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Department of Foreign Affairs and Trade



DFAT COUNTRY INFORMATION REPORT ERITREA

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ACRONYMS

EPLF	Eritrean People's Liberation Front
PFDJ	People's Front for Democracy and Justice
NUEW	National Union of Eritrean Women
NCEW	National Confederation of Eritrean Workers
NUEYS	National Union of Eritrean Youth and Students
EDF	Eritrean Defence Forces
EPF	Eritrean Police Force

PURPOSE AND SCOPE

1.1 This Country Information Report has been prepared by the Department of Foreign Affairs and Trade (DFAT) for protection status determination purposes only. It provides DFAT's best judgment and assessment at the time of writing, and is distinct from Australian Government policy with respect to Eritrea.

1.2 The report provides a general, rather than an exhaustive country overview. It has been prepared with regard to the current caseload for decision makers in Australia without reference to individual applications for protection visas. The report does not contain policy guidance for decision makers.

1.3 Ministerial Direction Number 56 of 21 June 2013 under s 499 of the Migration Act 1958 states that:

Where the Department of Foreign Affairs and Trade has prepared a country information assessment expressly for protection status determination processes, and that assessment is available to the decision maker, the decision maker must take into account that assessment, where relevant, in making their decision. The decision maker is not precluded from considering other relevant information about the country.

1.4 This report is based on DFAT's on-the-ground knowledge and discussions with a range of sources, including governmental and civil society organisations in a number of locations in Eritrea and Egypt. It takes into account relevant and credible open source reports, including by the US State Department, UK Foreign and Home Offices, Swiss and Canadian Ministries of Immigration, and the European Asylum Support Organisation; those from relevant UN agencies, including the United Nations Commission of Inquiry on Human Rights in Eritrea, the Office of the United Nations High Commissioner on Refugees (UNHCR), the United Nations Office on Drugs and Crime (UNODC), the United Nations Children's Fund (UNICEF), the United Nations Economic, Scientific and Cultural Organisation (UNESCO), and the United Nations Development Programme (UNDP); recognised human rights organisations such as Freedom House, the Committee to Protect Journalists, Reports Without Borders, Human Rights Watch and Amnesty International; and reputable news organisations. Where DFAT does not refer to a specific source of a report or allegation, this may be to protect the source.

NOTE ON THE UN COMMISSION OF INQUIRY'S REPORTS INTO HUMAN RIGHTS IN ERITREA

1.5 In June 2015, the UN Commission of Inquiry on Human Rights in Eritrea published a report on the human rights situation in Eritrea. Following an extension of its mandate, the UN Commission of Inquiry published a follow-up report in May 2016. Despite requests for access to Eritrea and for information related to the human rights situation there, the Eritrean government did not permit the UN Commission of Inquiry to enter the country. Both reports were based on first-hand testimony through conducting confidential interviews with witnesses residing in third countries. The UN Commission of Inquiry reports were highly critical of the human rights situation in Eritrea. The UN Commission of Inquiry found that systematic, widespread and gross human rights violations had been and were being committed under the authority of the government, some of which may represent crimes against humanity.

1.6 The UN Commission of Inquiry's reports came under strong criticism from the Eritrean government, which labelled them unbalanced and unfair. The reports were also criticised by international observers for relying solely on the testimony of Eritrean refugees residing outside Eritrea, for not consulting with academic literature, for not interviewing diplomats or UN staff based in Eritrea, and for discarding testimonials from Eritreans defending the government's human rights record. An August 2016 UK Home Office report stated that a particular analytical weakness of the UN Commission of Inquiry's June 2015 report was its failure to identify timelines, patterns or trends, an omission which made it difficult to know whether events described in the report were ongoing or not.

1.7 DFAT assesses that the UN Commission of Inquiry's reports are a useful source of information in relation to the human rights situation in Eritrea. However, notwithstanding the difficulties posed by the Eritrean government's refusal to cooperate with the process, the reports would have been strengthened by the inclusion of in-country sources, including foreign diplomats. Where DFAT has cited the UN Commission of Inquiry's reports in this paper, we have sought to confirm the information provided with a second source.

BACKGROUND INFORMATION

RECENT HISTORY

2.1 Present day Eritrea is a colonial creation. While the Eritrean highlands were part of the Abyssinian Empire for many centuries, the coastal lowlands experienced a variety of influences, mainly from Arabic-speaking countries and the Ottoman Empire. Italy formalised Eritrea's borders in the 1880s, declared it a colony in 1890 and remained the colonial power until its defeat in the Second World War. A post-war international debate followed over whether Eritrea should become an independent state, or be incorporated into neighbouring Ethiopia. A compromise was reached, and it was decided that Eritrea should become an autonomous part of a federation with Ethiopia, an arrangement formalised in September 1952. However, Eritrea's autonomy was gradually limited by Ethiopia and abolished entirely in November 1962, when Eritrea was downgraded to the status of an Ethiopian province.

2.2 A number of Eritrean groups responded by commenced an armed struggle for independence, which lasted 30 years and cost the lives of approximately 65,000 Eritrean soldiers and 50,000 civilians. Over the course of the conflict a Marxist-inspired group, the Eritrean People's Liberation Front (EPLF), gradually sidelined its rivals. The EPLF captured the Eritrean capital Asmara in May 1991, ending the conflict. 99.8 per cent of Eritreans voted for independence in a UN-supervised referendum in 1993, and Eritrea became an independent state later in the same year. The EPLF transformed into a political party, the People's Front for Democracy and Justice (PFDJ), led by Isaias Afwerki, who became the country's first (and, to date, only) President.

2.3 The post-independence relationship with Ethiopia began well. However, tensions over the lack of an officially demarcated border led to a renewed outbreak of fighting from May 1998 to June 2000 that killed between 70,000-100,000 Eritreans and Ethiopians. Although a UN Commission declared the demarcation of the common border in April 2002, Ethiopia refused to recognise it and continues to occupy territory officially granted to Eritrea. Eritrea has long sought international support for its calls for Ethiopia to implement the Commission's decision. There have been no meaningful bilateral attempts to resolve the dispute, and small-scale skirmishes continue to occur regularly along the border.

2.4 The aftermath of the border war saw an increasingly autocratic style of government develop in Eritrea, with the government cracking down heavily on any form of internal dissent or criticism. Eritrea's relationship with the international community also deteriorated considerably, with Eritrea expelling North American and European peacekeepers in 2005 and a number of UN staff in 2006. In 2009, the UN imposed sanctions on Eritrea for its alleged support for Islamist insurgents in Somalia, a charge Eritrea has denied (see 'Sanctions'). Most international NGOs departed Eritrea from 2005-11, with the few remaining (primarily UN agencies) subject to tight restrictions on their movements and activities.

2.5 Large numbers of Eritreans have left the country in recent years, with most seeking asylum in Europe. Eritrea marked the 25-year anniversary of the end of the independence war in May 2016, with celebrations strongly attended by diaspora members from around the world.

DEMOGRAPHY

2.6 No census has been carried out in Eritrea since 1938, and obtaining any statistical information on the country is difficult. Estimates of Eritrea's current population from credible international organisations range from 5.2 million (Country Meters) to 6.5 million (CIA World Factbook). The majority of Eritreans are young, with the median age in Eritrea estimated by the CIA World Factbook as being 19.3 years. Large numbers of Eritreans have left the country in recent years, and it is estimated that around 5,000 people currently leave the country every month. The United Nations High Commissioner for Refugees (UNHCR) reported at the end of 2014 that 416,857 Eritreans had lodged asylum claims or were registered as refugees outside Eritrea.

2.7 The Eritrean population consists of nine officially recognised ethno-linguistic groups. The largest are the Tigrinya, who account for around half of Eritrea's population, and the Tigre (about 30 per cent). The remainder are the Afar (also known as Danakil) (5 per cent), the Saho (5 per cent), the Hedareb (T'bdawe) (2.5 per cent), the Kunama (2 per cent), the Bilen (Blin) (2 per cent), the Nara (1.5 per cent), and the Rashaida (0.5 per cent).

2.8 Eritrea does not have an official language, and Article 4 of the unimplemented 1997 Constitution guarantees the equality of all Eritrean languages. According to the European Asylum Support Organisation (EASO) most Eritreans use Tigrinya as their working language. Arabic, the lingua franca of the Muslim ethnic groups, is also used by a lesser extent by the authorities, while English is also frequently used as a working language and within the education system. Amharic is still used as a first or second language by Eritreans who grew up in Ethiopia or in places where it was dominant during Ethiopian rule (such as Assab, the primary port). Most Eritreans are multilingual, particularly members of smaller ethnic groups.

2.9 There are no reliable statistics of religious affiliation in Eritrea. A January 2016 report by the US Commission on International Religious Freedom (USCIRF) cited the Pew Charitable Trust's estimation that Coptic Orthodox Christians comprise approximately 57 per cent of the population, Sunni Muslims 36 per cent, Roman Catholics 4 per cent, and Protestants (of various denominations) one per cent. The USCIRF reported stated that Christians lived mainly in the highlands, while Muslims were predominantly located in the west and coastal lowlands, and that relationships between religious communities are generally harmonious, particularly by the standards of the region.

