

IV. Current context to human rights violations in Eritrea

A. Ethnic and religious composition of Eritrea

128. Out of a total population estimated at 6.3 million people⁸¹, there are nine linguistically defined sub-nationalities, or ethnic groups in Eritrea: Tigrinya⁸² (55 per cent), Tigre (30 per cent), Saho (4 per cent), Kunama (2 per cent), Rashaida (2 per cent), Bilen (2 per cent), and others (Afar, Beja and Nara, 5 per cent).

Afar

129. Traditionally pastoralists raising goats, sheep and cattle in the desert, the Afar people form an ethnic group spread across Ethiopia, northern Djibouti and southern Eritrea. Afar people speak the Afar language and the majority are Muslim.

Beja

130. The Beja people inhabit Eritrea, Sudan, Egypt and the Sahara desert. In Eritrea they reside in the Gash-Barka, Northern Red Sea and Anseba regions. They speak the Beja language and are predominantly Sunni Muslim. The Beja contain smaller clans such as the Bisharin, Hedareb, Hadendowa (or Hadendoa), the Amarar (or Amar'ar), Beni-Amir, Hallenga and Hamra.

Bilen

131. The Bilen people are concentrated in central Eritrea, in and around Keren and further south towards Asmara. Their mother tongue is the Bilen language, though many also speak Tigre and Tigrinya, and younger Bilen are said to use Arabic words and expressions in their everyday speech. They are both Christian and Muslim. Muslim adherents are mainly in rural areas and have often intermingled with the Tigre. Christian Bilen reside in urban areas and have often mixed with the Tigrinya.

Kunama

132. The Kunama people are an ethnic group living in Eritrea and Ethiopia. They speak a Nilo-Saharan language. Although almost 80 per cent of the group resides in Eritrea, they constitute a small minority there. Formerly nomadic, they are nowadays pastoralists and farmers, mainly living in the remote and isolated area between the Gash and Setit rivers, near the border with Ethiopia. During the 1998-2000 border war, an estimated 4,000 Kunama fled to Ethiopia.

Nara

133. The Nara people used to call themselves the Barya. They are divided into four sub-groups: Higir, Mogareb, Koyta, and Santora. Like Kunamas, Nara people speak a Nilo-Saharan language called Nara Bana. They are typically agrarian and today have settled

⁸¹ World Bank estimate for 2013 (<http://data.worldbank.org/country/eritrea>). “No population census has ever been carried out in Eritrea. However, based on a population count by the Ministry of Local Government and NSO estimates, the total resident population of Eritrea was about 3.2 million as of 2010 (MND, 2010)” (in Eritrea Population Health Survey 2010, National Statistics Office).

⁸² Information about Eritrea’s ethnic composition come from open sources, including Wikipedia and the 2010 estimates from the CIA World Fact Book (<https://www.cia.gov/>).

mostly along the border with Sudan. The Nara people are generally Muslim, with a minority following Christianity and a few who practice traditional beliefs.

Rashaida

134. The Rashaida, Rashaayda or Bani Rashid, meaning “refugees” in Arabic, are a nomadic people living in Eritrea and northern Sudan. Many migrated from Hejaz, in present day Saudi Arabia, in 1846 after tribal warfare broke out in their homeland. A large number of them are still found in the Arabian Peninsula. After the independence of Eritrea, the Government encouraged the Rashaida to adopt agriculturalist life on land set aside near Sheeb, a village almost 60 kilometres northwest of Massawa. It is unknown how many Rashaida maintain their nomadic tradition. The majority of Rashaida are adherents of Sunni Islam and speak Arabic.

Saho

135. The majority of the Saho, or Soho people, inhabit the Southern and Northern Red Sea regions of Eritrea, while smaller populations live in the border areas of the Tigray region of Ethiopia. Although there are no official statistics, the Saho are estimated to be the third largest ethnic group in Eritrea. They speak the Saho language. They are predominantly Muslim.

