

#### 4. International instruments on the administration of justice

61. The Commission also referred to international human rights instruments concerning the administration of justice, which provide detailed guidance about more general rules. To conduct its assessment of the conditions of detention and treatment of prisoners in Eritrea, the Commission relied on the Standard Minimum Rules for the Treatment of Prisoners,<sup>31</sup> the Body of Principles for the Protection of All Persons under Any Form of Detention,<sup>32</sup> the United Nations Standard Minimum Rules for the Administration of Juvenile Justice,<sup>33</sup> and the United Nations Standard Minimum Rules for Non-custodial Measures.<sup>34</sup> It also referred to the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials,<sup>35</sup> the Basic Principles on the Independence of the Judiciary,<sup>36</sup> the Basic Principles on the Role of Lawyers<sup>37</sup> and the Guidelines on the Role of Prosecutors<sup>38</sup> during its consideration of the structure and functioning of judicial system in Eritrea. While these instruments are not formally binding on Eritrea, they reflect the general consensus of contemporary thought and the essential elements of the most adequate systems of today, to set out what is generally accepted as being good principle and practice in the treatment of prisoners and structure and functioning of the justice system.<sup>39</sup>

### III. Historical background

#### A. Pre-colonial and colonial times

##### 1. Pre-colonial time (until 1860)

62. In 2003, archaeologists discovered in Buya (or Buia),<sup>40</sup> a locality in the northern Danakil Depression of Eritrea, the remains of a woman dating from one and half million years ago. This discovery placed Eritrea near the dawn of human kind. Evidence of both agricultural cultivations and breeding of livestock in the region can be traced back to 5000 B.C. By the second millennium B.C., the Eritrean coast was almost certainly visited by Egyptian trading expeditions. Historians consider Eritrea as the most likely location of the

<sup>31</sup> Adopted by the first United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held at Geneva in 1955 and approved by the Economic and Social Council by its resolutions 663 C (XXIV) of 31 July 1957 and 2076 (LXII) of 13 May 1977.

<sup>32</sup> Adopted by the General Assembly in resolution 43/173, Annex.

<sup>33</sup> Adopted by the General Assembly in resolution 40/33, Annex.

<sup>34</sup> Adopted by the General Assembly in resolution 45/112, Annex.

<sup>35</sup> Adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, 27 August-7 September 1990, report prepared by the Secretariat (United Nations publication), chap. I, sect. B.2, Annex.

<sup>36</sup> Adopted by the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Milan, 26 August-6 September 1985: report prepared by the Secretariat (United Nations publication), chap. I, sect. D.2, Annex.

<sup>37</sup> Adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, 27 August-7 September 1990, report prepared by the Secretariat (United Nations publication), chapter. I, sect. B.3, Annex.

<sup>38</sup> Ibid, chapter. I, sect. C.26, Annex.

<sup>39</sup> See the Preliminary Observations (1) of the Standard Minimum Rules for the Treatment of Prisoners..

<sup>40</sup> Both Tigrinya and Arabic, the two most common languages in Eritrea, lack formal systems of transliteration to the Latin alphabet. As a result, personal and place names are spelt differently in other languages. In this report, the Commission has used spellings most frequently appearing in public documents, publications, and media.

land known to the Ancient Egyptians as Punt, first mentioned as early as the twenty-fifth century B.C.

63. Until the first centuries A.D, civilisations and kingdoms flourished on the territory of present-day Eritrea. Excavations at Sembel, a village near Asmara, uncovered evidence of one of the earliest urban, pastoral and agricultural communities of the Horn of Africa. Similarly, archaeological excavations in and near Agordat in central Eritrea yielded the remains of a culture known as the “Gash Group” that inhabited the Nile Valley between 2500 and 1500 B.C. From the eighth to the fifth century B.C., the Kingdom of D’mmt encompassed most of Eritrea and northern Ethiopia. It built temples and irrigation systems, and fabricated iron tools and weapons. After its fall, the highlands of Eritrea were dominated by smaller successor entities until the rise of the Kingdom of Aksum, also known as the Aksumite Empire.

64. The Aksumite Empire extended its control over most of present-day Eritrea and the northern part of Ethiopia (as well as Western Yemen, southern Saudi Arabia and Sudan, at its height) from the second to the tenth century A.D. The capital city of the Empire was Aksum, now in northern Ethiopia. By the end of the third century A.D., it had begun minting its own currency and had become a centre for trade between West and East. Dominating states on the Arabian Peninsula across the Red Sea, it was named by the Persian philosopher Mani (216–274 A.D.) as one of the four great powers of its time along with Persia, Rome and China. As of the seventh century A.D., the Aksumite Empire faced the rapid expansion of Islam. Eventually, the Islamic Caliphate took control of the Red Sea and most of the Nile. Aksum, forced into economic isolation, started to decline.

65. After the fall of the Aksumite Empire around the tenth century A.D., the highlands passed under the rule of the *Bahr Negus* (lit. the “King of the Sea”) and its kingdom, first called *Ma’ikele Bahr* (lit. “the land between the Red Sea and the Mereb river”) and later renamed *Medri Bahri* (lit. the “Sea land” in Tigrinya). Its capital was Debarwa, located 25 kilometres south of present-day Asmara. *Medri Bahri* was a distinct political entity from Abyssinia, the Ethiopian Empire founded by Mara Takla Haymanot in 1137. The Bahr Negus alternately fought with or against the Abyssinians and the neighbouring Muslim states, depending on the circumstances.

66. By the end of the sixteenth century, the Ottomans had succeeded in conquering Medri Bahri, causing the territory to become part of the Ottoman province of Habesh Eyalet, extending to the areas of the Red Sea basin. For a short time before Jeddah, Massawa served as the capital of the new province. The Ottomans, however, failed to sustain control of lands in the interior of what today is Eritrea. In 1846, Muhammad Ali Pasha’s Egyptian forces took control of Habesh Eyalet and enlarged it, notably by extending it to western Eritrea. Egypt’s domination of the Eritrean coastal and western lowlands and northern highlands lasted until the Mahdist uprising in Sudan in 1888, which set the stage for the European penetration into the Horn of Africa.

## 2. Italian colonisation (1890-1941)

67. From 1870, Italians started settling along the Eritrean coast. To counter the French expansion in the region, the United Kingdom changed its position of supporting Egyptian rule in Eritrea to supporting the Italian colonisation of Eritrea. In 1885, following Egypt’s retreat from the region, the British helped Italian troops to occupy Massawa, which was then united to the already colonised port of Assab to consolidate Italy’s coastal possession. In 1889, Italy took advantage of the uncertain situation created by the death of Emperor Yohannes IV to occupy the Highlands with the aid of Eritrean auxiliaries. This occupation was accepted by the new Ethiopian monarch, Menelik II. On 1 January 1890, the Italian king announced the creation of the colony of Eritrea, taking its name from the ancient

Greek name for the Red Sea, *Erythreus*. Massawa became the capital of the new colony, before being replaced by Asmara in 1897.

68. The seizure by Italians of huge swathes of agricultural fields in the highlands from the indigenous population sparked an anticolonial revolt led by Bhata Hagos, a former commander in the Ethiopian army. In response, the Italians invaded the Tigray region but faced the resistance of Ethiopian troops, who defeated them in the battle of Adwa in 1896. In the peace treaty that followed, Emperor Menelik II renounced Ethiopian claims to the Italian colony in exchange for the recognition of Ethiopia as an independent State.