ECONOMIC OVERVIEW

2.10 Eritrea has considerable economic potential. It is located on the busy and strategic Red Sea shipping lane; has mineral resources and considerable tourism potential; and a young and well-educated population. Despite this potential, Eritrea is one of the least developed countries in the world. Rain-fed agriculture is the predominant economic activity, employing more than two-thirds of the population. The sector's contribution to GDP, however, has been modest and is declining, reflecting challenges that include recurrent droughts in the Horn of Africa, and rudimentary farming methods. Insufficient and variable agriculture output leads to chronic food shortages. Even in times of good rainfall, domestic food production is estimated to meet only 60-70 per cent of the needs of the population.

2.11 The World Bank estimated Eritrea's GDP growth at around 9 per cent in the 2011-12 period (the last point at which data is readily available). Since this time, however, it is widely acknowledged that the economic situation has declined considerably.

2.12 Eritrea is an almost entirely cash-based economy. In early December 2015, the government introduced currency reforms aimed in part at reining in Eritrea's significant black market. The introduction took place in a rapid fashion, with Eritreans given just six weeks to swap their old bank notes for the new currency (at par). The government also placed tight limits on the amount that could be withdrawn from banks, and restricted imports. While these reforms have had some success in lowering the gap between the official and unofficial exchange rates, they have also effectively lowered the value of remittances (valued at up to USD500 million) on which many Eritreans depend.

2.13 DFAT assesses that the low level of economic development and poor economic opportunities act as a strong 'push factor' for emigration from Eritrea.

Employment

2.14 Eritrea does not publish statistics on employment. The compulsory nature of national service for Eritreans of working age means most Eritreans are engaged in some form of economic activity (see 'National Service').

Corruption

2.15 Eritrea is not a signatory to the UN Convention against Corruption. However, the 2015 Penal Code deals extensively with corruption. For example, Chapter 3, Article 130 (Corruption by a Public Official) provides for prison sentences of between seven and nineteen years for public officials found guilty of corruption, depending on the seriousness of the offence.

2.16 It is generally accepted that senior Eritrean officials such as Ministers have not sought to enrich themselves personally through corruption, particularly by the standards of the region and continent. At lower levels, however, petty corruption and abuse of authority are reportedly very high. In January 2016, Transparency International ranked Eritrea equal 154th from 167 countries (167 being the most corrupt). In its May 2016 report, the UN Commission of Inquiry found that petty corruption was particularly linked to exemption or early release from military service, and cited witness accounts that officials routinely accepted bribes to release individuals from detention or to obtain unofficial information about the location of detained relatives. The US State Department reported in 2015 that Eritrean officials frequently engaged in corrupt practices with impunity.

Health

2.17 According to the World Health Organisation (WHO), there have been significant improvements in access to medical care since Eritrea gained independence. Life expectancy at birth for both sexes increased by 18 years over the period 2000-12, compared with a regional increase of 7 years in the same period. In 2015, the WHO estimated life expectancy at birth for Eritreans at 67 years for females and 62 years for males. Child and maternal mortality rates have both dropped substantially, while vaccination programs have brought diseases such as polio, measles, diphtheria, tetanus and whooping cough under control. National programs aimed at curbing infectious diseases have largely been successful – the malaria-related mortality rate has dropped by 82 per cent since 1999, and at 0.8 per cent in 2011 (latest statistic available), Eritrea's HIV prevalence rate is one of the lowest in sub-Saharan Africa. According to UNICEF, Eritrea has the best immunisation program in the Horn of Africa.

2.18 The Ministry of Health has responsibility for Eritrea's healthcare system. There are reportedly 187 nurse-led healthcare units nationwide; around 20 community hospitals and 55 health centres managed by doctors or experienced nurses; referral hospitals in all regional capitals; and five referral hospitals in Asmara. The healthcare system is largely state-funded, but patients are obliged to cover part of the costs. Free treatment is available for chronic and infectious diseases, including tuberculosis, HIV/AIDS and malaria. However, there is still a severe shortage of doctors, medical personnel, equipment and medication, particularly in outlying areas, and some complex procedures are not available in Eritrea.

Education (see also 'National Service Conscripts')

2.19 Access to education in Eritrea has improved significantly since independence, with a large number of schools built and teachers trained. However, there remains a considerable shortage of teachers and school facilities, including buildings. A significant proportion of school-aged children fail to attend school for the prescribed length of time, with many dropping out or forced to repeat a year. Enrolment rates are slightly lower for girls than boys, and are higher for both sexes in the highlands than in coastal regions. In 2015, Eritrea had an estimated adult literacy rate of 73.8 per cent (82.4 per cent for males and 65.5 per cent for females). The government has identified education and training as a particular priority, and is working with international organisations to improve Eritrea's capacity in this area.

2.20 In accordance with Legal Notice 1 of 1991, the Ministry of Education implements the educational policies formulated by the State, prepares the national curriculum, and ensures its application throughout the country. The overwhelming majority (90 per cent) of Eritrean schools are co-educational public schools, although there are also some private schools run by Muslim and Christian religious communities. Eritrea's state school system is based on five years of education in primary school, followed by three years in middle school and four years in secondary school. School attendance is compulsory for the first eight years. School attendance is free, although families are obliged to fund their children's school materials, uniforms and transport. At the end of the eighth year, children sit a national examination to determine whether they will move on to secondary school, which approximately two-thirds do.

2.21 Since 2003, all students, male and female, completing their 12th and final year of school have been required to do so at the residential Sawa national military training centre, which includes six months of military training. Formal secondary education ends with the sitting of the Eritrean School Leaving Certificate Examination. Students scoring well in this examination are assigned without choice to one of the country's academies, while those doing less well are given the opportunity to attend a technical vocational school.

2.22 Eritrea's first university was the University of Asmara, founded in 1958. In 2002, the government passed a directive re-configuring the university and effectively shutting down all of its undergraduate programs. Since 2003, the university has been replaced by a range of satellite academies spread across the country (which are still referred to as being affiliated with the University of Asmara). Eritrea's colleges are reportedly subject to joint academic and military management. After graduating, students are reportedly assigned to civilian national service. Those dropping out before graduation are conscripted for military service.

POLITICAL SYSTEM

2.23 Eritrea is a presidential republic. President Isaias Afwerki is Head of both State and Government, and has been so since independence in 1993. Following the UN-supervised popular referendum that delivered

independence, a transitional government took power composed of executive, legislative and judicial branches (see also 'Judiciary'). Proclamation 37/1993 outlined the principles of operation of the transitional government and limited its term to four years. However, the transitional government remains in power. Eritrea has not had a national or presidential election since independence. In its response to recommendations made in the Universal Periodic Review's Working Group in August 2014, Eritrea rejected calls by a number of countries to allow internationally monitored multi-party elections.

2.24 The executive body of the transitional government is the ministerial cabinet, led by the President. The President appoints ministers, most of whom are former EPLF fighters. The cabinet is theoretically accountable to the National Assembly, which, according to the unimplemented 1997 Constitution, is the supreme representative and legislative body (Article 31, Section 1). The unicameral National Assembly is composed of 150 members, of whom half represent the PFDJ and the remainder are supposed to be popularly elected. However, direct elections to this body have never taken place, despite being announced for 1998 and 2001. The National Assembly has not been functional since 1998 and has not met at all since 2002. Many members of parliament have left the country.

2.25 Eritrea is administratively divided into six geographical regions. The regions are further divided into sub-regions, which in turn sit above *kebab*, which cover an urban district, village or area. All levels of the administration feature an executive branch, courts and either an elected parliament or, in localities with less than 5,000 people, a general people's assembly. The government appoints regional governors. Elections to local parliaments took place in 1992 and 1993, and regional elections took place in 1997. Electoral campaigning was reportedly virtually non-existent, and almost all candidates were PFDJ members. Eritrean state media has reported that elections continue to take place at the *kebab* level.

HUMAN RIGHTS FRAMEWORK

2.26 Eritrea has ratified six of the core nine international human rights treaties: the *Convention on the Rights of the Child* (1989) and its Optional Protocols on the involvement of children in armed conflict and on the sale of children, child prostitution and child pornography (both 2000); the *Convention on the Elimination of All Forms of Discrimination Against Women* (1979); the *International Convention on the Elimination of Racial Discrimination* (1965); the *International Covenant on Economic, Social and Cultural Rights* (1966); the *International Covenant on Civil and Political Rights* (1966); and the *Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment* (1984). Eritrea has also signed and ratified the *African Charter on Human and Peoples' Rights* (1981); and the *African Charter on the Rights and Welfare of the Child* (1990).

2.27 Eritrea ratified a Constitution in 1997 that includes numerous human rights protections. However, it is widely accepted that the 1997 Constitution has never been implemented, due in part to it lacking an entry into force clause, and to the disruption caused by the 1998-2000 border war with Ethiopia. In its response to recommendations made in the Universal Periodic Review's Working Group in August 2014, Eritrea rejected calls from a number of countries to take measures to implement the 1997 Constitution.