Tigre

136. The Tigre people are nomadic pastoralist people who inhabit the northern, western and coastal lowlands of Eritrea (Gash-Barka, Anseba and Northern Red Sea regions), as well as eastern Sudan. They speak the Tigre language. The Tigre are predominantly adherents of Sunni Islam though a small proportion are Christian, often referred to as Mensaï in Eritrea.

Tigray-Tigrinya

137. The Tigray-Tigrinya people are a large ethnic group in Ethiopia and Eritrea. In Ethiopia, they are known as Tigray, eponymous with the Tigray region they inhabit. In Eritrea, they are known as Tigrinya and primarily live in the Kebessa highlands. The Tigray-Tigrinya speak the Tigrinya language, which although closely related to the Tigre language, is distinct from it. In Eritrea, the majority of the Tigrinya people are farmers and Christians: 73 per cent Eritrean Orthodox, 10 per cent Roman Catholic and Eastern Catholic and 7 per cent of various Protestant and Christian denominations. The remaining 10 per cent are Muslims and are usually known as Jeberti, a term used to generically refer to all Islamic inhabitants of the highlands.

B. Political context and migration

138. From the political point of view, Eritrea has remained unchanged, with by and large the same Government remaining in power since independence. Following the 2001-2002 political crackdown, President Afwerki consolidated his power and strengthened his control over the state and security apparatus, thus *de facto* eliminating any residual political space.⁸³ As explained in the historical background chapter, the only political party that is allowed to exist is the PFDJ; the National Assembly has not convened since 2002; and only government media are allowed to operate. Since 2002, several hundred thousand Eritreans

⁸³ See chapter V, A, Political and security frameworks.

have illegally left the country largely as a result of human rights abuses, indefinite conscription and the faltering economy. Eritrea has become one of the largest refugee-producing countries in the world.

1. Political Context

139. Since 2001 the President and a close-knit group of men have ruled Eritrea.⁸⁴ During the President's absence in 2013, media reports suggested that Eritrea was ruled by a "supra committee" composed of Brigadier General Simon Gebredengel, Deputy of the National Security Office; Brigadier General Teklai "Manjus"; Brigadier General Dr. Haile Mehtsum; Brigadier General Fitsum Gebrehiwet, Chief of Staff of the Navy; and Brigadier General Hadish Efrem. As for his civilian entourage, Mr. Yemane Gebreab, Director of the PFDJ Political Affairs Department, is known to be the President's political advisor. Mr. Hagos Gebrehiwet, Director of the PFDJ Economic Affairs Department, is reportedly in charge of the conduct of the Eritrean economy. Mr. Yemane Gebre Meskel, Director of the President's Office, is reportedly responsible of communications and in March 2015 he was appointed Minister of Information, a post which had remained vacant following the defection of the previous minister in 2012.

(a) Defections, demotions and expressions of discontent

140. In early October 2012, two air force pilots fled with the presidential plane to Saudi Arabia, where they claimed and were granted asylum. In late November, the then Minister of Information, Mr. Ali Abdu, known to be a member of President Afwerki's close entourage, defected while on a trip to Germany. Earlier in 2012, Mr. Berhane Abrehe, who had been Eritrea's Finance Minister for 11 years, was removed from his post after he openly challenged the use of mining revenues collected by the Eritrean Government.⁸⁵ In 2009, a dozen football players had disappeared in Kenya and in 2011, 13 players refused to return from Tanzania. In December 2012, 17 players of the Eritrean national football team absconded in Uganda during a regional tournament. They resurfaced 18 months later in The Netherlands, where they had been granted refugee status.

