



HAUT-COMMISSARIAT AUX DROITS DE L'HOMME • OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS

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19 August 2019

Excellency,

I have been following the third cycle of the Universal Periodic Review (UPR) of Eritrea and welcome the constructive engagement of your Government during the 32nd session of the UPR Working Group in January 2019.

As the final outcome report on the review of Eritrea has been recently adopted by the Human Rights Council at its 41st session, I would like to take this opportunity to follow up on a number of areas raised in the two reports that my Office had prepared for the review of Eritrea – the Compilation of United Nations information and the Summary of Stakeholders' submissions – which I consider in need of particular attention over the next four and a half years, until the next cycle of the UPR. In identifying those areas, I have considered the statements and/or recommendations made by 89 delegations and the presentation made and responses provided by the delegation of Eritrea. I have also considered the actions taken by the Government to implement the 92 recommendations supported during the second cycle of the UPR. The aforementioned areas cover a range of issues, which appear in the annex to this letter.

I congratulate Eritrea for signing a Joint Declaration of Peace and Friendship with Ethiopia and take due note of your delegation's statement that Eritrea was determined to seize this historic opportunity to redouble its development efforts and address the challenges faced in all sectors. Particular emphasis should be placed on the promotion and protection of human rights, including through the strengthening of an independent judiciary, a national assembly and other democratic institutions, and ensuring the separation of powers between the legislature, the executive and the judiciary, as well as the supremacy of law.

In view of the announcement by H.E. President Isaias Afwerki in 2014 that a new constitution would be drafted, I encourage Eritrea to embark on a transparent and participatory constitutional drafting process and to ensure that the new Constitution is in full compliance with international human rights standards. In the interim, I would recommend to bring into force the Constitution of 23 May 1997.

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H.E. Mr. Osman Saleh Mohammed
Minister of Foreign Affairs
Eritrea

It was encouraging to hear from the delegation that Eritrea would work to implement UPR recommendations, which would be integrated into, and be implemented through, the "Framework for action plan 2019-2023". I encourage Eritrea to implement this action plan effectively in order to achieve concrete results in the areas highlighted in the annex to this letter and to facilitate the preparations for Eritrea's fourth cycle of the UPR. My advice to all Member States is to implement national action plans in close consultation and cooperation with all stakeholders, in particular civil society organizations and, where necessary, with the support of and technical assistance from international organizations, including the Office of the United Nations High Commissioner for Human Rights (OHCHR) and other United Nations entities, under the leadership of the United Nations Resident Coordinator.

In light of the delegation's indication that the implementation of the recommendations would be coordinated through the UPR coordinating body, I would encourage Eritrea to ensure that this body has the necessary architecture, competence and capacity to function as a fully-fledged national mechanism for comprehensive reporting and follow-up in relation to recommendations received from all international and regional human rights mechanisms and treaty obligations, linking this to the Sustainable Development Goals. I strongly recommend the use of the OHCHR practical guide on this topic, which is available at: http://www.ohchr.org/Documents/Publications/HR_PUB_16_1_NMRF_PracticalGuide.pdf.

Please, kindly note that I am sharing my advice with all Member States as they go through the third cycle of the UPR with a view to assisting them with the implementation of the recommendations, following the review. An important measure that can contribute positively to follow-up action is voluntary mid-term reporting. Therefore, I strongly encourage all Member States to submit a voluntary mid-term report two years after the adoption of the UPR outcome report. In this regard, I welcome the practice of Eritrea to submit mid-term reports and encourage the Government to do so again on follow-up to the third cycle of the review, by 2021.

As stated by the Secretary-General in his 2017 report on the work of the Organization (A/72/1, paragraph 98): *"The Human Rights Council's universal periodic review process is now entering a new cycle, with every Member State scheduled for a third round of scrutiny. We will work to strengthen the relevance, precision and impact of the Council's recommendations, including by providing better support to Member States in implementation, stronger collaboration with United Nations country teams and the establishment of national mechanisms for human rights reporting and follow-up to link the universal periodic review to the implementation of the Sustainable Development Goals."*

I look forward to discussing with you ways in which my Office might assist Eritrea in relation to the areas identified in this letter and its annex.

Please, accept, Excellency, the assurances of my highest consideration.



Michelle Bachelet
High Commissioner for Human Rights

cc: H.E. Mr. Tesfamichael Gerhatu
Ambassador at the Ministry of Foreign Affairs
Eritrea

Annex

Scope of international obligations and cooperation with international human rights mechanisms and bodies

- Ratifying the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women; the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families; the Convention on the Rights of Persons with Disabilities; the International Convention for the Protection of All Persons from Enforced Disappearance; the Optional Protocol to the Convention on the Rights of the Child on a communications procedure; the Rome Statute of the International Criminal Court; the International Labour Organization (ILO) Worst Forms of Child Labour Convention, 1999 (No. 182); and the ILO Domestic Workers Convention, 2011 (No. 189).
- Cooperating fully with the Special Rapporteur on the situation of human rights in Eritrea and the UN human rights mechanisms, and honouring the pledges it has made to promote and protect human rights, including “to continue its engagement and technical cooperation with OHCHR”.