69. The Italian administration launched its first development projects in Eritrea from the late 1880s. The construction of the Eritrean railway started in 1887 and the first line connecting Massawa to Saati, 27 kilometres inland from the coast, was completed in 1888. It reached Asmara in 1911. In addition, Italians built an infrastructure of ports, roads, telecommunications, factories, administrative centres and police stations that unified the colony under a centralised government. Many historians and specialists trace the development of a national consciousness to that time. The feeling of belonging to one nation was reinforced by the large scale enrolment of Eritreans as *askaris* (soldiers) in the Italian colonial army, which participated in the two Italo-Ethiopian wars (1895-1896 and 1935-1936) as well as in the war against Turkey in Libya (1911-1912). At the same time, the Italian administration developed policies intended to limit the development of an Eritrean elite. In 1932, the Fascist government expelled Protestant missionaries, the only source of Eritrean education beyond fourth grade, and limited the access of all Eritreans, including those of mixed blood, to schools, jobs and social services in urban areas.

70. From 1922, the rise of Benito Mussolini to power in Italy transformed the colony by making it his base for implementing his expansionist ambitions in the Horn of Africa. In 1935, thousands of Italian workers and soldiers poured into Eritrea in preparation of the second invasion of Ethiopia. In May 1936, Mussolini declared the birth of the *Africa Orientale Italiana*, the Italian East Africa Empire comprising Eritrea, Somaliland, and the newly conquered Ethiopia. Eritrea became the industrial centre of this empire. At that time, around 60 per cent of working-age male Eritreans found employment in the administration and in the 2,138 Eritrean factories in Eritrea in 1939; others were conscripted into the Italian army.

### **3. British administration (1941-1950)**

71. In 1941, British-led forces defeated the Italian regular army and colonial troops in the battle of Keren, fought from 5 February to 1 April. This victory was of huge strategic importance as it opened the road and railway routes to Asmara and Massawa, both of which surrendered to Allied forces in the aftermath of the battle. Eritrea then fell under British military administration, which proceeded to dismantle many industries and most of the infrastructure as war compensation. At the same time, the British set the foundations for Eritrean political engagement and organizations by allowing trade unions, political parties and publications.

72. In April 1941, a group of Eritreans had formed the *Mahber Feqri Hager* (the Patriotic Society), with the original aim of ending the Italian domination of Eritrean public life. With the victory of the Allies and the definitive loss by Italy of its African colonies, the *Mahber Feqri Hager* split into two factions. A first one, led by Mr. Ibrahim Sultan and representing a group of Muslims, called for independence of the country or for a UN trusteeship. The second one, led by Tigrinya intellectual Mr. Tedla Bairu, advocated for a union with Ethiopia. In between them were other figures, like Mr. Wolde-Ab Wolde-Mariam, representing both Muslim and Christian groups who called for some form of autonomous federation with Ethiopia. By 1946, these three currents had turned into three distinct political parties: Mr. Sultan became the leader of the Muslim League, Mr. Bairu of

the Unionist party and Mr. Wolde-Mariam of the pro-independence party known as “Eritrea for Eritreans.”

73. These political organizations aimed at lobbying the Allies on the future status of the country but the Allies refused. Immediately following the end of World War II, the British proposed to divide Eritrea along religious lines and parcel it off between Ethiopia and Sudan. The Soviet Union, anticipating a victory of communists in the Italian elections, initially supported the return of Eritrea to Italian trusteeship, while Arab states, eager to protect the Muslim population in the country, sought the establishment of an independent state. Haile Selassie, the Ethiopian Emperor, lobbied the United States for the handover of most of Eritrea to Ethiopia.

74. In 1948, following its inability to find a solution acceptable to all the parties, the “Four Powers” (the United States, the United Kingdom, France and the Soviet Union) turned the matter over to the United Nations. The organization also failed to find a solution, although they got close to partitioning Eritrea along religious lines according to the “Bevin-Sforza Plan” proposed by the United Kingdom and Italy in 1949.<sup>41</sup> In response, some Eritrean pro-independence parties gathered in the “Independence Bloc”<sup>42</sup> to advocate for the organization of a referendum on self-determination. The same month, the United Nations dispatched a Commission to explore possible solutions. The Commission proposed a way forward between the United States, keen to keep control over the former Italian military bases in Asmara, and Ethiopia, which was fearful of losing Eritrea altogether.

75. On 2 December 1950, the United Nations General Assembly adopted Resolution 390 A (V) creating a loose federation that saw Eritrea being placed under Emperor Haile Selassie’s control but keeping its own administrative and judicial structures, its own flag, two official languages (Tigrinya and Arabic), and control over its domestic affairs, including police, local administration and taxation. The British, who were asked to leave Eritrea no later than 15 September 1952, organised legislative elections on 25 and 26 March 1952 to form a National Assembly of 68 members. On 10 July 1952, this new body accepted a constitution put forward by the United Nations and ratified by Emperor Haile Selassie on 11 September 1952.

#### **4. Ethiopian annexation (1952-1962)**

76. From the start of the federation, Emperor Haile Selassie took steps that appeared to undermine Eritrea’s autonomy. He decreed a preventive detention law that allowed Ethiopian forces to suppress Eritrean political movements and arrest newspaper editors. He forced elected community leaders to resign. He replaced the Eritrean flag with that of Ethiopia and imposed the use of Amharic in public services and schools. He also seized Eritrea’s share of custom duties and moved most of Eritrean industries and businesses to Ethiopia.

77. Eritreans protested against Ethiopia’s attempts to jeopardise the Federation. In 1957, students mounted mass demonstrations, followed in 1958 by a four-day general strike organised by trade unions. Ethiopian troops fired on the protestors, killing and wounding many. Convinced that peaceful protests were not effective anymore, in November 1958 Mr. Mohamed Said Nawd, Mr. Saleh Ahmed Eyay and other Eritreans exiled in Sudan founded the Eritrean Liberation Movement (ELM). Made up mainly of male and female

<sup>41</sup> The plan negotiated between the United Kingdom’s foreign secretary, Ernest Bevin, and his Italian counterpart, Count Sforza, proposed the partitioning of Libya and Eritrea, with Eritrea to be divided between Ethiopia and Sudan. Ethiopia would have gained the highlands and eastern lowlands, and Sudan the western lowlands.

<sup>42</sup> Formed in June 1949 between the Liberal Progressive Party and “Eritreans for Eritrea”.

students, intellectuals, and urban wage labourers, the ELM engaged in clandestine political activities intended to pacifically resist Ethiopian rule. By 1962, however, the Movement was discovered and suppressed by Imperial authorities. It also suffered from competition with the Eritrean Liberation Front (ELF), which had been created in July 1960 in Cairo by Mr. Idris Muhammad Adam and other Eritrean intellectuals and students inspired by the Algerians' fight for independence. Most of ELF initial militants and leaders were Muslims who, seeing Eritrea as part of the Arab world, adhered to a Pan-Arabic ideology. ELM and ELF competed for supporters but none of them managed to recruit Hamid Idris Awate, a former soldier in the Italian colonial army who turned into a guerrilla and community leader. In August 1961, he was forced to find refuge on Mount Abal, between Agordat and Tessenei, to escape imminent arrest by Ethiopian police forces. That is where, on 1 September 1961, he and his companions fired the first shots of what would become the 30-year armed struggle for independence. One year later, on 14 November 1962, Ethiopian troops forced the Eritrean Parliament to dissolve. On that day, Eritrea was officially annexed as Ethiopia's fourteenth province.