National Human Rights Institution

2.28 Eritrea does not have a national human rights institution that complies with the Paris Principles. In its response to recommendations made in the Universal Periodic Review's Working Group in August 2014,

Eritrea rejected calls by a number of countries to establish such an institution. The Ministry of Foreign Affairs is the lead government agency on human rights issues.

SECURITY SITUATION

2.29 Eritrean authorities maintain tight internal control of the country. Street crime is relatively rare compared with other African countries, but does occur in major cities and towns. Although Eritrea is not regarded as being at high risk from terrorism, some terrorist incidents have been reported along the Ethiopian border.

2.30 Eritrea has poor bilateral relations with many of its neighbours, particularly Ethiopia. The 2000 peace agreement with Ethiopia has not been fully implemented and tensions remain high. The un-demarcated border is heavily militarised, including with extensive unmarked mine fields. In March 2012, Ethiopian military forces crossed the border into Eritrea and conducted military operations before withdrawing. In June 2016, significant border clashes occurred between the Eritrean and Ethiopian militaries, including the use of artillery. Heavy fighting was reported in the areas of Humera, Tsorona, Zalambessa and Badme, resulting in significant casualties on both sides. Both Eritrea and Ethiopia accused the other of instigating the clashes.

2.31 Eritrea's border with Sudan is also disputed (but not tense), and as of the publication date all official border crossing points were closed. There is reportedly a high threat of banditry and insurgent activity in the Sudanese border area. Military clashes between Eritrea and Djibouti occurred in June 2008, and the situation remains unresolved.

Sanctions

2.32 In 2009, the UN Monitoring Group on Somalia reported that Eritrea had provided political, financial and logistical support to armed groups in Somalia, in particular al-Shabaab. In response to the Monitoring Group's findings, and in response to the refusal by Eritrea to withdraw its forces from disputed border territory with Djibouti and engage in dialogue, the UN Security Council adopted Resolution 1907 in December 2009. UNSCR 1907 imposed an open-ended embargo on the supply of arms and military equipment to and from Eritrea. It also imposed travel restrictions and a freeze on the assets of Eritrea's political and military leaders.

2.33 In December 2011, the UN Security Council imposed additional sanctions on Eritrea for its failure to comply with UNSCR 1907. UNSCR 2023 strengthened the provisions of UNSCR 1907, imposed additional obligations on Eritrea, and sought to limit its ability to use its mining sector and diaspora tax (see 'Diaspora Tax' to fund its activities in Somalia).

2.34 Eritrea has consistently denied allegations that it has been a destabilising influence in Somalia and the region. It has claimed that the sanctions are politically driven by Ethiopia and its allies, including the United States. In July 2012, the UN Monitoring Group on Somalia and Eritrea found that Eritrea had reduced its support for al-Shabaab under international pressure, but that it remained a destabilising influence. Despite this finding, there has been no move to date to lift the sanctions. While the sanctions are limited and highly targeted in their scope, the Eritrean government has argued that they inhibit economic growth through discouraging foreign investment and economic engagement.

REFUGEE CONVENTION CLAIMS

3.1 Article 7, Section 6 of the 2015 Eritrean Penal Code prohibits discrimination on account of race, ethnic origin, language, colour, gender, religion, disability, age, political view, or social or economic status or any other improper factors, and notes that criminal law applies equally to all persons. Article 67 (1)(c) lists as an aggravating circumstance crimes motivated by bias, prejudice or hate based on religion, national or ethnic origin, language, sex, or race.

RACE/NATIONALITY

3.2 While the nine recognised ethno-linguistic groups officially enjoy the same status, in practice the Tigryinya dominate most spheres of influence in Eritrea, including the economy, the military, politics and education. Ethnic tensions and officially sanctioned ethnic discrimination are rare in Eritrea. Discrimination in Eritrea, as relevant to this report, is not based on ethnicity.

RELIGION

3.3 The Eritrean government strictly oversees the activities of religious communities in the country. The government officially recognises only the Coptic Orthodox Church of Eritrea, Sunni Islam, the Roman Catholic Church, and the Evangelical Church of Eritrea. These groups are required to submit activity reports every six months, and have been instructed not to accept funds from co-religionists abroad (an order with which the Eritrean Orthodox Church reportedly said it would not comply). They have also had religious leaders appointed by government officials, including the Patriarch of the Eritrean Orthodox Church and the Mufti of the Eritrean Muslim community. Hundreds of Orthodox Christians and Muslim religious leaders and laypersons who protested these appointments reportedly remain imprisoned. The previous Eritrean Orthodox Patriarch Antonios, who protested government interference in his church's affairs, has reportedly been held incommunicado under house arrest since 2007.

3.4 In 2002, the government imposed a registration requirement on all other religious groups, who are required to apply annually for registration with the Office of Religious Affairs. Registration requirements include providing detailed information about foreign sources of funding, leadership, assets and activities. Proclamation No.73/1995 prohibits religious groups from undertaking political activities.

3.5 To date, no other religious communities have successfully registered in Eritrea, although several have attempted to do so (including the Baha'i community, Presbyterian Church, Methodist Church and Seventh-day Adventists). Unregistered religious communities lack a legal basis on which to practice their faiths, including holding services or other religious ceremonies. Most houses of worship of non-registered religious communities have reportedly been closed, while government approval is required to build any new religious venue. Leaders and members of unregistered communities that continue to practice their faith,

including through holding a joint prayer session at home, or attending a wedding or funeral, are at risk of arrest. The Eritrean government and Eritrean religious leaders do not publicise arrests and/or releases, and government secrecy and intimidation makes documenting the exact numbers of such cases difficult.

3.6 DFAT assesses that ordinary members of registered religions are generally able to practice their faith freely. However, those who protest government interference in the running of their religious organisation's affairs face a high risk of imprisonment, regardless of whether they hold a leadership position or are an ordinary member. DFAT assesses that members of unregistered religious communities face a high risk of official discrimination in Eritrea, as they are unable to practice their faith freely.

Pentecostal and Evangelical Christians

3.7 The January 2016 USCIRF report found that newer religious communities such as Pentecostal and Evangelical Christians comprised the majority of religious prisoners in Eritrea. The Eritrean government has reportedly characterised these groups as being part of a foreign campaign to infiltrate the country, engaging in aggressive evangelism alien to Eritrea's cultural traditions, and causing social divisions. Security forces have reportedly arrested followers of these faiths for participating in clandestine prayer meetings and religious ceremonies. Treatment of these groups varies by location. The US State Department reported that in 2015 some local authorities had denied water and petrol to Pentecostal groups. The USCIRF reported that it had confirmed almost 200 arrests of Pentecostal and Evangelical Christians in 2015. Pentecostal and Evangelical Christians released from prison have reported being pressured to recant their faith, forced to sign a statement that they would no longer gather to worship, and warned not to re-engage in religious activities.

3.8 DFAT assesses that Pentecostal and Evangelical Christians face a high risk of official discrimination in Eritrea as they are unable to practice their faith freely, and risk government harassment or arrest and detention should they attempt to do so.

Jehovah's Witnesses

3.9 On October 25 1994, a presidential decree revoked the citizenship of Jehovah's Witnesses due to their refusal to take part in the referendum on independence or to participate in national service. Political neutrality and conscientious objection to military service are key aspects of faith for Jehovah's Witnesses. While national service in Eritrea does include a civil component (see 'National Service'), all Eritreans are required to undertake military training and Eritreans cannot generally choose which type of service they will perform. Since the decree was issued, Jehovah's Witnesses have been barred from obtaining government-issued identity and travel documents (required for legal recognition of marriages or land purchases); from obtaining government jobs; and securing business licences.

3.10 The USCIRF reported in January 2016 that whole congregations of Jehovah's Witnesses had been arrested while attending worship services in homes or rented facilities, while individual Witnesses were regularly arrested and imprisoned for proselytising to others. Some arrestees have been quickly released, while others have been held indefinitely without charge. Jehovah's Witnesses released from prison have reported being pressured to recant their faith, forced to sign a statement that they would no longer gather to worship, and warned not to re-engage in religious activities. Jehovah's Witnesses who have refused to serve in the military have reportedly been imprisoned without trial, some for over a decade and at least three since 1994. The government's requirement that all high school students complete their final year at

the Sawa Training and Education Camp, which includes six months of military training, has effectively denied the children of Jehovah's Witnesses an opportunity to graduate from high school. Some have reportedly been expelled from school for refusing to salute the flag or to pay for membership in the officially sanctioned national organisation for youth and students.

3.11 DFAT assesses that Jehovah's Witnesses face a high risk of official discrimination in Eritrea as they are unable to practice their faith freely, and risk government harassment or arrest and detention should they attempt to do so. This discrimination includes through not being permitted to perform alternative forms of national service that do not including military training or service, and the denial of educational opportunities.

Personal Status Laws/ Civil status documentation

3.12 Sub-region administrations are responsible for issuing official civil status documents, including birth, marriage, divorce and death certificates. These all include reference numbers for the civil registry office archive and the electronic population register. Civil status documents are A4-sized computer printouts that have no security features apart from stamps and signatures. A printout, identity card (or copies thereof) and an application form must normally be presented before an official civil status document is issued. DFAT understands that different procedures are followed throughout the country when issuing official civil status documents, and documents may vary in their physical appearance.