National human rights framework

- Taking advantage of the peace agreement between Eritrea and Ethiopia, and embracing measures to strengthen the promotion of human rights, justice and accountability.
- Implementing the Constitution of 23 May 1997 and any amendments to it made in a transparent and participatory manner.
- Ensuring the separation of powers between the legislature, the executive and the judiciary.
- Adhering to the principles of the supremacy of law, equality before the law, accountability to the law and legal certainty.
- Establishing a national human rights institution in full compliance with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles).
- Limiting the duration of compulsory national service to 18 months, as stipulated in the law, and recognising the right to conscientious objection.

Implementation of international human rights obligations, taking into account applicable international humanitarian law

A. Cross-cutting issues

Equality and non-discrimination

- Continuing with efforts to eliminate all forms of discrimination against all children, particularly girls and children from ethnic minorities and nomadic communities.
- Incorporating into national law of a definition of discrimination against women in line with article 1 of the Convention on the Elimination of All Forms of Discrimination against Women.



- Adopting a comprehensive strategy to eliminate stereotypes and increasing the use of temporary special measures to accelerate the achievement of substantive gender equality.
- Addressing the discriminatory provisions in family law implemented in Muslim communities in relation to marriage, divorce and inheritance, and ensuring that Muslim women and girls enjoy the same rights as men in marriage, divorce and inheritance.
- Ensuring that Muslim women and girls, including those in polygamous marriages, enjoy the same access to land and productive resources as men.
- Repealing those provisions in the transitional Penal Code that criminalize homosexuality.

B. Civil and political rights

Right to life, liberty and security of person

- Addressing the concerns about border control measures, including the excessive use of force and the “shoot to kill” policy in relation to those trying to flee the country.
- Bringing an end to the use of torture and other forms of ill-treatment, in light of the findings of the commission of inquiry that torture was an integral part of the Government’s repression of the civilian population.
- Putting an end to arbitrary detention and releasing all arbitrarily detained persons.
- Releasing unconditionally all prisoners of conscience, including members of the Eritrean G-15 and those incarcerated for their religious beliefs, journalists, those detained in the aftermath of the attempted takeover on 21 January 2013 of the building of the Ministry of Information, and the 13 Djiboutian prisoners of war still detained.
- Protecting women in detention from violence, particularly sexual violence, including by ensuring that gender-sensitive complaint mechanisms are available, and that women are under the supervision of female guards in all places of detention.
- Addressing concerns about the sexual violence experienced by men in detention and the congested detention centres that exacerbate the vulnerability of detainees.

Administration of justice, including impunity, and the rule of law

- Establishing an independent, impartial and transparent judiciary, and ensuring that court processes, including judgments, are transparent, open and accessible to the public.
- Bringing into force the Penal Code, the Criminal Code, the Civil Code and the Civil Procedure Code of May 2015, and revising those instruments to reflect all international human rights standards.
- Eradicating impunity for widespread human rights violations and ensuring that the rule of law is supreme, and ensuring that all persons, including those in Government and agents of the Government, are subject to the law.
- Ensuring accountability for crimes against humanity allegedly committed by Government officials as reported by the commission of inquiry on human rights in Eritrea in 2016, through the establishment of independent, impartial and gender-sensitive mechanisms.



- Respecting the basic principles of due process and ensuring that all persons accused of a crime have access to legal counsel and the opportunity to present their cases in court before taking any adverse action in their cases.
- Establishing a child-friendly juvenile justice system in conformity with the relevant international standards, and ensuring that the detention conditions of children comply with international standards, while promoting alternative measures to detention, and ensuring that children are detained as a measure of last resort and for the shortest possible time.
- Designing a comprehensive judicial policy to eliminate the obstacles faced by women and girls in accessing justice, including by ensuring that women who are victims of sex- and gender-based discrimination have access to legal aid and effective redress, and that such cases are removed from the military courts and brought under the jurisdiction of the criminal court.
- Providing judges, prosecutors, police officers, lawyers and traditional and religious leaders with training on women's rights and gender equality.

Fundamental freedoms and the right to participate in public and political life

- Ensuring that the press, independent human rights defenders and civil society organizations have the opportunity to exercise their freedoms of expression, opinion and association without threat or harassment.
- Involving all non-governmental organizations in the development, implementation, monitoring and evaluation of laws, policies and programmes.
- Allowing for the creation of political parties and the holding of democratic elections.
- Ensuring the equal representation of women in the Government, particularly at high levels of decision-making, in legislative assemblies, in the judiciary and in the civil service.

Prohibition of all forms of slavery

- Enacting legislation and adopting a national policy on trafficking in persons with a gender perspective, and providing legal aid to women and child victims of trafficking.
- Training professionals on trafficking-related matters and strengthening rehabilitation and reintegration programmes for women in prostitution.
- Investigating and prosecuting individuals allegedly responsible for the trafficking, smuggling and abduction of children.