## **B. The struggle for independence**

### **1. The ELF leading the struggle (1962-1974)**

78. In 1962, Hamid Idris Awate's small group was strengthened by defecting Eritrean members of the Sudan Defence Force (SDF). After the death of their leader in June 1962, the group joined the ELF and formed the core of the troops that would combat Ethiopian forces for the next three decades.

79. In 1963, the ELF counted approximately 250 fighters and started receiving arms supplies from Iraq, Syria and China, through Sudan. Women were drawn to the cause of Eritrean liberation from the beginning. Soon after the inception of the ELF, women became involved resisting the occupation through activities such as cooking to nursing, weapon collection to message transmission. Although not easily welcomed into the ELF in its early days, women's ability to evade Ethiopian scrutiny and complete important clandestine tasks was of great value to the ELF.

80. Some of its male recruits also began to be trained overseas. During the following two years, ELF forces grew from four platoons to seven and by 1965 they had reached about 2,000 fighters organised in small units. Originally loosely defined, the ELF organization gained in clarity and efficiency in May 1965 when its president, Mr. Idris Mohamed Adem, and its secretary, Mr. Idris Galadewos, met with field commanders in Khartoum. They decided to create a Revolutionary Command based in Kassala and four Zonal Commands modelled on the *wilayat* (administrative districts) of the Algerian liberation movement. Zone 1 included the former province of Barka and the natural reserve of Gash Setit, today divided between the Gash-Barka and Anseba regions; Zone 2, the former province of Senhit, was absorbed into the Anseba region; Zone 3, the former provinces of Ankele Guzai and Seraye, incorporated parts of the Northern Red Sea, Debub (Southern) and Gash-Barka regions; and Zone 4, the former province of Sahel was integrated into the present day Northern Red Sea region.

81. ELF fighters were initially recruited among lowland Muslims. However, as the war spread, Christians from the highlands started to join the movement leading to the creation in late 1966 of a fifth Zonal Command covering the Eritrean highlands. In response, Ethiopia launched a counter-insurgency strategy coupling military offensives supported by arms and training from the United States and Israel with tactics aiming at dividing Muslims and Christian ELF supporters. At first the division strategy paid off. During the summer of 1967, the Christian leadership of the ELF under Mr. Wolde Kahsai defected. A group of recruits, led by Mr. Haile Woldetensa'e, were massacred by Muslim fighters after they had

turned themselves in at the Ethiopian consulate in Kassala and had asked for amnesty. In September 1967, 50 Christian farmers were massacred by ELF Muslim fighters in the Seraye and Gash-Setit regions. These incidents, added to a number of military failures, pushed ELF members of both religions to form the Eslah (reform) movement to challenge the Front's old leadership. In September 1968, Eslah transformed itself into the Tripartite Unity Forces, unifying Command Zones 3 and 5.

82. The counter-insurgency operations led by the Ethiopian army between 1967 and 1970 alienated the Eritrean population and prompted many Muslims and Christians to join the ELF. Meanwhile, the Front remained reluctant to incorporate women in its forces, and women continued to be unable to attain higher ranks in comparison to men. Although a Women's Union was formed in 1967 to advocate for their rights and for the ELF internationally,<sup>43</sup> it was not until the first National Congress in 1971<sup>44</sup> that the ELF leadership endorsed the notion that the role of women (and other groups such as students, workers and peasants) were essential to the struggle.

83. Despite this new strength, the ELF remained divided. In August 1969, an attempt was made to resolve the crisis by the creation of a Provisional General Command and the replacement of the Command Zones with a three-region system. However, the massacre of Christian recruits in 1969 and 1970 and the execution of ELF Christian prominent figures such as Mr. Wolde Ghiday and Mr. Kidae Kiflu prompted the creation in 1971 of a new dissident group under the command of Mr. Abraham Tewelde and Mr. Isaias Afwerki.

84. In 1971 the new group was joined by other dissident forces unhappy with the ELF's manner of operating. Together they formed the Eritrean Liberation Forces – People's Liberation Forces (ELF-PLF). Yet, most of the freedom fighters remained loyal to the ELF. In April 1971, an ELF Revolutionary Council and an Executive Committee were created and the fighting forces reorganised into 12 battalion-strength sectors. In February 1972, the new leadership of the ELF declared war on the ELF-PLF.

## 2. The first fighting between the ELF and the EPLF (1972-1974)

85. ELF dissident groups, which formed the ELF-PLF, were transformed in September 1973 into the Eritrean People's Liberation Forces (EPLF) with Mr. Romedan Mohamed Nur as its secretary and Mr. Isaias Afwerki as its military commander. Both had studied Maoist guerrilla strategy in China in the 1960s. No sooner had it been created than the EPLF faced internal dissensions challenging the newly elected leadership. Critics were violently suppressed. To avoid a possible resurgence, the EPLF set up a new internal security apparatus known as *Halewa Sewra* (lit. the "Shield of the Revolution" in Tigrinya) as well as a Central Committee secretly controlled by the Eritrean People's Revolutionary Party (EPRP), a clandestine communist movement formed in 1971 by ELF-PLF leaders, including Mr. Nur and Mr. Afwerki.<sup>45</sup>

86. EPLF discipline and its social revolutionary political programme gained support not only in its base, located in the Northern Red Sea region, but also in the Christian highlands. Following clashes around Zagher, in the northwest of Eritrea, under popular pressure the ELF and the EPLF negotiated a cease-fire in October 1974. This was one month after

<sup>43</sup> The General Union of Eritrean Women (Cairo Branch).

<sup>44</sup> 14 October and 12 November 1971.

<sup>45</sup> Formed in April 1971, this clandestine organization counted among its founders figures who joined the "G-15" dissent group in 2001 (see *infra*), including Mr. Mahmoud Ahmed Sherifo and Mr. Mesfin Hagos. The party, re-baptised Eritrean Socialist Party at its 1987 congress, was eventually dissolved at the end of the 1980s. Isaias Afwerki only revealed its existence at the third congress of the EPLF in February 1994.

Ethiopian Emperor Haile Selassie had been overthrown by a military junta that was known as the Derg.<sup>46</sup>

### 3. The first liberation of Eritrea (1975-1977)

87. In January 1975, the ELF and the EPLF, both reinforced by additional recruits, launched a common attack on Asmara. This was the prelude to a larger offensive that led the two Fronts to liberate almost 95 per cent of Eritrea. Despite having a larger contingent, the ELF lacked sufficient discipline and organization to outstrip the EPLF in its territorial expansion. By the end of 1977, the EPLF was controlling a zone from the coast to Nakfa in the north and extending to inland Dekemhare in central Eritrea, with the exception of Asmara and the islands of Massawa. On the other hand, the ELF had captured the highlands and the western localities of Mendefera, Adi Quala, Agordat and Tessenei, as well as towns in the Gash-Barka and Anseba regions.