3.13 Although religious marriages are recognised in Eritrea, religious documents are generally not recognised as valid documents of identity. However, in some cases religious documents must be provided in order to register a marriage in the civil registers. An additional official (state) marriage certificate is not required, but the marriage must be entered into the local administration's register. Islamic courts issue Muslim civil status documents, including birth, marriage, divorce and death certificates. These documents are then integrated into the civil courts at the various administrative levels and thus form part of the state justice system. Anyone marrying in a mosque must also register the marriage with an Islamic court. The Catholic and Orthodox churches use their own handwritten registers, which they use as a basis for issuing baptismal and marriage certificates.

3.14 The legal minimum age for marriage is 18 years for both men and women, although religious entities may condone marriages at younger ages. However, numerous sources have reported that child marriage is common in Eritrea, particularly in rural areas. International human rights organisations have reported that some under-age girls have voluntarily entered into early marriage in an attempt to avoid going to Sawa, or been forced to do so by their families.

POLITICAL OPINION (ACTUAL OR IMPUTED)

National Service Conscripts

3.15 The government requires all physically- and mentally-capable men and women between the ages of 18-70 to perform a full-time national service obligation, which may include a military, development or civil service component. Eritreans are allocated to their national service role based on examination results rather than by choice. All Eritreans are required to undergo some military training, regardless of their national service role. DFAT understands that those serving as priests or imams in recognised religions may be exempt from national service obligations.

3.16 A 1995 Proclamation on National Service required the conscription of all 18-year old Eritreans, (complementing previous laws); while (as noted in 'Education') since 2002 both boys and girls completing their 12th and final year of school have been required to do so at the residential Sawa national military training centre, which includes six months of military training. Conscripts who pass the final examination at Sawa are permitted to continue their education while remaining formally in national service, while those who fail are required to serve in either the military or the civil service for at least 12 months.

3.17 Men are generally unable to obtain an exemption from national service; however, pregnant women and mothers are reportedly not required to serve. Article 119 of the 2015 Penal Code (Interference with Military Service) provides for terms of imprisonment of one to three years for anyone evading or attempting to evade compulsory military service, or for assisting another to do so. Should the act take place during a time of emergency, general mobilisation or war, the term of imprisonment is between seven to ten years. The UN Commission of Inquiry reported in 2015 that authorities had regularly conducted mass and indiscriminate round-ups to seize draft evaders and deserters, which had often involved excessive use of force, occasionally leading to death, and the forced entrance into and search of private homes. The US State Department's 2015 Human Rights Report corroborated this allegation.

3.18 Conditions for national service conscripts vary considerably. While those involved in civil service and development activities face conditions and treatment comparable with the remainder of the population, it has been widely reported by international human rights organisations that conditions and treatment during military training and service are very harsh. The UN Commission of Inquiry reported in 2015 (corroborated by the US State Department) that conscripts were systematically subjected to intentional punishment and ill-treatment aimed at inflicting severe pain, which in many cases constituted torture (see 'Torture').

3.19 It has been widely reported that many conscripts have been compelled to serve indefinitely. The UN Commission of Inquiry reported in 2015 that it had interviewed individuals who had served in the army for 17 years before deciding to flee Eritrea. Conscripts have also had limited and arbitrarily granted leave allowances which have in many cases severely disrupted their family lives. Conscripts have also reportedly been paid salaries insufficient to cover their families' basic needs. The government announced in early 2016 that it would considerably increase salaries for those on national service. DFAT understands that this change has been implemented, but its impact has been minimal due to withdrawal restrictions on personal bank accounts.

3.20 In its response to recommendations made in the Universal Periodic Review's Working Group in August 2014, Eritrea rejected calls from a large number of countries to take measures to either abolish or modify its national service programs, end the indefinite nature of the service, end compulsory military training, and establish provisions for conscientious objections to military service. The Minister for Information confirmed in February 2016 that there were no plans to limit military service programs, citing the ongoing threat posed by Ethiopia.

3.21 The UN Commission of Inquiry concluded in both its 2015 and 2016 reports that the conditions of service faced by national service conscripts in Eritrea amounted to enslavement. International human rights organisations, including Amnesty International and Human Rights Watch, have concurred with this view. The government has vehemently denied this claim, stating in June 2016 that the ongoing state of war with Ethiopia had required the prolonging of national service in some cases; that large numbers of conscripts had nevertheless been demobilised, particularly women; that over 90 per cent of national service conscripts served in civilian projects, mainly as teachers and health personnel; and that an improved economic situation had made salary raises possible.

3.22 DFAT assesses that almost all Eritreans are compelled to undergo some form of national service, including military service. While conditions for national service conscripts vary considerably, those whose service is primarily military-focused are most likely to be subjected to harsh conditions and treatment, which may include physical punishment. DFAT assesses that the lack of choice by which conscripts are allocated to national service fields, the compulsion to perform military service and lack of access to alternative forms of service for conscientious objectors, the possibility of indefinite service, the limited and arbitrarily granted leave allowances, and insufficient salaries, all represent a form of discrimination, and are a major contributing factor to the large migration outflows from Eritrea.

Human Rights Organisations/ Civil Society

3.23 In 2005, Eritrea passed a law (Proclamation 145/2005) severely restricting the activities of international NGOs in Eritrea on the ground that their activities hampered the self-reliance of the population and led to greater dependency. Most international NGOs left Eritrea as a result, with almost all of those remaining ordered to leave in 2011. The few remaining international organisations, primarily UN agencies, are subject to tight restrictions on their activities and movements. Some international NGOs have recently returned to Eritrea, and there has been movement towards the return of others. Those international NGOs that have continued to operate in Eritrea have done so through working closely with the government on priority areas, such as education, water, sanitation and health, and through keeping a low public profile.

3.24 Three mass organisations dominate civil society in Eritrea: the National Union of Eritrean Women (NUEW); the National Confederation of Eritrean Workers (NCEW); and the National Union of Eritrean Youth and Students (NUEYS). All three organisations were established during the independence struggle, and are government-controlled. All seek to advance Eritrea through developing human capacity and skills, and by promoting national goals and values. Membership of the three organisations is open to all Eritreans fitting the profile (the NCEW is for women aged 16 and up; the NUEYS accepts Eritreans up to the age of 40) and is voluntary in nature. All three organisations hold elections for their office-bearers from the village level upwards, and have done so regularly. Virtually all of the other civil society organisations and NGOs established in Eritrea after independence have been forced to abandon their operations. DFAT is not aware of any that are currently active within Eritrea.

3.25 DFAT assesses that it is not currently possible to participate in a civil society organisation in Eritrea other than one of the three mass organisations. Any Eritrean attempting to establish a new organisation or to run civil society activities independently of the three mass organisations would face a high risk of arrest and imprisonment.

Critics of the Government

3.26 The PFDJ is the only legal political party in Eritrea and operates at all levels of the administration, allowing the party to control administrative structures throughout the entire country. There are no other legally approved opposition groups or other organisations independent of the PFDJ. The government has emphasised on many occasions that a multi-party system is inconceivable in Eritrea, arguing it would encourage tribalism and the risk of ethnic violence. While there is virtually no organised underground opposition within Eritrea, there are several ethnic rebel groups based in Ethiopia and diaspora civil society organisations that focus primarily on promoting human rights. Although political opposition to the PFDJ is almost entirely based within the diaspora, including a significant presence in Ethiopia, there is no

'Government in Exile' or alternative administration that commands popular support among diaspora Eritreans.

3.27 Until the outbreak of the border war with Ethiopia in 1998, newly independent Eritrea enjoyed a political climate far freer than the present. However the government's actions during and after the border war and an increasingly autocratic style of leadership led to growing criticism. Since 2001, public and private criticism of the government has been repressed, with large numbers of Eritreans arrested and detained. While the exact number of political prisoners is unknown, in 2013 the UN High Commissioner for Human Rights reported that there were between 5,000 and 10,000 political prisoners and prisoners of conscience in Eritrea. Those imprisoned reportedly include former politicians, journalists, and adherents of unrecognised religions. The government has justified the lack of civil liberties in Eritrea under emergency measures due to the 'no war, no peace' situation following the border war with Ethiopia.

3.28 In May 2001, a group of high-ranking ex-combatants referred to as the G-15 published an open letter to the government setting out various demands, including a call for greater democracy. In response, a wave of imprisonments took place over a two-day period in September 2001. The 11 G-15 members who were in Eritrea at the time were detained, along with several journalists and other government critics. No criminal proceedings were ever initiated against those detained, and the government has never confirmed their location. Although at least nine of the 11 imprisoned G-15 members were believed to have died, Foreign Minister Osman Saleh said in June 2016 that all of the detainees were alive and would be tried when the government decided.

3.29 In January 2013, approximately 100 soldiers reportedly occupied the Ministry of Information and forced a TV presenter to read out a statement saying that the 1997 constitution would be implemented and all political prisoners released. The government suppressed the mutiny, and the soldiers returned to their barracks. Between 50 and 200 people were reportedly arrested in its aftermath. Details of the affair are extremely murky, with some sources denying it even took place. DFAT is unaware of the well-being or otherwise of any of those arrested.