Right to family life

- Allocating sufficient resources to support children without parental care and prioritizing the family-type and community-based forms of alternative care for children deprived of parental care.
- Providing access to child-friendly complaint mechanisms for children in alternative care and adequately monitoring alternative care facilities.



C. Economic, social and cultural rights

Right to work and to just and favourable conditions of work

- Tackling the occupational segregation of women and men; amending the Labour Proclamation (No. 118/2001) to include the principle of equal pay for work of equal value; and criminalizing sexual harassment in the work place.

Right to an adequate standard of living

- Reducing the regional disparity in access to food, water and sanitation, and improving the availability and accessibility of adequate food.
- Ensuring unhindered access to all humanitarian organizations, including United Nations agencies and faith-based organizations, enabling them to provide humanitarian assistance.
- Preventing and prohibiting forced evictions, and adopting human rights-sensitive housing and land management; and providing avenues of redress and access to remedies for those who lost their homes through demolition.

Right to health

- Increasing the budget allocated to health care and the number of trained health-care providers and medical personnel, including midwives, particularly in rural areas.
- Further reducing maternal mortality, by ensuring the provision of adequate sexual and reproductive health services, including access to antenatal, delivery and postnatal services.
- Ensuring that all women and children have access to adequate nutrition, including by increasing efforts to address the food production shortages, and seeking international assistance to that effect.
- Reducing the number of teenage pregnancies, by ensuring access to age-appropriate information and education on sexual and reproductive health and rights for girls and boys.
- Adopting specific guidelines on safe abortion procedures to regulate access to safe abortion, and ensuring the availability of safe and confidential abortion and post-abortion services.
- Adopting national strategies on child and adolescent health, HIV/AIDS, sexually transmitted diseases and tuberculosis, and on sanitation in rural areas.

Right to education

- Addressing the root causes of the low rates of school enrolment and completion, such as the hidden education costs and the negative cultural attitudes.
- Ensuring that primary education is free, compulsory and universal, and improving access to schools and the quality of education for nomadic communities.
- Ensuring equal access to all levels of education for girls and young women and reducing the dropout rate for girls; increasing the number of female teachers; addressing the

underrepresentation of women in vocational and higher education; and prohibiting sexual abuse and harassment in school and prosecuting alleged perpetrators.

- Discontinuing compulsory twelfth grade enrolment for all boys and girls at the Sawa Military Training Centre.

D. Rights of specific persons or groups

Women

- Strengthening the National Union of Eritrean Women, by giving it executive powers, and allocating adequate resources to the national machinery for the advancement of women.
- Ensuring that women's empowerment initiatives are adequately mainstreamed within development programmes.
- Addressing the needs of women and girls living in rural areas, including by ensuring sufficient access to education, health services and employment.
- Strengthening efforts to eliminate female genital mutilation, including by ensuring the prosecution of perpetrators and the compensation of victims, and by reinforcing awareness-raising programmes on the harmful effects and criminal nature of all such practices.
- Ensuring that women and girls are not forcibly recruited in national service for an indefinite period and protecting them from sexual violence allegedly perpetrated by male officers and recruits.

Children

- Developing a strategy or action plan to implement the National Policy on Children (2014).
- Allocating sufficient resources to those entities designated to coordinate the implementation of the Convention on the Rights of the Child and the implementation of children's rights.
- Eradicating the marriage of underage girls, including by addressing the root causes of child marriage and strictly enforcing the minimum age of marriage of 18 years.
- Adopting regulations protecting children from economic exploitation and from hazardous work and of an action plan to prevent and combat child labour.
- Developing a policy to address the root causes of children in street situations and providing them with protection, adequate health-care services, shelter, education and other social services.

Persons with disabilities

- Integrating a human rights-based approach to disability in all relevant laws, policies and programmes.
- Promoting inclusive education for all children with disabilities, and ensuring that they have access to meaningful, effective and quality education.



Minorities

- Protecting land rights in relation to traditional ownership of land and access to fishing grounds.
- Halting the destruction of the traditional means of livelihood of some ethnic minority groups, including the Afar and the Kunama people, and the displacement of these groups from their traditional territories.
- Ensuring that children belonging to minority groups enjoy their own culture, religion and language.
- Intensifying efforts to eliminate discrimination against children from ethnic minorities.

Migrants, refugees and asylum seekers

- Addressing the causes that compelled people to leave Eritrea, including the indefinite national service and the harsh conditions in that country.
- Ensuring respect for the rights to leave and re-enter the country, including by relaxing the tight control over the issuance of exit visas and the requirement to pay a tax to re-enter the country.

Stateless persons

- Addressing the persistent challenges in relation to the registration of children in rural areas; ensuring that all children born within the national territory are registered; and creating accessible and free institutional birth registration structures to facilitate the registration of children.