88. By 1975 the new influx of recruits and sympathisers compelled the EPLF to reorganise and adopt new policies. It created a unit called Fitwari (lit. “Vanguards” in Tigrinya) which gathered 14 to 16-year-olds and provided them with education and rudimentary military training. The presence of women in the EPLF also increased during this time. In 1973, the first three women had insisted on being given military training, paving the way for more women to be admitted to the EPLF and, by 1975, women were openly recruited for military training. Women were very successful in recruiting other women, and organising civilian women in rural and urban areas.

89. From 23 to 31 January 1977, the EPLF held its first congress in Sahel. An expanded Central Committee was elected as well as a Political Bureau with Romedan Mohamed Nur as secretary general and Isaias Afwerki as vice-secretary. The organization was also re-baptised “Front” instead of “Forces” and an 11-point programme aiming at the creation of an independent, secular and egalitarian State was adopted. Importantly, the political programme included gender equality. The EPLF openly noted that one of its main goals was to liberate women from the inferior status conferred on them by traditional laws and customs. The land reform policy adopted during this time saw the redistribution of land to the landless and poor peasants, enabling women for the first time in history to own property. In rural areas, peasants’ organizations were set up to implement the land reforms. Students and labour organizations were constituted in cities to promote and support the struggle, as was the National Union of Eritrean Women (NUEW). At the second regular meeting of the EPLF Central Committee in November 1977, polygamy was abolished and a law stipulating that marriage must be with the consent of both man and woman implemented.

90. In 1975 the new regime in Ethiopia led by Mengistu Haile Mariam, which had embraced a communist ideology, was provided with massive military support by the Soviet Union. Although it had become the most numerous independence force after the defection of Christian contingents from the ELF in the summer of 1977, in December of the same year the EPLF suffered its first serious defeat against the Ethiopian army when trying to capture their naval base in Massawa. In April 1978, the EPLF and the ELF signed a unity agreement that was tested in May by a common offensive launched to capture the town of Barentu, in the west of Eritrea. The joint forces were defeated by an Ethiopian military force much stronger in numbers.

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<sup>46</sup> Derg literally means the “Committee” in Ge’ez language, standing for the “Coordinating Committee of the Armed Forces, Police, and Territorial Army”.

#### 4. The Ethiopian counter-offensive and second round of fighting between the ELF and the EPLF (1978-1981)

91. Between 1978 and 1983, with the support of the Soviet Union, Ethiopia led six major offensives in which an estimated 30,000 Eritreans and 50,000 Ethiopians died. In the second half of 1978, Ethiopia launched an offensive of 120,000 soldiers and hundreds of Russian tanks on EPLF and ELF positions, regaining most of the Eritrean territory which had been held by the two organizations. In response, the EPLF, lacking support from the outside and inspired by Mao Zedong's teachings on guerrilla techniques, engaged in a "strategic withdrawal" to its bases in the Sahel region and later around the city of Nakfa, from which it conducted hit-and-run attacks. The ELF, with support from Arab countries, attempted to resist the Ethiopian offensive and ended up significantly weakened. Its leaders blamed the EPLF for not fulfilling the unity agreement and not joining its troops in battle, whereas the EPLF accused the ELF leadership of opening secret negotiations with Ethiopia through the Soviet Union and its Arab allies to reach a separate peace settlement. The revival of long-held antagonisms and the withdrawal of the ELF from its positions in the Sahel led in August 1980 to the second round of clashes between the two Fronts, this time initiated by the EPLF.

92. The strategy adopted by the EPLF paid off. By 1980, its forces had managed to stop Ethiopian offensives, seize some of their supplies and weapons, and stabilise a frontline in the Northern Red Sea region. The ELF, which was confronted by the Ethiopian army and EPLF fighters, was driven over the border into Sudan, where its troops were disarmed by the Sudanese authorities. The organization subsequently split into competing factions. By late 1981, the EPLF emerged as the only force fighting on Eritrean soil, although it remained isolated on the international scene with the Soviet Union and its affiliates backing Mengistu's regime and the United States and their Western allies reluctant to support a Maoist-inspired "liberation movement".

#### 5. The military stalemate (1982-1987)

93. In 1982, the EPLF faced the sixth and most violent offensive of the Ethiopian army, known as the "Red Star Campaign", which involved a total of 100,000 Ethiopian troops equipped by the Soviet Union. On this occasion, Mengistu moved his office to Asmara to oversee military operations which were deployed on three fronts: Barka, Nakfa and around Alghena. The offensive involved the massive use of air power and toxic gas that the EPLF resisted by building a network of underground bases and fabricating homemade gas masks and other equipment. The EPLF was able to survive the offensive, which, according to EPLF sources, caused 33,000 Ethiopian casualties and 2,000 Eritrean casualties. This outcome gave renewed confidence to the EPLF, whereas the Derg army became severely demoralised from its attempt to destroy Eritrean resistance.

94. The Soviet Union continued to provide assistance to Ethiopia, and by 1984 military assistance was estimated to have totalled four billion US dollars. Despite Soviet assistance to Mengistu's regime, the EPLF managed to consolidate its positions and launch sporadic attacks against the Ethiopian military presence throughout the country, destroying materials and ammunitions. The Front was, however, affected by famine between 1983 and 1985 which prevented it from maintaining the territory it had regained. At the same time, though, the EPLF secured assistance including food aid from international NGOs and the Eritrean diaspora.

95. During this period of military stalemate, the EPLF reorganised its operations and moderated its discourse to attract more support. From 12 to 19 March 1987, it held its Second Congress, during which delegates decided to soften the 1977 Marxist programme and engage in building a "broad national democratic front". During this congress it was also made clear that the "correct way" (and therefore only way) for women to seek liberation

was to join the armed nationalist struggle and “their true representative [the National Union of Eritrean Women] NUEW”. Isaias Afwerki became the secretary of the newly elected Central Committee, with Romedan Mohamed Nur as his deputy. The EPLF soon attracted former members of the ELF.

#### **6. The second liberation (1988-1991)**

96. In March 1988, in a turn of events, the EPLF managed to capture the city of Afabet, then headquarters of the Ethiopian army in north-eastern Eritrea. This victory put an end to the stalemate and subsequently allowed the EPLF to move to reconquer almost all of the north and west of the country. In May 1988, Ethiopian troops launched a large-scale bombing counter-offensive to re-capture Afabet. This was inconclusive and opened a new front-line from Halhal to the coastal plain north of Massawa.

97. The military successes of the EPLF yielded new recruits almost tripling the Front’s size between 1988 and 1991. They also attracted diplomatic interest. Talks were initiated between the EPLF and the Jimmy Carter’s US Administration in 1989, and the Soviet Union halted its military support to Ethiopia to favour a negotiated settlement of the conflict in 1988. In the meantime, the EPLF manoeuvred to weaken Mengistu’s regime by intensifying its support to Ethiopian rebel movements, including the Tigray People’s Liberation Front (TPLF) and the Oromo Liberation Front (OLF), respectively in north and south-central Ethiopia. In February 1989, EPLF artillery support contributed to the victory of the TPLF in the battle of Shire and the capture of the whole Tigray province, effectively blocking land access from Ethiopia to central Eritrea.