3.30 In May 2014, four bishops of the Catholic Church published an open letter warning that the country was being depopulated through emigration, which they attributed mainly to the indefinite military service and the imprisonment of dissenters. The letter, which described the country as 'desolate', called on the government to introduce a more transparent and lawful political system, to release political prisoners, and to allow open debate. The letter did not criticise the government or president directly. There have not been any reports of the bishops suffering any negative consequences for publishing the letter.

3.31 Diplomatic sources in Asmara have told DFAT that some Eritreans have openly complained about the hardships caused by the difficult economic situation. DFAT is aware in particular that there has also been considerable unhappiness in Eritrea about the manner in which the currency replacement was introduced, particularly in relation to the tight restrictions imposed upon bank withdrawals. However, those complaining have not done so in the form of an organised protest, and have tended to blame external pressures rather than the government for the economic difficulties.

3.32 DFAT assesses that that anyone who attempted to openly oppose the government politically while in Eritrea, particularly through participating in an organised protest or engaging in other types of political activity (including online), would face a high risk of official discrimination, including possible arrest and imprisonment. DFAT further assesses that while Eritreans can express concern about the migration crisis and/or difficult economic situation, they would be unlikely to be able to blame either on the government or on the president without attracting official interest and sanction.

Media

3.33 Within Eritrea, the government tightly controls the content of print media, the journalists who produce it, and the matters they may cover. The Committee to Protect Journalists (CPJ) ranks Eritrea as the most censored country worldwide, and asserts that even those working for the heavily censored state press are subject to arrest for any report perceived as critical to the ruling party. Reporters Without Borders (RWB) has ranked Eritrea last in its press freedom index for eight consecutive years, up to and including 2016.

3.34 The Ministry of Information has responsibility for five newspapers (published in English, Tigrinya and Arabic) which appear between one and three times a week; the ERINA news agency; the multilingual television station EriTV; two radio stations; and an official website (Shabait.com). The Ministry's stated goals are to promote development and health issues, to cover regional stories, to open windows on the diaspora, and to close the gap between the capital and regional Eritrea.

3.35 There is no independent media in Eritrea. Although several private newspapers were published in Eritrea in the first decade after independence, all free media outlets were shut down in September 2001 and many journalists were imprisoned. The last foreign media correspondents left Eritrea in 2004. Several diaspora-run independent and opposition websites are reportedly accessible in Eritrea, and an underground opposition newspaper published at irregular intervals has reportedly been in circulation since 2013. It is unclear whether any punishment is meted out to those caught accessing the illicit websites or in possession of the underground newspaper.

3.36 CPJ and RWB concur that between 15-17 journalists are currently detained in Eritrea on the basis of their work. Eritrean authorities have not accounted for the whereabouts, health or legal status of most of those detained. Many are reportedly held incommunicado, and several have been in prison since the September 2001 crackdown on the independent media. According to CPJ, at least one journalist has died in secret detention. In January 2015, six journalists who worked for the government-controlled station Radio Bana were released from detention. The six had been arrested in a raid on the station in February 2009.

3.37 Eritreans are able to access foreign satellite news channels, which broadcast without any apparent restriction into Eritrea. TV satellites are ubiquitous in Eritrea, including in poor and rural areas. A small but significant number of foreign journalists representing high profile outlets (including the BBC, Wall Street Journal and New York Times) have been allowed entry to Eritrea since 2015. The journalists have been permitted to operate without restriction in Asmara, including through interviewing ordinary Eritreans. The New York Times has reported that many Eritreans listen to international radio programs that are critical of the government.

3.38 According to the International Telecommunication Union (ITU), Eritrea is among the world's least connected countries. Eritrea was the last country in Africa to get a V-SAT connection linking it to the internet, and remains one of the continent's only two coastal nations without fibre-optic connections. While there are a number of internet cafes in Asmara and other major cities, internet access is extremely slow and very expensive. Very few ordinary Eritreans have access to the internet –the ITU reported that less than 1 per cent of Eritreans went online in 2013. DFAT has observed that some international hotels offer Wi-Fi services in public areas, although it is very slow and unreliable. There is little evidence that the government censors the internet, largely because high costs and inefficiency have limited its effective use as a tool of dissent. According to the ITU, in 2013 (most recent data available) only 1 per cent of Eritreans had a landline and only 5.6 per cent had a mobile phone – amongst the lowest rates in the world. Eritreans wishing to obtain a mobile phone must apply for permission from Eritrea's sole government-controlled

telecommunications provider. Application, launch and call costs are all extremely high. Eritreans fulfilling national service are not permitted to own mobile phones.

3.39 DFAT assesses that it is not currently possible to participate in the media in Eritrea outside of that controlled by the government. Any person attempting to establish an independent media outlet would face a high risk of arrest and imprisonment. DFAT assesses that journalists working in state media face a risk of arrest and imprisonment should they publish reports perceived as being critical of the government or president. DFAT assesses that Eritreans wishing to access the internet or foreign media are generally able to do so without interference by the government, although their ability to do so may be limited by cost and poor technical capacity.

Women

3.40 The significant contribution made by Eritrean women in the struggle for independence is widely acknowledged and highlighted in Eritrea. According to the NUEW, every Eritrean Ministry has a gender focal point, and every policy is required to be gender sensitive. The 2015 Penal Code contains a number of provisions aimed at preventing gender-based violence, including trafficking in women. Eritrea is a signatory to the Convention on the Elimination of All Forms of Discrimination Against Women (1979).

3.41 Eritrea provides for the same legal status and rights for women as men under family, labour, property, nationality and inheritance laws, and requires equal pay for equal work. At the date of publication, Eritrea's government had three female ministers (Justice, Tourism, and Health) and women served in a number of other senior positions, including as Ambassador to France and as regional administrators. On community court panels of three judges, at least one is required to be a woman. The NUEW strongly advocates that women be part of all areas of national service, including the military, and there are some high-ranking female officers within the Eritrean military. The NUEW has a representative at Sawa.

3.42 Proclamation No.158/2007 prohibits female genital mutilation (FGM), and provides for imprisonment and fines for those performing, inciting or promoting it. The penalty is aggravated should the person performing the act be a medical practitioner. Eritrea has instituted mass media campaigns to discourage the practice. However, a February 2016 report on FGM by the UN Children's Fund (UNICEF) found that 89 per cent of Eritrean women and girls had been subjected to FGM. An earlier UNICEF report published in July 2013 found that FGM was almost equally prevalent among Muslim and Christian communities, and that 60 per cent of Eritrean women and girls viewed it as a religious requirement.

3.43 Rape is prohibited in Eritrea, but Article 307 (2) of the 2015 Penal Code states that rape between spouses is punishable only when they are not living together in the same household. Article 323 prohibits adultery by married people but does not differentiate according to gender. Article 283 of the 2015 Penal Code permits abortion by a licensed medical practitioner in circumstances where the pregnancy is the result of rape or incest; the pregnant woman is under the age of 18; or the pregnancy might endanger the physical or mental health of the pregnant woman.

3.44 According to the US State Department's 2015 Human Rights Report, domestic violence is reportedly commonplace in Eritrea but rarely reported or brought to trial. Women usually refrained from openly discussing domestic violence because of societal pressures, and authorities rarely intervened. The NUEW told DFAT that domestic violence was not a major issue in Eritrea, but when incidents did occur they were generally dealt with at the community level through mediators rather than through the legal system. DFAT is not aware of whether any shelters for abused women exist in Eritrea.

3.45 In February 2015, the UN Committee on the Elimination of All Forms of Discrimination against Women expressed concerns about the rights of women in the context of national service (see 'National Service'). The Committee reported that women and girls performing the military component of their national service were frequently victims of sexual violence, including rape, committed by officers and male recruits, while women who refused sexual advances were often severely punished.

3.46 DFAT assesses that women in Eritrea are generally able to access education, employment opportunities and most other areas of life without significant barrier. However, their ability to do so may be reduced in rural and more traditional areas. DFAT further assesses that women in Eritrea face a high risk of violence, particularly experiencing FGM, regardless of socio-economic or religious background. Women performing the military component of their national service face a high risk of sexual assault.

Sexual Orientation and Gender Identity

3.47 Article 310 of the 2015 Penal Code prohibits homosexual conduct. Consent is no defence to an offence under Article 310. Homosexual conduct is punishable with a definite term of imprisonment of between five and seven years. According to the US State Department's 2015 Human Rights Report, the Eritrean government did not actively enforce Article 310. However, DFAT is aware of a 2013 case where a gay Italian national was expelled from Eritrea for failing to comply with local law relating to homosexual activity. In its response to recommendations made in the Universal Periodic Review's Working Group in August 2014, Eritrea rejected a call to launch to tackle all forms of discrimination against lesbian, gay, bisexual, trans and intersex (LGBTI) persons, arguing that it was in direct contradiction with the values and traditions of the Eritrean people. There are no known LGBTI organisations in Eritrea, and general societal norms stigmatise discussion of LGBTI issues.

3.48 DFAT assesses that LGBTI people in Eritrea face a high risk of social discrimination, with ongoing traditional views about sexuality and gender restricting their participation in the community and workforce. They also face a high risk of official discrimination due to the existence of Article 310 that, even if it is not actively enforced, makes them vulnerable to arrest or harassment.

