

**Written submission**

**by the**

**UN Special Rapporteur on the situation of human rights in Eritrea**

**Ms. Sheila B. Keetharuth**

**To the Standing Committee on Citizenship and Immigration,**

**House of Commons,**

**Parliament of Canada**

**20 July 2016**

**Written submission by the Special Rapporteur on the situation of human rights in Eritrea,  
Ms. Sheila B. Keetharuth, to the Standing Committee on Citizenship and Immigration,  
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## **Introduction**

The Special Rapporteur on the situation of human rights in Eritrea, Ms. Sheila B. Keetharuth, was invited to appear before the Standing Committee on Citizenship and Immigration of the House of Commons, Parliament of Canada. The purpose of the meeting was to address the human rights situation of Eritrean refugees seeking refuge in safe countries.

The Special Rapporteur wholeheartedly welcomes this opportunity. However, in view of prior commitments, she is not in a position to appear in person on this occasion. The special Rapporteur therefore submits the presents document in lieu and remains at the disposal of the Standing Committee for further discussions at a mutually agreed time and date, if required.

At the outset, the Special Rapporteur would like to point out that while the resolution setting out her mandate<sup>1</sup> and the subsequent resolutions renewing her mandate<sup>2</sup> required her to focus on the situation of human rights in Eritrea, her conclusive findings show that human rights violations and the refugee situation are inextricably linked. The gross, widespread and systematic violations human rights in the country, amounting to crimes against humanity, continue to be the main reason for the high flow of refugees from Eritrea.

## **Methodology adopted for the present submission**

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<sup>1</sup> [A/HRC/RES/20/20](#), 6 July 2015

<sup>2</sup> [A/HRC/RES/3/21](#) of 14 June 2013, [A/HRC/RES/26/24](#) of 27 June 2014 and [A/HRC/RES/29/18](#) of 2 July 2015

In view of the short notice to appear before the Standing Committee, the information in the present submission, taken from the various reports of the Special Rapporteur, is up to date until March 2016, which is when she presented her last Oral Update to the UN Human Rights Council<sup>3</sup>.

Additional information was sourced from the Report of the Commission of Inquiry on Eritrea (COIE), presented to the UN Human Rights Council (HRC) on 21 June 2016. As the Government of Eritrea has not collaborated with the mandates of the Special Rapporteur or the COIE, both mandates have sought to gather information in different ways, including by talking to refugees and asylum seekers, Eritreans in the diaspora, academics, researchers and experts on Eritrea, as well as diplomats. Both mandates consulted a wide range of documents, including official documents emanating from the Government of Eritrea.

There are several recent media reports about dire conditions faced by Eritrean refugees and migrants along escape routes at the hands of ISIS. The Special Rapporteur has not yet had the possibility of confirming certain of those reports and therefore cannot provide a definitive statement on the matter at this point in time.

### **In Brief: the human rights situation in Eritrea**

The Special Rapporteur reiterates her continuing deep concern about the overall human rights situation in the country, pushing many Eritreans, including children to leave. They embark on the journey across borders into neighbouring countries and further afield. Human rights violations they experienced have a ripple effect, leading to their increased vulnerability. Thousands of Eritreans are killed at sea while attempting to reach European shores. The practice of kidnapping migrating individuals, who are released on ransom after enduring horrible torture or killed, targets Eritreans in particular.

The Special Rapporteur has documented the most serious human rights violations in Eritrea, including cases of extrajudicial killing, a shoot to kill policy at borders, enforced disappearances and incommunicado detentions, arbitrary arrest and detention, torture, inhumane prison conditions, indefinite national service amounting to forced labour, gender-based violence in the context of the national service and lack of freedom of expression and opinion, assembly, association, religious belief and movement. In its first report to the HRC, the COIE found that the Government of Eritrea was responsible for systematic, widespread and gross human rights violations that have created a climate of fear in which dissent was stifled.<sup>4</sup> The COIE stated in its second report that it had reasonable grounds to believe that crimes against humanity, namely, enslavement, imprisonment, enforced disappearance, torture, other inhumane acts, persecution, rape and murder, have been committed in Eritrea since 1991<sup>5</sup>.

### **The refugee situation**

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<sup>3</sup> <http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=17224&LangID=E>

<sup>4</sup> A/HRC/29/42, page 14, para.66

<sup>5</sup> A/HRC/32/47

As of June 2015 United Nations Office of the High Commissioner for Refugees (UNHCR) figures, the global total number of refugees and asylum seekers from Eritrea stood at 444,091<sup>6</sup>, about 12 percent of the population of the country. Of these, more than 155,000 are believed to be in Ethiopia. According to the figures from the UNHCR, in 2015, 12,370 Eritreans crossed the border into Sudan and although an overall decrease compared to 2014 which stood at 15, 712, a large number of Eritreans continue to leave the country.