98. In January 1990, the EPLF launched a new offensive that, one month later, led to the liberation of Massawa. By May 1990, the frontline was reorganised between Segeneiti and Dekemhare. In early 1991, the EPLF intensified its attacks along the eastern coast to seize Assab and cut off Ethiopian access to the sea. In May, EPLF forces conducted their final assault and captured the city of Dekemhare on 21 May. The same day, Mengistu, facing the Ethiopian People’s Revolutionary Democratic Front (EPRDF), which was supported by the EPLF, fled from Addis Ababa to Zimbabwe. On 24 May, the EPLF entered in Asmara which had been abandoned by retreating Ethiopian troops. Assab was liberated the following day. The armed struggle for independence was over after 30 years of fighting.

#### **7. The *de facto* independence (1991-1993)**

99. On 20 June 1991, Isaias Afwerki announced the creation of the Provisional Government of Eritrea (PGE) which would administer Eritrean affairs until the organization of a self-determination referendum. This decision had been accepted by the United States and the new TPLF-led Ethiopian Government in a conference organised in London in May 1991. The leader of the EPLF became the head of the PGE, and the Central Committee of the Front served as the transitional legislative body. An executive body was subsequently created in May 1992. Named the Advisory Council, it consisted of 28 members representing the heads of the EPLF departments<sup>47</sup> and the military. Despite the espoused commitments to gender equality, all of the first members of the Front were men.

100. From 1 to 5 July 1991, the PGE attended the peace conference held in Addis Ababa as an observer. On this occasion, the Ethiopian Government confirmed its support for a referendum on the independence of Eritrea within two years. In December 1991, Ethiopia notified the United Nations that it recognised the Eritrean people’s right to self-

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<sup>47</sup> The most known departments of EPLF were the Political Affairs Department, the Economic Affairs Department and the Organizational Affairs Department (see chapter V, A, Political and security frameworks).

determination, paving the way for a referendum. In April 1992, the PGE set up a Referendum Commission, chaired by Mr. Amare Tekle. It also passed the Eritrean Nationality Proclamation (No. 21/1993), which set the criteria of citizenship as a prerequisite for participation in the referendum. Funded by the United Nations and other donor countries, the Commission organised a computerised registration of voters.

101. The referendum took place between 23 and 25 April 1993. Monitored by a United Nations observer mission (UNOVER),<sup>48</sup> the referendum saw 99.8 per cent of the 1,102,410 voters – who resided in Eritrea, Ethiopia, Sudan and other countries – vote for Eritrean independence. On 24 May 1993, Eritrea officially became an independent State. Four days later, it joined the United Nations as its 182nd member. It also established permanent representations to the Organization of African Unity (OA) and to the European Union (EU) and took observer status at the Arab League.

## C. Post-independence

### 1. Building of the new State (1993-1998)

102. Recognition of Eritrea's independence opened a future of hope for the country, devastated by 30 years of conflict. On 19 May 1993, the PGE adopted Proclamation 37/1993 creating a new government to oversee a four-year transition to constitutional rule.<sup>49</sup> The legislative branch of the Government consisted of a National Assembly composed of the members of the Central Committee of the EPLF and 75 elected representatives.<sup>50</sup> None of the exiled political parties and organizations (including the ELF) was represented since the PGE had not authorised them to return to Eritrea. On 21 May, the National Assembly confirmed Isaias Afwerki as President of the country. At the beginning of June 1993, the PGE Advisory Council was transformed in the executive branch of the government. The Judiciary, for its part, had already been put in place since 1992, with applicable legislation based on a combination of Ethiopian civil codes, local customary laws and policies adopted during the liberation struggle. In May 1993, Ms. Fozia Hashim, appointed two years earlier as head of the High Court, became Minister of Justice, a post she still occupies today.<sup>51</sup>

103. On 20 May 1993, however, while the country prepared to celebrate its independence, former EPLF fighters launched a protest after President Afwerki's announced that veterans would remain mobilised for four additional years to rebuild the country war ravaged infrastructure. The protesters blocked Asmara airport and threatened to jeopardise the celebrations. President Afwerki eventually met them in the stadium of Asmara and, by promising them demobilisation benefits, convinced them to disband. Yet, two days later, hundreds protesters were arrested and imprisoned for several years.<sup>52</sup> Other signs of a lack of openness of the new authorities to criticism and forms of expression other than the EPLF-dictated ones could be observed. In 1993, for example, the EPLF decided to suspend the activities of the Regional Centre for Human Rights and Development (RCHRD), the first Eritrean national NGO created in 1992, after it had organised a conference on "NGO policy, multilateral policy and rural credit in Eritrea" and recruited hundreds of independent observers to monitor the April 1993 referendum.<sup>53</sup>

<sup>48</sup> See chapter IV, C, Eritrea's relations with the United Nations and regional organizations.

<sup>49</sup> See chapter V, A, Political and security frameworks

<sup>50</sup> This composition is provided in Proclamation 52/1994 which amended Proclamation 37/1993.

<sup>51</sup> See chapter V, C, The judicial system.

<sup>52</sup> See chapter VI, A, 3, Freedoms of opinion, expression, assembly and association.

<sup>53</sup> Ibid.

104. Soon afterwards Isaias Afwerki made his first speech to the OAU and the United Nations. He laid emphasis on self-reliance, a notion forged during the armed struggle against Soviet-backed Ethiopia. The concept of self-reliance was discussed in February 1994 during the Third Congress of the EPLF, which restructured the Front into a political party renamed People's Front for Democracy and Justice (PFDJ). Self-reliance became one of the six core principles outlined in the National Charter adopted by the Congress and aimed at guiding the PFDJ and the Government; other principles included national unity, participation, self-sacrifice, social justice and the strong relationship between the people and the leadership. The Charter stated the aim of building a secular State, independent from regional, ethnic, linguistic, religious, cultural and social affiliations. In this context, the congress did not reconsider the existing ban on political parties, instead it argued that introducing a multi-party system at this stage in Eritrea would favour the formation of organizations along sectarian lines and jeopardise the national consensus built during the struggle. The Congress also reconfirmed Isaias Afwerki as the PFDJ Secretary General and created a 19-person Executive Council and a 75-person Central Council to replace the Central Committee of the EPLF.

105. The National Charter of the PFDJ also called for the establishment of a constitutional commission to draft a national constitution by 1997. On 15 March 1994, that commission was created with a mandate of two years. It comprised a 32-member council and a 10-member executive committee chaired by Mr. Bereket Habte Selassie, a lawyer and leading figure during the armed struggle. Mr. Azien Yassin, an intellectual from the left wing of the ELF, served as vice-chair and Mr. Zemhret Yohannes, a prominent member of the secretariat of the PFDJ, was its secretary. The Commission, which included 20 women and representatives of each ethnic group, met for the first time one month later, on 17 April 1994. Throughout 1994 and 1995, commissioners travelled across Eritrea and abroad to discuss with local communities and the diaspora the principles to be outlined in the future constitution. The consultative process continued in January 1995 with the organization in Asmara of an international conference to debate the proposed constitution. Representatives of foreign countries were invited, but again exiled Eritrean political organizations were excluded.

106. The day after the Constitutional Commission was set up, on 16 March 1994, registration for the national service began and implemented with some delay the Proclamation adopted by the PGE on 6 November 1991.<sup>54</sup> The Proclamation required all Eritrean citizens aged between 18 and 40 years to undertake a 18-month national service, comprising six months of military training and 12 months of duties in the army or the military reserves. The official goals of the national service were to constitute a reserve force able to defend the country, forge a sense of national unity and rebuild the country. It also intended to put men and women in a position of equality for 18 months, just as they were during the liberation struggle. At first the Proclamation was met with some resistance but, by August 1994 the registration process, promoted by a media campaign highlighting the values of sacrifice, led to the enrolment of 200,000 recruits. A first group of 10,000 was sent to receive military training in the camp of Sawa, a former Italian garrison located along the Sawa River in the Gash-Barka region that had served as an ELF and EPLF base during the war for independence.