COMPLEMENTARY PROTECTION CLAIMS

ARBITRARY DEPRIVATION OF LIFE

Extra-Judicial Killings

4.1 In its June 2015 report, the UN Commission of Inquiry found that extrajudicial executions and arbitrary killings had been widely perpetrated in Eritrea since independence. The report found that Eritrean authorities have carried out extrajudicial executions, publicly or secretly, to punish perceived critics, as well as suspected smugglers and ordinary citizens for arbitrary reasons. The UN Commission of Inquiry report noted that some of the extrajudicial killings and executions reported may have resulted from personal initiatives or excessive use of force by officials, and that a culture of impunity existed. The UN Commission of Inquiry expressed concern that the general climate of impunity thus created was conducive to the continued practice of arbitrary and extrajudicial killings in Eritrea. Other international commentators, including the US State Department, Freedom House, and Amnesty International, have supported the UN Commission of Inquiry's findings.

4.2 In 2004, the Eritrean government publicly announced the implementation of a shoot-to-kill policy in border areas to prevent people from fleeing Eritrea. Amnesty International's 2015/16 report on Eritrea stated that the policy remained in place for anyone attempting to evade capture and attempting to cross the border into Ethiopia. In its preliminary response to the UN Commission of Inquiry report, the Eritrean government denied that there had ever been a shoot-to-kill policy. DFAT assesses that the sheer weight of numbers of people reportedly departing Eritrea each month suggests that the policy may not presently be actively enforced.

Enforced or Involuntary Disappearances

4.3 Article 108 of the 2015 Penal Code states that enforced disappearance of persons, by the State or a political organisation, is a crime against humanity punishable by life imprisonment or, in cases of exceptional gravity, with the death penalty.

4.4 The UN Commission of Inquiry reported in 2015 that scores of people had been subjected to enforced disappearance since independence in 1991, for known and unknown reasons. The report found that information on the whereabouts of and/or charges against those detained was rarely provided officially. Detainees were usually not brought before a court and thus placed outside the protection of the law. Prison authorities generally informed relatives enquiring after detainees that they had no information on the person arrested, and warned them to cease their enquiries or risk facing a similar fate. In certain cases, relatives may subsequently receive unofficial information from released inmates or from bribed guards, but in most cases they were prevented from visiting their detained relatives. The UN Commission of Inquiry

report concluded that enforced disappearance was a widespread and systematically employed practice in Eritrea.

4.5 Other international commentators have supported the UN Commission of Inquiry's findings. The US State Department reported that an unknown number of persons disappeared during 2015, and were believed to be in government detention or to have died in custody. Disappeared persons included those detained for political or religious beliefs, journalists, individuals suspected of evading national service and militia duties, and persons with no known charge against them. Freedom House reported that arbitrary arrest and disappearances were common.

4.6 In its preliminary response to the UN Commission of Inquiry report, the Eritrean government conceded that there might have been instances in which some people were wrongfully detained and imprisoned. The government stated that it had brought to justice a number of individuals who had abused their position in this regard, and that it continued to make determined efforts to prevent any recurrence. However, the government disputed the UN Commission of Inquiry's finding that enforced disappearances had occurred in a persistent, widespread and systematic manner. In its response to recommendations made in the Universal Periodic Review's Working Group in August 2014, Eritrea rejected calls from a number of countries to sign and ratify the International Convention for the Protection of All Persons from Enforced Disappearance, and to investigate all pending reports of enforced or involuntary disappearances and to punish the perpetrators of these crimes.

Deaths in Custody

4.7 The government does not release any information regarding either the number of people held in custody or deaths occurring in its detention facilities. It is therefore impossible to say with any certainty how many Eritreans may die in custody in any given year, and whether the circumstances of their death are related to torture or poor detention conditions.

DEATH PENALTY

4.8 The government refuses to provide information on its use of capital punishment. The last confirmed execution to have taken place in Eritrea occurred in 1989 (before Eritrea became an independent state). Amnesty International characterises Eritrea as being abolitionist in practice. In its response to recommendations made in the Universal Periodic Review's Working Group in August 2014, Eritrea rejected calls from a number of countries to abolish the death penalty formally.

4.9 Article 62 of the 2015 Penal Code authorises Eritrean courts to impose capital punishment in cases involving 'Class1' serious offences. These are defined as genocide; crimes against humanity (see also 'Enforced or Involuntary Disappearances' and 'Torture'); war crimes against a civilian population; war crimes against wounded, sick or shipwrecked persons; war crimes against prisoners of war; high treason; aggravated sabotage; piracy; and aggravated murder. For all offences, use of the death penalty is reserved for 'cases of exceptional gravity'. Executions are generally carried out by lethal injection, although in the case of members of the armed forces the sentence may be carried out by firing squad.

4.10 Article 64 of the 2015 Penal Code places some limitations on the use of the death penalty. Capital sentences cannot be imposed unless specifically authorised by the law defining the offence and in the absence of any mitigating circumstances, or on a person under 18 years old at the time of the offence

(Section 1); executions cannot be carried out without confirmation of the conviction and sentence by the Supreme Court and without the express confirmation of the Head of State of Eritrea, who also has the power to commute any death sentences (Section 2); executions cannot be carried out on a woman who is pregnant or who has a child under three years of age, on a person who is seriously physically or mentally ill, or on a person who has not exhausted automatic appeals (Section 3). Article 103 (a) also specifically precludes juvenile offenders from being sentenced to death (or life imprisonment).

TORTURE

4.11 Article 108 of the 2015 Penal Code states that torture is a crime against humanity punishable by life imprisonment or, in cases of exceptional gravity, with the death penalty. Eritrea acceded to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (1984) in September 2014. Despite these legal protections, international commentators have consistently concurred that torture is widespread in Eritrea.

4.12 The UN Commission of Inquiry reported in June 2015 that Eritrean officials had used a variety of forms of ill-treatment intended to inflict severe physical and psychological pain during interrogations or as a means of punishing detainees. These included extreme forms of restraint, beatings or rape. The purpose of these acts was to extract confessions and information, and to punish, intimidate and coerce detainees and conscripts. The UN Commission of Inquiry concluded that there was a deliberate policy to inflict torture in a routine manner during investigations and interrogations, as well as during national service, and perpetrators of torture enjoyed general impunity. In its preliminary response to the UN Commission of Inquiry report, the Eritrean government denied the allegations, noted the legal protections against torture, and stated that it was working on awareness programs and on upgrading the capacity and professionalism of its security personnel. Amnesty International, Freedom House and Human Rights Watch have also reported that torture was commonplace in Eritrea, and that many of the methods used caused long-lasting psychological and physical damage to the victims, or resulted in their death.

4.13 DFAT assesses that officials in Eritrea commonly use a variety of forms of ill-treatment of detainees during interrogations, or as a form of punishment, which may amount to torture. Groups at a high risk of tortured may include political prisoners, practitioners of unauthorised religions, and deserters from national service. DFAT further assesses that those committing the torture are likely to enjoy general impunity.

CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT

Arbitrary Arrest and Detention

4.14 Article 149 (1) (b) of the 2015 Penal Code states that unlawful arrest and detention by public officials is an offence punishable by a term of imprisonment of between six to twelve months. However, as noted in 'Enforced Disappearances', international observers have concurred that arbitrary arrest and detention are routine and indiscriminate in Eritrea. In its response to recommendations made in the Universal Periodic Review's Working Group in August 2014, Eritrea rejected calls from a number of countries to take all necessary measures to put an end to arbitrary arrest and prolonged detention without charge and without trial.

Corporal Punishment

4.15 Article 58 of the 2015 Penal Code prohibits punishment that causes physical suffering to the offender. There is no provision for corporal punishment among authorised sentences (Article 62) or among measures applicable to child and juvenile offenders (Articles 101, 102 and 103). Prior to the 2015 reform, corporal punishment (caning) of young offenders was provided for in Article 172 of the 1957 Transitional Penal Code and Article 213 of the Transitional Criminal Procedure Code. However, as noted in ‘Torture’, international commentators have consistently reported that Eritrean officials routinely utilise a variety of forms of physical ill-treatment during interrogations and to punish detainees and conscripts, including extreme forms of restraint, beatings or rape.

OTHER CONSIDERATIONS

STATE PROTECTION

State-affiliated Security Bodies

5.1 There is little information available about the structure or size of Eritrea's internal security system. The UN Commission of Inquiry reported in July 2015 that the government had established a system by which an extraordinary number of individuals had the power to spy on Eritreans, both within Eritrea and in the diaspora, and to conduct investigations and arrests, often without observing the law. Diplomatic sources in Asmara told DFAT that while there was not a particularly visible police or security presence on the ground; intelligence gathering was unquestionably being conducted. It was, however, impossible to say how widespread intelligence-gathering activities were, or whether they were more prevalent in Asmara and other cities than in other parts of the country.

Military

5.2 The Eritrean Defence Forces (EDF) comprises an Army, Navy and Air Force. The strength of the EDF is difficult to evaluate, with most of its manpower provided by conscripts. The large number of conscripts fleeing the country has reportedly weakened the EDF considerably, with some units operating at half-strength. The EDF is deployed throughout Eritrea, and its members reportedly spend considerable time engaged in non-military activities such as farm work, construction of houses, and infrastructure projects.