It has also noted that in 2015, by April, 5,388 Eritreans, including 604 unaccompanied minors, 157 accompanied minors and 1,105 women, had arrived in Italy by boat, surviving the dangerous journey across the Sahara Desert and then across the Mediterranean Sea. In 2014, Eritreans were the second largest group, after Syrians, apprehended at European Union external borders trying to enter in an irregular manner and the second largest group of asylum seekers in the European Union. The number of Eritrean refugees in the Sudan and Ethiopia transiting southwards towards South Sudan or westwards towards Libya has been increasing. Fatalities in the Mediterranean continue, and UNHCR estimates that there have already been over 1,800 fatalities in 2015. The deadliest incident recorded to date occurred on 19 April 2015, when more than 800 people died, including about 350 Eritrean migrants and refugees; there was a total of 3,500 deaths in 2014. These figures have grown exponentially since the Special Rapporteur started presenting such data to the Human Rights Council. Data collected by IOM Global Migration shows that in 2015, a total of 3,673 deaths have been recorded in the Mediterranean<sup>7</sup>.

Israel currently hosts approximately 53,000 refugees and asylum-seekers, the majority being from Eritrea (36,000) and Sudan (14,000). Until now, people in need of asylum have been provided with a form of temporary protection, renewable by applying periodically for the extension of so-called conditional release visas. The Association for Civil Rights in Israel reports that only four Eritreans who had additional grounds for asylum other than evasion or desertion from national service have been granted refugee status so far.<sup>8</sup>

While there are numerous human rights violations that incite Eritreans to leave the country, the indefinite national service amounting to forced labour 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. Instances of Eritreans killed inside the country while trying to leave have also been recorded, especially as a result of the shoot to kill policy.

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

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<sup>6</sup>[http://www.unhcr.de/fileadmin/user\\_upload/dokumente/06\\_service/zahlen\\_und\\_statistik/MidYear\\_Trends\\_2015.pdf](http://www.unhcr.de/fileadmin/user_upload/dokumente/06_service/zahlen_und_statistik/MidYear_Trends_2015.pdf)

<sup>7</sup> <https://missingmigrants.iom.int/mediterranean>

<sup>8</sup> <http://www.acri.org.il/he/wp-content/uploads/2015/02/hit8665meshivim2-5-0215.pdf>

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.

Not only ordinary citizens but also high-profile ones, including former ministers, pilots and the national football team, have fled and sought asylum. While the country’s cycling team has inspired many others around the African continent and beyond as a result of their high performance in various cycling events, ten players of the Eritrean national soccer team sought asylum in Botswana in October 2015, following in the footsteps of three previous teams of soccer players who sought asylum in Kenya, in Tanzania and in Uganda and were later resettled in third countries.

The path taken by refugees may be fraught with obstacles and can be life-threatening, as many have fallen into the hands of traffickers and smugglers who demand high ransoms for their victims’ freedom. The extensive militarization of all aspects of life in Eritrea, the fear and experience of national service, its policy of prolonged military conscription, arbitrary arrests, detention and torture and persecution on grounds of religious belief are among the main reasons causing people to flee.

### **Eritrean children in search of a safe haven and refuge**

Eritrean children constituted the largest group of unaccompanied children arriving in Italy – about 3,092 out of a total of 12,360 in 2015, the Special Rapporteur indicated during her oral update to the 31st Ordinary Session of the Human Rights Council. Since 2008, there has been a steady influx of Eritrean unaccompanied and separated children in Egypt, Ethiopia and Sudan. They keep moving north and the Special Rapporteur has met them in several countries, including Switzerland and Sweden. During interviews with the Special Rapporteur, the children pointed to the failure of the Eritrean Government to live up to the hopes and dreams of the younger generation, who aspired to a different existence, rather than spending their lives as soldiers. One child said he left Eritrea because he wanted a life of his own, rather than one which would make him “belong to the state.” This has had an impact on the enjoyment and protection of children’s rights, leaving many of them vulnerable to abuse in the ‘absence of and in search of a better future’, driven by their conviction that ‘there is no future for them’ in their country of origin.

The Special Rapporteur would like to echo the Committee on the Rights of the Child’s concerns regarding the situation of migrant children and other returnees, including national service evaders and deserters, who face detention and enforced disappearance and their children and other family members are not informed of their whereabouts; (b) the allegations of forced underage recruitment, including through the frequent practice of round-ups called “Giffa”, despite the legal minimum age for recruitment being set at 18; (c) a large number of people leaving the country, including unaccompanied children, face the risk of being trafficked, smuggled or abducted.

