. This is evident that penalty may not be imposed unless the person concerned has been found guilty of an offence, as a result of the due process of law.

As far the execution of criminal judgment is concerned, Penal labour cannot be imposed unless the Court verifies through judicial process that the offender is guilty pursuant to Articles 2 and 57 of the Transitional Penal code.

7. Measures of redress for violation of Rights

The elimination of the contemporary forms of slavery in Eritrea is enforced both legally and administratively through judicial or labour inspection services. If crime is committed in violation to the Penal Code, the Police and Prosecutors will actively involve and bring the case to the court. At the same time, according to Article 143(1) of the labour proclamation, the labour inspection service has power to: supervise the workplaces, oversee the execution of the labour proclamation, take corrective measures and bring the offender to justice.