5.3 The Eritrean Army constitutes the main component of the EDF. Three separate Presidential Guard units of around 2,000 troops each represent the Army's elite force. The three units are primarily stationed in or around Asmara. They are each nominally led by a Major-General, but in practice are reportedly personally commanded by the president. Eritrea is divided into five military operation zones, each headed by a general. There is little information as to how operation zones are staffed and structured. However, reports indicate that since the 1998-2000 border war with Ethiopia, operation zone commanders generally supersede civil administrators. Operation zone commanders are reportedly frequently transferred, both to encourage rivalries and to prevent them from building too strong a rapport with the troops they command.

5.4 The Eritrean Navy is a smaller branch of the EDF. It is headquartered in Massawa, with a number of smaller bases located in coastal cities or on Red Sea islands. The Navy has a small number of vessels, and has reportedly been seriously weakened by continuous defections of its officers to Yemen and Saudi Arabia. The Eritrean Air Force is the smallest branch of the EDF. It is Asmara-based and reportedly has a very limited operational capability.

People's Army

5.5 In March 2012, the government established a civil militia known as the 'People's Army', which operates in parallel to the national service troops. The move was apparently prompted by Ethiopian incursion into Eritrean territory. The militia is composed of citizens released from national service and conscripts assigned to civil assignments. Militia members reportedly carry out tasks such as patrolling, guarding, or working on national development projects. Recruitment for the militia has reportedly taken place primarily in Asmara and Keren, with conscription taking place through the hanging of posters on house walls and street lamps. In January 2015, local administrations in Eritrea issued notices warning those who had not reported for militia duty of serious consequences. The European Asylum Support Office reported in May 2015 that there had been some round-ups and detentions of such evaders.

Police

5.6 The Eritrean Police Force (EPF) is part of the country's Police and Security Command, headquartered in Asmara. Its mission is defined as being to enforce the law; to prevent, detect and investigate crime; and to control traffic. Very little information is available as to the size or activities of the EPF. DFAT noted during its August 2016 in-country visit to Eritrea that the uniformed police presence on the streets of Asmara and other cities was more limited than might be expected, with most visible police directing traffic.

Judiciary

5.7 The judiciary is officially divided into military courts, civil courts (including community courts, regional courts and the High Court) and a Special Court. All courts report to the Ministry of Justice. Eritrea has not yet established a Supreme Court, and the highest court in the land is currently the High Court. In 1996, Eritrea established a Special Court as a temporary measure to fight corruption, operated by the President's Office with the help of the secret service, the army and the police. In practice, the Special Court has reportedly been used by the government to circumvent the formal justice system in political, administrative and criminal cases. Its judges, who are mostly high-ranking members of the military, are appointed directly by the president. Extrajudicial prison sentences are also meted out by secret committees on a regular basis. Due to the secretive and arbitrary nature of these proceedings, it is difficult to obtain information about them.

5.8 In practice, written laws have played a limited role in the Eritrean justice system. More significant have been proclamations and the issuing of new legislation by decree by the president or relevant ministries, with these entering into force without parliamentary consent. Further sources of law have included administrative acts, directives and orders published by ministries, other administrative bodies and the military, as well as personal interventions by the president.

5.9 In May 2015, Eritrea introduced new Civil and Penal Codes (the 2015 Penal Code), and Civil and Penal Procedure Codes, to replace the transitional Codes that had been in place since the *de facto* declaration of independence in 1991. The new Codes incorporated customary law, made provisions for crimes arising out of advancements in technology, introduced stratification of offences and punishments, and sought to parallel sentences with the general trend of sentences internationally. However, the UN Commission of Inquiry reported in May 2016 that subordinate legislation issued by decree was still being

implemented in an arbitrary manner, and that the legal vacuum continued to have far-reaching consequences for the protection of human rights in Eritrea.

Traditional Mediation Systems and Customary Law

5.10 As noted in 'Judiciary', the 2015 Penal Code incorporated customary law. Prior to this, customary law was applied at the lowest level of administration by community courts, established in 2001. Mediators and village elders, who are regarded as moral authorities, play a prominent role in these courts. Some mediators are former independence fighters, and have only limited knowledge of customary law having spent much of their earlier life in battle. DFAT understands that the community courts generally encourage litigants to settle their disputes out of court wherever possible, and frequently refuse to institute proceedings.

Detention and Prison

5.11 Eritrea does not publish prison statistics. Along with North Korea and Somalia, Eritrea was one of only three countries for whom statistics were not available for inclusion in the World Prison Brief/ Institute for Criminal Policy Research's October 2015 World Prison Population List, which provides details of the number of prisoners held in 223 prison systems in independent countries and dependent territories.

5.12 According to the UN Commission of Inquiry's June 2015 report, the detention network in Eritrea is vast, includes many secret and unofficial facilities, and is not subject to judicial review. Detainees are kept in a variety of facilities, including makeshift and open air camps, converted old buildings, metal containers (some of which are buried underground), and in caves and holes. The practice of incommunicado detention is widespread, and can last for several years. Solitary confinement and forced labour are reportedly common practices, with prisoners kept in extremely overcrowded cells characterised by poor hygienic conditions. Proper toilets are not available in cells, and detainees are sometimes forced to sleep in human waste overflowing from the insufficient containers provided for this purpose. Access to fresh air and natural light is extremely limited. Food rations are minimal and of poor nutritional quality. Drinking water is frequently unclean and limited in quantity, despite the high temperatures experienced in many detention locations. In addition, the absence of health facilities and the lack of medical care and medicines expose detainees to illnesses, epidemics and death. International commentators, including Amnesty International, Human Rights Watch, Freedom House and the US State Department, concur that conditions of detention in Eritrea are extremely harsh.

5.13 Although there is a juvenile detention centre in Asmara, the UN Commission of Inquiry's June 2015 report documented a number of instances where children were detained together with adults in the same inhumane conditions and without attention to their specific needs. The US State Department reported that this had occurred due to overcrowding in the Asmara juvenile facility and because young children were held in prison when their mothers were arrested. As with others, children are often held incommunicado.

Forced Labour

5.14 Proclamation 118 of 2001 (the Labour Proclamation) prohibits forced labour and slavery. However, it excludes activities performed as part of national service or other civic obligations, and labour protections limiting hours of work and prohibiting harsh conditions do not apply to persons engaged in national service.

5.15 The UN Commission of Inquiry reported in June 2015 that most conscripts in the military and all conscripts in civil service were subjected to forced labour. The report stated that there was a pattern of torture, inhuman, cruel or degrading treatment or punishment of conscripts in the army in connection with the labour that these conscripts were forced to perform. The working and living conditions of conscripts who were subjected to forced labour were conducive or amounted to additional human rights violations, such as the right to work in just and favourable conditions, the right to adequate housing, and the right to the highest attainable standard of health and access to health care, in particular when conscripts were required to perform dangerous work. International commentators, including Amnesty International, Freedom House, Human Rights Watch, and the US State Department all concurred with the UN Commission of Inquiry's finding that forced labour occurred in Eritrea in the context of national service.

5.16 In its preliminary response to the UN Commission of Inquiry report, the Eritrean government argued that national service as practiced in many countries did not preclude community service in civilian jobs, and stated that 90 per cent of national service members served in civilian projects, mainly as teachers and health personnel. The government also claimed that, since the release of the UN Commission of Inquiry report, national service members had received salary raises made possible by a much-improved economic situation.

5.17 DFAT assesses that, while conditions may vary, national service conscripts face a high risk of being subject to forced labour during their period of service.

Recovery and Reconstruction Tax (RRT)

5.18 Eritrean citizens seeking consular or other government services from Eritrean diplomatic missions abroad are required to pay a 2 per cent 'Recovery and Reconstruction Tax' (RRT, also known as the 'diaspora tax'). The RRT was introduced through Proclamations 17 of 1991 and 63 of 1995 to encourage Eritreans in the diaspora to contribute to the reconstruction of their country following the long independence struggle. According to the government, the RRT was envisaged as a time-bound provision that would be phased out as Eritrea's economy developed. However, subsequent developments, most notably the 1998-2000 border war with Ethiopia, have delayed this indefinitely. The government maintains that Eritreans living abroad pay the diaspora tax voluntarily.

5.19 Many states levy taxes on their citizens residing abroad. However, several countries have raised concerns with Eritrea that Eritrean diplomatic missions have used coercion or illicit means, including the threat of harm to family members in Eritrea, to extort payment of the tax. In December 2011, the UN Security Council passed Resolution 2023, which called on Eritrea to cease using extortion, threats of violence, fraud and other illicit means to collect taxes outside of Eritrea from its nationals or other individuals of Eritrean descent. In May 2013, Canada expelled Eritrea's Consul in Toronto following revelations that the tax and a separate 'national defence fee' were still being collected from Eritreans in Canada. In June 2015, the London Metropolitan Police announced that they would investigate claims that the Eritrean Embassy in London was using the tax to 'punish and control' Eritreans living in the UK. The government has denied these allegations.