107. In September 1994, a group of Jehovah Witnesses was arrested for conscientiously objecting to perform military service.<sup>55</sup> More would be detained and imprisoned in the years to follow. In addition, on 25 October 1994 President Afwerki announced a

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<sup>54</sup> See chapter VI, C, 1, National service

<sup>55</sup> Three of the men arrested are still in jail. See chapter VI, A, 4, Freedom of religion and belief.

presidential decree revoking the citizenship of Jehovah Witnesses on the ground that they refused to vote in the 1993 referendum.

108. Suppression of dissenting voices by the Eritrean Government was also to be witnessed in July 1994. Veterans with disabilities incurred during the armed struggle, protesting against their living conditions, decided to organise a demonstration that would take them to the capital city. After attempts by the police to stop them failed, a commando unit intervened and shot at the protesters, killing some. The leaders of the march, like those of the May 1993 veteran protest, were imprisoned.<sup>56</sup> This was the last public demonstration to occur before the early 2000s.

109. In November 1995, the Proclamation 11/1991 on National Service was amended to include citizens aged between 40 and 50 years in the national reserve army.<sup>57</sup> Later on, provisions were also added to ensure compliance with National Service by all citizens, including those in the diaspora, by making it a requirement for the renewal of passports. Similarly, Eritreans wanting to leave the country without completing their national duty were required to post a bond.<sup>58</sup> In 1995, the Government also adopted a Proclamation which prohibited local religious institutions from involvement in politics and from providing social services, managing development projects and advocating on issues related to social justice.<sup>59</sup> The following year, the Government suspended the activities of two national NGOs, the Eritrean Women War Veteran's Association (BANA) and the Tesfa Women Association, both created in 1994 by veteran fighters, seemingly because they competed with the PFDJ-controlled National Union of Eritrean Women (NUEW). The Government also expropriated their assets, including large sums of money. On 25 February 1997, the Chair of the Eritrean Relief and Refugee Commission (ERRC) announced that international NGOs would have to restrict their projects to education and health sectors, which resulted in many NGOs leaving the country.

110. With regard to the judicial system, in 1996 the Government announced the creation of a Special Court – a tribunal constituted of senior military officers appointed directly by the President – with the aim of reducing the backlog in civilian and military courts by hearing cases involving high level officials accused of corruption, misuse of public funds and other major capital offences. In a short time, the Special Court started operating as a parallel justice system. Lacking independence from the Executive, trained personnel and guarantees of fair trial, it quickly became a means for the suppression of dissent and critics.<sup>60</sup>

111. In July 1996, the Constitutional Commission submitted the final draft of the constitution to the National Assembly. Between January and March 1997, the first election since independence took place to designate the members of the assemblies (*baito*) of the six regions (*zoba*) set up in 1996<sup>61</sup> to replace the historical nine provinces (*awraja*) of Eritrea. Alternative candidates to PFDJ-affiliated ones were not allowed. The 399 elected representatives of the regional assemblies eventually formed, along with 75 representatives appointed by the PFDJ and 75 others elected by Eritreans in the diaspora, the Constituent Assembly which adopted the Eritrean Constitution in May 1997. The new Constitution provided for the creation of a secular State, based on social justice, democratic principles, equality between men and women as well as all ethnic and religious groups, human rights

<sup>56</sup> See chapter VI, A, 3, Freedoms of opinion, expression, assembly and association.

<sup>57</sup> Proclamation 82/1995.

<sup>58</sup> See chapter VI, A, 2, Freedom of movement.

<sup>59</sup> Proclamation 73/1995.

<sup>60</sup> See chapter V, C, The judicial system.

<sup>61</sup> Proclamation No. 86/1996 for the establishment of regional administrations

and public freedoms.<sup>62</sup> President Afwerki, however, refused to implement the Constitution until the holding of national elections but the long awaited elections were to be postponed due to the border dispute with Ethiopia that broke out in 1998.

## **2. Border war with Ethiopia (1998-2000)**

112. After independence, the sovereignty over many areas along the 1,000-kilometre border between Eritrea and Ethiopia was never officially determined. This had led to occasional skirmishes between the two armies in several locations. One such place was Badme, a western border locality that had passed under EPLF control in November 1977. According to several historical sources, on 6 May 1998 Ethiopian troops shot Eritrean soldiers near Badme. This incident provoked a heavy military response from Eritrea, soon matched by Ethiopia, which quickly escalated into war.

113. This was not the first time Eritrea had experienced a border dispute with one of its neighbours. On two occasions before it had disputes with Yemen regarding the Red Sea. The first, concerning Yemeni fishing in Eritrea waters, was settled by an agreement on 14 November 1994. The second – about the sovereignty over the Hanish Islands, equidistant between the coasts of the two countries – led to a three-day war from 15 to 17 December 1995 and the subsequent occupation of the Islands by Eritrean forces. Diplomatic resolution of the conflict having failed, the case was brought to the Permanent Court of Arbitration in The Hague, which, after two years of proceedings, concluded that the Islands should be under shared sovereignty. Both countries accepted the ruling.<sup>63</sup>

114. Similar to the disputes with Yemen, the conflict between Eritrea and Ethiopia reflected deep-seated political differences and economic and political competition for markets and influence in the region. When the war for independence ended in 1991, anti-Ethiopian feeling led to tens of thousands of captured Ethiopians soldiers and an estimated 30,000 of their wives and children, many of whom were Eritrean, being expelled into Ethiopia. At the same time, the Governments in Asmara and in Addis Ababa, bound by ties developed during the armed struggle when the EPLF supported the TPLF to seize power in Ethiopia, developed good relations. Eritrea renounced its claim to war reparations, and trade agreements with Ethiopia were concluded in 1992. Eritrea initially continued to use the Ethiopian currency Birr, opened its markets to Ethiopian companies and recognised Assab as a “free port”. However, conflicts over land, taxes on trade, monetary policy and the adoption in November 1997 of an Eritrean national currency, the Nakfa, led to further tensions between the two neighbours.<sup>64</sup>

115. The 1998 war developed in three phases. The first phase saw Eritrean troops seize control over virtually all the disputed territory around Badme and on the Assab road. At the end of May 1998, a team of mediators which included Rwanda and the United States presented a proposal to the belligerents which invited them to redeploy their forces to positions held prior to 6 May – the day of the initial incident – in order to allow investigations and an agreement to demarcate the disputed border. Eritrea rejected the proposition on 3 June, and intense fighting resumed until early February 1999. Several diplomatic initiatives to resolve the conflict failed in short order. By the end of February Ethiopia had retaken Badme and much of the disputed territory. On 27th February, Eritrea announced that it was ready to accept the OAU Peace Framework proposal, but Ethiopia refused and resumed its assault on Eritrean positions. The last phase of the war started in May 2000 when Ethiopia opened a military offensive on three fronts: west of Badme; near

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<sup>62</sup> See chapter V, The institutional and domestic legal frameworks.