Furthermore, it is important to ensure protection in the treatment of unaccompanied children, as they face greater risks of sexual exploitation and abuse, military recruitment, child labour and detention. It has been brought to the Special Rapporteur's attention that certain States have failed to provide adequate protection as some children continue to be exposed to various human rights violations while in refugee camps or along migration routes.

### *Special protection needs of Eritrean unaccompanied children*

In leaving Eritrea, the unaccompanied children are subjected to an array of protection risks, starting right during the clandestine border crossing. In doing so they become vulnerable to other violations including trafficking, abduction for ransom, sexual violence, torture and other cruel and inhuman treatment, among other numerous dangers. They shared with the Special Rapporteur, some of their experiences in travelling from Eritrea in the hands of smugglers and traffickers in the different territories, though this was not the focus of her investigations.

### **Trafficking in persons, including children**

Many of those at refugee camps across the border face serious protection risks, such as human trafficking. Thus, a large number of the new arrivals to Eritrean neighbouring countries tend to continue their journey onwards, including unaccompanied minors, surviving the dangerous journey across the Sahara Desert and then across the Mediterranean Sea.

The Special Rapporteur has been concerned about Eritrean refugees, asylum seekers and migrants, and those whose fate are in the hands of smugglers and traffickers when they escape or are coerced into fleeing from their country. She has consistently raised concerns about their plight, noting that the primary responsibility of States is to ensure that all border governance measures protect the rights of all persons to leave and enter their own country any time. Irregular migration, human smuggling and trafficking in persons should not adversely affect the dignity of the populations concerned and their enjoyment of human rights.

Furthermore, the best interests of the child should take precedence over migration management objectives and other administrative considerations. The core obligations of States with respect to the rights of victims of trafficking include the duties to identify victims of trafficking, to provide immediate protection and support and to provide legal assistance, including temporary residency and non-criminalization of victims.

Children can easily fall prey to unscrupulous traffickers. In 2013, the case of two boys, then aged between 12 and 14, who were kidnapped from Guluj, a town in Gash-Barka, Eritrea, and taken to the Sinai, was brought to the attention of the Special Rapporteur. Her follow-up investigations did not reveal much, until earlier in 2015, when she met with a witness who had also been kidnapped from Eritrea and taken to the Sinai; the latter reported having

been held captive with two boys from Guluj who had also been “taken and sold for ransom money”.

Unaccompanied children arriving from Eritrea in high numbers require special care arrangements to ensure their protection from abuse and trafficking. The Special Rapporteur welcomes a UNHCR child protection regional initiative - “Live, Learn and Play Safe”, implemented over 3 years (2014-2016) in Egypt, Ethiopia, Sudan and Yemen, addressing protection, assistance and solutions needs of unaccompanied and separated refugee children, including Eritrean children.<sup>9</sup> The initiative’s priorities are: activities under objectives on child protection (including best interest determination), education and prevention and response to sexual and gender-based violence (SGBV) are core areas which are given priority in the allocation of funding.

### **Return of Eritrean asylum seekers and refugees**

There are reports that certain countries were contemplating to return failed asylum seekers and refugees to Eritrea, relying on the assurance that they would be accepted back once they signed an “apology letter” or “regret form”. The Special Rapporteur has consistently highlighted the dangers that failed asylum seekers and other returnees including those who have fled the indefinite national service, could face on their return to Eritrea, such as detention and conscription once more. Unsuccessful asylum seekers and other returnees, including national service evaders and deserters, face torture, detention and disappearance in Eritrea.

Signing the “apology letter” or “regret form” as a pre-condition for return does not protect returnees from further violations of their rights. On the contrary, returnees have to admit that they “regret having committed an offence by failing to fulfil their national obligations”, which in most cases, means having fled from indefinite national service. This regret form opens the door to possibilities of further violations and gives the authorities a blank cheque to arbitrarily apply “any appropriate measures”, in violation of human rights without the assurance for monitoring the returns.

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.

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.”

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<sup>9</sup> UNHCR, 2015 <http://www.unhcr.org/5461e6000.pdf>

## **Sexual and gender based violence and rape in the army**

Sexual and gender-based violence persists in Eritrea. COIE report<sup>10</sup> heard evidence that some cases of rape committed by men against women in local communities had been adjudicated by courts, and the perpetrators had been sentenced to imprisonment. However, rape and domestic servitude in military training centres and in the army, and rape in detention, go unpunished. Women and girls who try to flee the country are at greater risk of sexual and gender-based violence. The COIE also documented recent cases of women and girls, arrested by soldiers guarding the border, who were forced to strip naked and subjected to acts of sexual violence.