141. On 21 January 2013, more than 100 soldiers, supported by tanks, seized control of the building of the Ministry of Information in Asmara, known as "Forte". The officers ordered the director of the Eritrean state-run television to broadcast their demands, which included freeing all political prisoners; implementing the 1997 Constitution; appointing a transitional government; and ending corruption among senior officers. The broadcast was interrupted and soon afterwards the dissident troops were surrounded and arrested by Special Forces. To date, it remains unclear whether this incident was a coup attempt or a mutiny.⁸⁶ Over the ensuing days, a disciplinary committee⁸⁷ was set up and waves of arrests took place within the army, the State and the PFDJ. Among those arrested were the

⁸⁴ Most of these men have been part of the President's entourage since independence, if not from the days of the armed struggle.

⁸⁵ Information provided by the United Nations Monitoring Group on Somalia and Eritrea (S/2013/440).

⁸⁶ According to the United Nations Monitoring Group on Somalia and Eritrea (S/2013/440), "following the dispersal of the uprising, Eritrean officials made discreet references to diplomatic interlocutors regarding the Muslim faith of the majority of those who rebelled, indicating a deliberate policy of representing the uprising as a religiously motivated affair, whereas the rebel demands were political in nature."

⁸⁷ According to the United Nations Monitoring Group on Somalia and Eritrea (S/2013/440), this committee was headed by Brigadier General Teklai "Manjus", seconded by Brigadier General Eyob Fessahay "Hallibay" who reportedly is in charge of coordination between the President's Office and the People's Army.

Minister of Mines and Energy, Mr. Ahmed Haj Ali; the administrator of the Southern region, Mr. Mustapha Nurhussein; the Director of the PFDJ Organizational Affairs Department, Mr. Abdallah Jabar; the mayor of Mendefera, Mr. Suleiman Haj; the commander of the South Command Zone, Major General Umar Hassan “Teweel”; and the deputy of the Centre Command Zone, Colonel Emmanuel Hagama.⁸⁸

142. In April 2013, a female pilot sent to Saudi Arabia to reclaim the presidential jet also defected.⁸⁹ In December 2013, nine more players from the national football team disappeared with their coach in Kenya, bringing to more than 50 the number of Eritrean national football players who had absconded since 2010. At the beginning of February 2015, a pilot in charge of the management of the Air Forces Commander’s office reportedly defected to Sudan.⁹⁰

143. Since the 2013 incident in Forto, President Afwerki has reportedly become more suspicious of the military command. Major General Sebhat Ephrem, who had been Minister of Defence since 1995, was appointed Minister of Energy and Mines in 2014.⁹¹ Since then, President Afwerki has not appointed a new minister, only a Chief of Staff who reports directly to him.⁹² At the end of 2014, the Tigray People’s Democratic Movement (TPDM),⁹³ one of the Ethiopian opposition groups stationed in and supported by Eritrea, was reportedly used by Eritrean authorities to conduct rounds up in Asmara that lasted several days.⁹⁴

144. In 2012, and perhaps in response to an increasing number of defections, dwindling numbers of conscripts and on-going incidents with neighbouring countries, the Government reportedly armed civilians. This new “People’s Army” is said to undertake various duties, from guarding public sites to contributing to development projects.⁹⁵

(b) A divided opposition

145. Eritrean opposition groups are based outside the country. They appear to be fragmented along ethnic, regional, religious and political lines, as well as divided on the question of their relations with Ethiopia.

146. After independence, the factions resulting from the split of the ELF in the early 1980s, constituted from exile the only opposition groups to the EPLF/PFDJ in Eritrea. They included the ELF-Revolutionary Council (ELF-RC), the ELF-Central Leadership, and the Eritrean Islamic Jihad Movement, which was involved in insurgency attacks against the

⁸⁸ See chapter VI, A, 3, Freedoms of opinion, expression, assembly and association.

⁸⁹ In May 2013, the Saudi authorities informed the United Nations Monitoring Group on Somalia and Eritrea that they had released the plane for return to Eritrea but confirmed that all three pilots remained in Saudi Arabia (S/2013/440).

⁹⁰ An Eritrean Air force Captain Defects to Sudan, Awate, 1 February 2015.