<sup>63</sup> See chapter IV, C, 1, Foreign relations.

<sup>64</sup> Ibid.

Zalambessa; and close to Assab following which Ethiopian troops broke through Eritrean defences and, by mid-June, occupied the disputed territory and large parts of Eritrea. On 19 June, the two countries signed a cessation of hostilities before a peace agreement was reached on 12 December 2000, in Algiers. The Algiers Peace Agreement established a 25-kilometre-wide Temporary Security Zone (TSZ) on the Eritrean side of the disputed border, to be monitored by the United Nations Mission in Ethiopia and Eritrea (UNMEE), which was created by the United Nations Security Council in July 2000.<sup>65</sup> The Algiers Agreement provided for the creation of a joint Eritrea-Ethiopia Boundary Commission (EEBC) under the auspices of the Permanent Court of Arbitration, with a view to issuing a definitive ruling on the demarcation of the border between the two countries.

### 3. Political crackdown (2001-2002)

116. The border conflict, which led to between 70,000 and 100,000 deaths and the displacement of over one million people, had wider political ramifications. In Ethiopia critics of the Prime Minister asked why Ethiopian troops did not advance further into Eritrea; while in Eritrea there was criticism of how the war was handled by the President. Criticism within the PFDJ surfaced among top-ranking officials when President Afwerki refused the US-Rwanda mediation proposal in 1998. It intensified after Eritrean troops lost control of Badme and the Government was subsequently compelled to sign the Algiers Peace Agreement. Dissenters questioned President Afwerki's leadership in closed sessions of the PFDJ Executive Council in January and August 2000. In October 2000, a group of 13 Eritrean prominent figures in the PFDJ sent a letter to President Afwerki to ask for more transparency in Eritrean institutions and greater freedom of expression. Initially meant to be private, the letter was leaked to the media and came to be known as the "Berlin Manifesto", from the name of the city where it had been drafted.<sup>66</sup>

117. Following the September 2000 session of the National Assembly, a commission headed by the Minister of Local Government, Mr. Mahmoud Ahmed Sherifo, was set up to prepare guidelines for recognising political parties that would participate in the national elections scheduled for December 2001. However, President Afwerki refused to approve the draft guidelines presented to him. After Mr. Sherifo leaked them to the media in January 2001, he was removed from his post. He then joined a group of 15 officials who, in May 2001, published an open letter to PFDJ members. The signatories of the letter, known as the "G-15", were all dignitaries and members of the Executive Council and the Central Council of the PFDJ. Besides Mr. Sherifo, they consisted of Mr. Haile Woldensae, Mr. Mesfin Hagos, Major General Ogbe Abrha, Mr. Hamid Himid, Mr. Saleh Kekya, Brigadier General Estifanos Seyoum, Major General Berhane Ghebre Eghzabiher, Ms. Astier Feshatsion, Mr. Mohammed Berhan Blata, Mr. Petros Solomon, Mr. Germano Nati, Mr. Beraki Ghebreslassie, Mr. Adhanom Ghebremariam, and Mr. Haile Menkerios. In their letter, the members of the G-15 called for "peaceful and democratic dialogue" and "rule of law and justice." They diagnosed Eritrea as in "crisis" and identified the heart of the problem in the way President Afwerki had ruled the country, which, according to them, was "illegal and unconstitutional". They pointed out that "instead of taking action to correct its mistakes, the Government [had] tried to cover them up and silence criticism by threats creating an atmosphere of fear and intimidation." To address this situation, they called for the President

<sup>65</sup> S/RES/1312 (2000).

<sup>66</sup> The signatories included the chair and a member of the Constitutional Commission, Mr. Bereket Habte Selassie and Mr. Paulos Tesfagiorgis; as well as Mr. Araya Debessay, Mr. Assefaw Tekeste, Mr. Haile Debas, Mr. Kasahun Checole, Mr. Khaled Beshir, Mr. Dawit Mesfin, Ms. Miriam Omar, Mr. Mohammed Kheir Omer, Mr. Reesom Haile, Mr. Mussie Misghina and Ms. Lula Ghebreyesus. The last two eventually withdrew their names, bringing the group down to eleven.

to govern “by the constitution and the law” and the legislature should counter-balance the Executive. They asked for elections to take place and for the PFDJ to function in a more transparent and participatory manner. They also called for the impartiality of mass media “to encourage the protection of human rights”; for freedom of expression and political discourse; freedom of action of NGOs; the dismantling of the Special Court; the independence of the Judiciary; and for individuals who had been detained for long periods of time without trial to be brought before a judge.

118. The wave of protest against President Afwerki’s management of power reached another peak in July and August 2001. In July, the International Eritrean Studies Association organised a conference in Asmara during which the President of the High Court, Mr. Teame Beyene, called for the dissolution of the Special Court which he considered “illegal and unconstitutional.” He also complained about interference of the Executive Branch in judicial proceedings. At the beginning of August, he accepted the *habeas corpus* petition regarding Mr. Semere Kesete, the President of the University of Asmara Student Union (UASU) who had been arrested on 31 July 2001 after criticising the attempt of the Government to impose a compulsory “summer work programme” with inadequate pay on students. Mr. Kesete was held incommunicado for several days before being brought to the High Court. The Court gave the Police twenty-four hours to formally present its charges or Mr Kesete would be released. University students were called to a meeting in Asmara stadium where they were rounded up by the Army. Once all students were gathered in the stadium, they were trucked to Wi’a and Gelalo, military training camps in the desert, where they were kept for several months and intimidated (several students died). Mr. Kesete was imprisoned without charge and spent one year in solitary confinement before managing to escape and flee Eritrea. Mr. Beyene was dismissed from his post. As an additional measure to prevent further protests, the University of Asmara – the only one in the country – was closed down in 2006.<sup>67</sup>

119. In early 2001 President Afwerki set up a security committee, headed by the then Minister of Information, Mr. Naizghi Kiflu,<sup>68</sup> to investigate political crimes of “sub-nationalism” and “defeatism”. Mr. Kiflu ordered the shutdown of all independent publications.<sup>69</sup> Subsequently, the editors in chief and journalists of the eight privately owned newspapers, created after the promulgation of a national press code in 1996, were arrested and imprisoned. In the early hours of 18 and 19 September 2001, eleven members of the G-15 were arrested and detained *incommunicado* without any formal charges. Their whereabouts remain unknown to date. Mr. Mesfin Hagos, Mr. Adhanom Gebremariam and Mr. Haile Menkerios were abroad on the day of the arrests and escaped the crackdown, while one of the initial signatories who was in Eritrea was not arrested. During those days, numerous civil servants, military commanders, businessmen, relatives of the G-15 and other persons perceived as independent or critical of President Afwerki were also arrested. Some have been subjected to enforced disappeared since that time.<sup>70</sup>

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<sup>67</sup> See chapter VI, A, 3, Freedoms of opinion, expression, assembly and association

<sup>68</sup> EPLF veteran fighter, head of military intelligence after independence, and then Minister of Information. Very close to President Afwerki, he moved to the United Kingdom in 2005 to become Ambassador and was later investigated by British Police for suspicion of crimes against humanity for the 2001 crackdown. His stay in the United Kingdom became an exile after he clashed with President Afwerki. He died in London in 2013. For three months, his family pleaded with President Afwerki to allow his remains to return to Eritrea. They were denied and he was finally buried in London.