Rapes often resulted in physical and/or mental suffering and pain and, in some instances, to unwanted pregnancies or sexually-transmitted diseases, such as HIV, consequences that in turn gave rise to further human rights violations and discrimination.

Sexual violence against men in detention has also been documented. Men's sexual organs are often targeted for beating or electric shock, in some instances with the intent of ensuring that the victim will no longer be able to reproduce.

## **Compulsory national compulsory service as forced labour**

In the 104<sup>th</sup> session of ILO, the Committee of Experts (CEAR) pointed out that the large-scale and systematic practice of imposing compulsory labour on the population for an indefinite period of time within the framework of the national service programme goes well beyond the exceptions provided for in the Abolition of Forced Labour Convention ratified by Eritrea in 2000. "The extended obligations imposed on the population – as well as conscripts' lack of freedom to leave national service, as stated by the Government – are incompatible both with Conventions Nos 29 and 105, which prohibit the use of forced or compulsory labour as a method of mobilizing and using labour for purposes of economic development."

Consequently, the Committee urged the Government to take the necessary measures to amend or repeal the Proclamation on National Service, No. 82 of 1995 and the Warsai Yakaalo Development Campaign (WYDC) Declaration of 2002, in order to remove the legislative basis for the exaction of compulsory labour in the context of national service, and to address the incompatibility of these texts with both Conventions Nos 29 and 105<sup>11</sup>.

## **The European Union and Eritrea**

In the context of an increasing number of refugees trying to reach Europe from the Horn of Africa (and particularly from Eritrea), the EU has recently renewed its engagement with Eritrea on migration and trafficking issues. In December 2014, Eritrea, along with Ethiopia, Somalia, South Sudan, Sudan, Djibouti, Kenya, Egypt and Tunisia, was one of the signatories

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<sup>10</sup> A/HRC/32/47

<sup>11</sup> [http://www.ilo.org/dyn/normlex/en/f?p=1000:13101:0::NO:13101:P13101\\_COMMENT\\_ID:2337201](http://www.ilo.org/dyn/normlex/en/f?p=1000:13101:0::NO:13101:P13101_COMMENT_ID:2337201)  
Direct Request (CEACR) was adopted in 2015 and published during the 105th ILC session (2016).

of the EU-Horn of Africa Migration Route Initiative, now known as “Khartoum Process”. This initiative aims at increasing EU support to these countries to tackle trafficking and smuggling of migrants. The whole idea of the Khartoum process is to control or stop migration to Europe. Specifically, with regard to Eritrea, for the cycle 2016-2020, the EU development funding, mainly financed through the EU development Fund, amounts to Euros 200 million. The Special Rapporteur is not convinced that that such inflow of funds would curb the flow of refugees leaving Eritrea because of the nexus between gross human rights violations and the exodus of Eritreans. As she has previously indicated, human rights need to be an essential component of any engagement and dialogue with Eritrea.

## **Conclusion**

In the context of a serious deficit in the rule of law and widespread violation of human rights amounting to crimes against humanity, the numbers of those leaving keep growing. To stem the exodus, a more holistic approach is required, which looks at long-term solutions that place human rights at the heart while creating new opportunities for all, in particular for young people. According to UNHCR, resettlement remains the most viable durable solution for refugees in Ethiopia but is only available to a small percentage of them.<sup>12</sup>

## **Recommendations to the international community**

**Provide Eritrean nationals seeking protection with refugee status in accordance with the provisions of the international law governing asylum, and in particular the Convention relating to the Status of Refugees.**

**Expand channels of legal migration to reduce irregular migration in order to counter human smuggling and trafficking, while treating victims humanely.**

**Identify long-term solutions to help refugees, including local integration in the first-asylum country and resettlement in third countries, and strengthen international solidarity in sharing the responsibility to care for refugees and migrants.**

## **Recommendations on the protection of unaccompanied children**

**Bearing in mind General Comment No. 6 (2005) of the Committee on the Rights of the Child on treatment of unaccompanied and separated children outside their country of origin, States should evaluate the protection they provide to unaccompanied Eritrean children and make necessary adjustments wherever required.**

**Considering the Human Rights Council resolution 29/12 on unaccompanied migrant children and adolescents and human rights, care and protection programmes for unaccompanied Eritrean children should provide for individualised responses, targeted and specific to the needs of the unaccompanied child, with a strong component of psychological support, in view of the traumatic experiences they have endured.**

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<sup>12</sup> UNHCR, 2015 <http://www.unhcr.org/5461e6000.pdf>.

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