INTERNAL RELOCATION

5.20 The government maintains tight control over movement within Eritrea, both for citizens and foreign nationals. According to the US State Department's 2015 Human Rights Report, citizens are required to notify authorities when they change residence. When travelling within Eritrea, particularly in remote areas or near

borders, citizens are required to provide justification for travel to authorities. DFAT assesses internal relocation would not be a realistic option within Eritrea for those people at risk of official discrimination.

TREATMENT OF RETURNEES

Exit and Entry Procedures

5.21 Proclamation 24 of 1992 regulates the issuing of travel documents, exit and entry procedures from Eritrea, and the control of residence permits for foreigners residing in Eritrea. A valid passport, exit visa and an international health certificate are required in order to leave Eritrea legally. Legal departure points from Eritrea are restricted to one of the allocated border control points, which include Asmara airport, Massawa sea port and several border crossings into Sudan (as noted in 'Security Situation', as of the publication date, all border crossing points with Sudan were closed). The Department of Immigration and Nationality issues exit visas. Branch offices of the Department can issue exit visas without approval from the national office.

5.22 The fulfilment of national service (or legal exemption from it) is a precondition for the issuance of an exit visa. Applicants usually have to submit an identity card, a referral letter from the local administration, a proof of the reason for the trip, a completed application form, a supporting letter from an employer, and either proof of completion of national service or proof of exemption on medical grounds from national service. To obtain an exit visa on medical grounds, medical documentation confirming the need for medical treatment abroad and issued by a committee of doctors must also be submitted.

5.23 EASO reported in May 2015 that, in practice, the conditions for the issuance of exit visas were unclear, and subject to unannounced changes and to arbitrary decisions by authorities. The US State Department's 2015 Human Rights Report stated that categories of persons most commonly denied exit visas included men under the age of 54, regardless of whether they had completed the military portion of national service, and women younger than 30, unless they had children.

5.24 Proclamation 24 of 1992 states that violations of the exit rules or attempts to cross the border illegally (or to help others to do so) are punishable by prison sentences of up to five years and/or fines of up to the equivalent of AUD865. EASO reported in May 2015 that punishment for those caught attempting to leave the country illegally was generally imposed on an arbitrary and extrajudicial basis, and may include detained without charge for an unspecified period of time, being fined, being recruited (or returned) into a military unit, or not being punished at all.

Conditions for Returnees

5.25 As noted above in 'Exit and Entry Procedures', leaving Eritrea without a valid exit visa is illegal and punishable by a prison sentence and/or fine. The UN Commission of Inquiry's 2015 report found that, with a few exceptions, those forced to return to Eritrea were arrested, detained and subjected to ill-treatment and torture. The UN Commission of Inquiry reported that those voluntarily returning might also face arbitrary arrest, particularly if they were perceived as having associated with opposition movements abroad. UNHCR and human rights organisations such as Amnesty International have reported that they understand that those returning to Eritrea after having left illegally face arrest and imprisonment on return. In December 2015, the Eritrean government published a response to UNHCR's eligibility guidelines in which they sought to repudiate claims that those returning (or being returned) to Eritrea were subject to ill-treatment. The

government claimed that the penalties for those leaving illegally had been waived. It noted that Eritrea's tourism was largely based on visitors from the diaspora, claiming the number of such visitors at 85,000 annually. This number included many who granted political asylum outside Eritrea.

5.26 The US State Department's 2015 Human Rights Report found that Eritrean citizens residing abroad generally had the right to return to Eritrea, but needed to show proof that they had paid the 2 per cent RRT to be eligible for consular services and documents (see 'Recovery and Reconstruction Tax' and 'Documentation'). Persons known to have broken laws abroad, contracted serious contagious diseases, or been declared ineligible for political asylum by other governments had their visas and visa requests looked at with greater scrutiny than others. An August 2016 UK Home Office report concluded that the act of having left the country illegally may not, on its own, result in punishment on return to Eritrea. The report found it more likely that the reason the person left the country – usually because they have evaded or absconded from national service – would be of interest to Eritrean authorities, not the fact that they had left the country without an exit visa.

5.27 DFAT observes that international observers generally agree that those who have left Eritrea without having completed national service will be required to regularise their relationship with Eritrean authorities through paying the 2 per cent RRT and signing a letter of repentance before being permitted to return. However, it is uncertain what punishment, if any, these people may face on return. EASO reported in May 2015 that punishment was imposed arbitrarily on an extra-judicial basis, and may range from reassignment to additional duties to long periods of detention, to no punishment at all.

5.28 A June 2016 report by the Swiss Ministry of Immigration found that voluntary returnees who had evaded the draft, deserted or left the country illegally were able to return without punishment, provided they had regularised their relationship with Eritrean authorities prior to their return. The Swiss report cited a new unpublished directive as the basis for this exemption from punishment. The Swiss report found that those forcibly returned were likely to be treated similarly to persons apprehended while trying to leave Eritrea (see 'Exit and Entry Procedures'), and may be liable to be sent back to complete their national service after an unspecified period of detention. The Swiss report noted that there was no legal certainty in the case of voluntary returnees, and little information available regarding the treatment of those forcibly returned.

5.29 A range of sources in Asmara told DFAT that a significant and increasing number of diaspora Eritreans have returned to visit Eritrea on a short-term basis for a range of purposes, including to attend weddings or other family events, conduct business, or to participate in national events such as the May 2016 independence war anniversary celebrations. The August 2016 UK Home Office report noted that while many of these returning Eritreans may have been naturalised in third countries, they often used Eritrean documents (possibly alongside documents from their country of residence) to enter Eritrea; many of these people are likely to have left Eritrea illegally and either sought asylum or obtained refugee status. DFAT is not aware of any evidence to suggest that any of those returning to Eritrea have been subjected to ill-treatment or prevented from departing at the end of their visit.

5.30 DFAT assesses that the act of leaving Eritrea illegally is in itself not likely to put a returnee at risk of serious harm. The sheer numbers of diaspora members returning to visit Eritrea, including many likely to have left illegally and/or been granted asylum abroad, demonstrates a general confidence among this group that they will be not subjected to ill-treatment while in Eritrea. DFAT assesses that those without having completed national service may face a risk of punishment on return, which may include imprisonment or being re-assigned to duty.

DOCUMENTATION

National Identity Cards

5.31 ID cards are compulsory for all Eritreans over the age of 18. The Eritrean government announced in October 2014 that it would introduce new digital national ID cards to replace handwritten cards introduced in 1992 for use in the independence referendum. DFAT understands that this process has commenced, but it is unclear whether the process of distributing the new cards has been completed throughout Eritrea. The Department of Immigration and Nationality issues ID cards. Applicants must submit a supporting letter from their local administration, a birth certificate and proof of Eritrean citizenship (either a parent's ID card or three witnesses) to one of 12 branch offices located throughout Eritrea. The applications are then forwarded to the national office in Asmara, which makes a decision on authorisation. Applications for an ID card can also be submitted to Eritrean diplomatic missions. According to the May 2015 EASO report, applicants are reportedly often asked to prove that they have paid the RRT or to pay any arrears, while deserters and draft evaders are reportedly asked to sign a letter of repentance.

Passports

5.32 The Department of Immigration and Nationality Passports issues passports. Since May 2010, machine-readable (but not biometric) passports have been issued, initially with two years' validity but with five years' validity since 2011. Passports reportedly cost the equivalent of approximately AUD265. Since the introduction of new passports in 2010, all passports have been issued directly from Asmara. Applicants for Eritrean passports must submit a covering letter from the local administration, their identity card (or their parents' cards in the case of children), and a completed application form at the relevant branch office. A supporting letter from their employer or proof they have completed national service must also be submitted. Passports are reportedly not issued to those engaged in national service. Those applying for a passport at an Eritrean diplomatic mission must provide an identity card, application form and proof that national service has been completed. Payment of the RRT is also usually required. According to EASO's May 2015 report, deserters and draft evaders may reportedly be issued passports if certain conditions are met, such as the signing of the letter of repentance.

Residence cards

5.33 Many Eritreans hold residence cards that (unlike national ID cards) include an electronic population register reference number relating to the location of the individual (or family). Since 2003, each Eritrean region has kept an electronic population register from which printouts can be obtained. It is unclear whether it is compulsory for Eritreans to hold such residence cards.

Falsification of Official Documents

5.34 Information about the prevalence of fraudulent Eritrean identity documents is scarce. In September 2014, the Immigration and Refugee Board of Canada cited a number of academic sources stating that there was a high demand for fraudulent identity documents, and that these were common in Eritrea. Most prevalent were reportedly documents that made it possible for people to travel inside the country, including



ID cards, papers stating that the holder was on leave from military service, sickness certificates, and exemptions from national service. The Canadian paper also cited sources who stated that there was a large underground market for fraudulent Eritrean identity documents in refugee communities abroad, including in Ethiopia, Sudan, and Israel. Diplomatic sources in Asmara told DFAT that they were observing a considerable increase of fraudulent supporting documents presented in support of visa applications. Such documents included invitations from employers, evidence of financial situations, evidence of property ownership, and evidence of a relationship between the applicant and the invitee.