<sup>69</sup> See chapter VI, A, 3, Freedoms of opinion, expression, assembly and association.

<sup>70</sup> See chapter VI, A, 3, Freedoms of opinion, expression, assembly and association and chapter VI, B, 2. Violations of the right to liberty and security of the person.

120. In February 2002, during a speech to the National Assembly, President Afwerki accused the reformists of “committing treason by abandoning the very values and principles the Eritrean people fought for”. The Assembly – now purged and under his control – officially approved the arrests and the closing of newspapers it accused of being “foreign-funded” and “engaged in defamation and rumour-mongering”. The Assembly also adopted a law on elections, which confirmed the ban on political parties other than the PFDJ. At the end of February 2002, President Afwerki appointed a five-person commission to organise the long awaited national elections – but to this day elections have not taken place.

121. On 13 April 2002, after two years of reviewing submissions by both countries, the EEBC announced its decision regarding the conflicting claims over territory between Eritrea and Ethiopia. Among a number of decisions, it awarded the disputed village of Badme, which had been administered by Ethiopia and where the 1998-2000 conflict began, to Eritrea. Ethiopia rejected this decision and refused to cooperate with the EEBC to physically demarcate the border. Eritrea accepted the decision and refused to reopen negotiations. This impasse led to what has been referred to by Eritrea as a “no war, no peace” situation between the two countries and the occupation of a part of its sovereign territory.

122. During this period, the Eritrean authorities continued to suppress people or groups accused of being manipulated by foreign interests. In April 2002, a registration requirement was imposed on all religious groups with the exception of the Coptic Orthodox Church of Eritrea, Sunni Islam, the Roman Catholic Church and the Evangelical Christian Church. None of the registration requests were approved and many members of these un-recognised religions and churches have been arrested and detained over the years.<sup>71</sup>

123. In addition, in May 2002, the Eritrean Government introduced the “Warsai Yikealo Development Campaign” (WYDC). The WYDC revisited the two former Proclamations on national service<sup>72</sup> and extended national service indefinitely. The Eritrean government also halted the demobilisation process initiated in 2000 after signing the Algiers Peace Agreement, this despite the fact that a demobilisation programme funded by the World Bank had been set up to progressively demobilise, reinsert and reintegrate 200,000 former combatants. In 2003, the Government decided to increase the duration of secondary education by one year and to compulsorily require all final year (12<sup>th</sup> grade) students to the “Warsai Yikealo Secondary School and National Vocational Training Centre” located at Sawa military camp, where they undertake military training, finalise their secondary education, and take their final exam.<sup>73</sup>

#### **4. Eritrea on the international scene (2002-2012)**

124. Ethiopia’s refusal to accept the findings of the EEBC allegedly pushed Eritrea to support Somalia-based Ethiopian rebel groups, including the Ogaden National Liberation Front (ONLF),<sup>74</sup> to destabilise the Government in Addis Ababa.<sup>75</sup> In addition, Eritrea reportedly provided weapons and military advice to the Islamic Courts Union (ICU), with a view to forming an anti-Ethiopian government in Somalia. After a rapid advance throughout the country, the ICU captured Mogadishu in June 2006. In July 2006, and in

<sup>71</sup> See chapter VI, A, 4, Freedom of religion and belief.

<sup>72</sup> Proclamations No. 11/1991 and 82/1995.

<sup>73</sup> See chapter VI, C, 1, National service.

<sup>74</sup> The ONLF was formed in 1984 after the defeat of Somalia in the 1977 war against Ethiopia. Its stated objectives aim at obtaining the autonomy of the Ogaden region, situated in the Somali Regional State in eastern Ethiopia.

<sup>75</sup> See reports of the United Nations Monitoring Group on Somalia and Eritrea.

response to these developments, Ethiopia sent troops into Somalia to protect the Somalian Transitional Federal Government (TFG) that had taken refuge in Baidoa, and eventually reinstalled it in Mogadishu as of December of the same year.

125. After ICU forces were defeated by Ethiopian troops, Eritrea continued to support the various Islamist organizations that emerged following ICU's breakdown. In 2007, Eritrea withdrew from the Intergovernmental Authority for Development (IGAD), in protest for what it perceived as the organization's support for Ethiopian interventions in Somalia. Eritrea's relations with Djibouti also deteriorated after the latter supported Somali rebel groups that entered into reconciliation talks with the TFG. This added to a growing economic competition between the two countries after the port of Djibouti overtook Assab as an outlet for Ethiopian trade and an old border dispute over eleven kilometres of coastline around Ras Doumeira, a cape overlooking the strait of Bab-el-Mandeb flared up again. Eritrea accused Djibouti of incursions into its territory. In June 2008, its forces crossed the border and captured the area of Ras Doumeira, killing at least nine Djiboutian soldiers and provoking international condemnation.<sup>76</sup>

126. Eritrea's refusal to withdraw its troops from Ras Doumeira and allow a United Nations fact-finding mission to enter its territory, as well as its involvement in the conflict in Somalia, led the United Nations Security Council to impose sanctions on Eritrea and on 23 December 2009, the Security Council adopted Resolution 1907 imposing an arms embargo on Eritrea, travel bans and the freezing of the assets of some of the country's political and military officials.<sup>77</sup> Resolution 1907 also extended the mandate of the United Nations Monitoring Group for Somalia created in 2002 to monitor Eritrea's compliance with the new set of sanctions.<sup>78</sup> In July 2011, the Monitoring Group presented its first report, which provided evidence of Eritrea's continued support to Ethiopian rebel groups and Islamist organizations in Somalia, as well as an attempt from the Eritrean intelligence services to organise a car bomb attack at the January 2011 AU Summit.<sup>79</sup> Critically the Monitoring Group second report in 2012, found evidence of continued Eritrean support for Al-Shabaab and other dissident armed groups, of violations against the arms embargo and of collecting the Rehabilitation tax, all of which is contrary to the Security Council resolution.

127. In 2010, Eritrea reoccupied its seat in the Africa Union, long deserted in protest for the organization's backing of Ethiopia's actions in Somalia. This move, a sign of Eritrea's efforts to counter its isolation on the international scene, followed the withdrawal of its troops from Djibouti in June 2010, after a Qatar-led mediation. At the same time, relations between Eritrea and Ethiopia remained tense. In March 2011, Ethiopia accused Eritrea of sending agents across the border to plant bombs. In April, the Ethiopian Minister of Foreign Affairs declared that Ethiopia would officially support Eritrean opposition organizations based on its territory. In December 2011 the Ethiopian Government advocated for the United Nations Security Council to tighten its sanctions due to Eritrea's continued support to the Al-Shabaab Islamist group in Somalia.<sup>80</sup> In March 2012, Ethiopian forces carried out attacks inside Eritrea on alleged bases of the Afar Revolutionary Democratic Unity Front (ARDUF). Ethiopia claimed that it acted in reprisal for the kidnapping and assassination of a group of European tourists in January 2011 in the Ethiopian Afar region. Eritrea declared that it would not retaliate.

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<sup>76</sup> See chapter IV, C, 1, Foreign relations.

<sup>77</sup> S/RES/1907 (2009).

<sup>78</sup> S/RES/1407 (2002).

<sup>79</sup> S/2011/433.

<sup>80</sup> S/RES/2002 (2011).