⁹¹ According to the United Nations Monitoring Group on Somalia and Eritrea (S/RES/2013/440), Major General Sebhat Ephrem had challenged two times President Afwerki’s directives in 2012. Firstly, in April 2012, with other high ranking generals he constituted a committee to manage the security in Eritrea during President Afwerki’s absence from the country. This initiative defied the latter’s designation of Brigadier General Teklai “Manjus” as commander-in-chief during his absence. Secondly, in May 2012, Major General Sebhat Ephrem visited imprisoned military personnel in Asmara in open defiance of orders from President Afwerki.

⁹² In the person of Major General Philipos Woldeyohannes.

⁹³ Also known by its Tigrinya acronym “De.M.H.T”.

⁹⁴ A Mercenary Army: Isaias Afwerki’s Last Stand, Awate, 15 November 2013.

⁹⁵ For instance: “People’s Army members engaged in construction of Patriots Cemetery in Afembo Area”, 10 February 2015, Shabait.com (Eritrea’s Ministry of Information website). See chapter V, A, 2, security sector.

Eritrean Defence Forces between 1994 and 1997. The border war with Ethiopia prompted the emergence of new opposition movements based on Ethiopian territory. Created respectively in 1997 and 1998, the Red Sea Afar Democratic Organization (RSADO) and the Democratic Movement for the Liberation of the Eritrean Kunama (DMLEK) have striven for the emancipation of the Afar and Kunama minorities. In 1999, ten opposition groups established the Alliance of Eritrean National Forces (AENF), which transformed itself into the Eritrean National Alliance (ENA) in 2002 before being renamed the Eritrean Democratic Alliance (EDA) in 2005. Based in Addis Ababa, EDA currently consists of 13 organizations with varying goals and constituencies. Some are organised along ethnic lines, like DMLEK and RSADO; others are Islam-based organizations (the Eritrean National Salvation Front, the Eritrean Islamic Party for Justice and Development, the Eritrean People's Congress and the Eritrean Islamic Congress); and still others are remnants of the ELF or dissidents of the PFDJ, such as the Eritrean Democratic Party and the Eritrean People's Democratic Party.⁹⁶ EDA held its last Congress in 2011.

147. After the 2001-2002 political crackdown, some exiled dissidents formed the Eritrean Democratic Party (EDP), chaired until 2009 by Mr. Mesfin Hagos, one of the members of the G-15 group who escaped arrest. EDP, which underwent several splits,⁹⁷ has always opposed EDA on the ground of its alleged link with the Ethiopian Government. In an attempt to unite political and civil society organizations, the Eritrean National Congress for Democratic Change (ENCDC, also called "Baito") was created in 2011. It held its first meeting in Awassa (Ethiopia) in November 2011 and elected 127 representatives of the Eritrean diaspora from all over the world. In February 2014, Ethiopia-based opposition organizations tried without success to form a "consultative group" aimed at revitalising EDA and unite Eritrean opposition movements.

148. After the crackdown, other movements were set up abroad by Eritrean exiles as forms of civil society expression. Some of them have since become political opposition groups. As an example, the Eritrean Youth Solidarity for Change (EYSC) and the Eritrean Youth Solidarity for National Salvation (EYSNS) have emerged in opposition to the Eritrean Government and PFDJ-controlled National Union of Eritrean Youths and Students (NUEYS). Based in Addis Ababa, EYSNS was reorganised in 2014 into a political party named the Eritrean Solidarity Movement for National Salvation.

149. Recent years have also witnessed the creation of fora with the objective of facilitating political dialogue within the diaspora and supporting anti-government campaigns outside and inside Eritrea. The Eritrean Forum for National Dialogue (EFND/Medrek) and the Eritrean Movement for Change (EMC) were founded in 2013 by former members of the EPLF. They represent themselves as channels for the continuation of the 2001 reformist movement. For its part, the Eritrean Lowlanders' League, established in 2014, aims at counterweighting the Tigrinya-dominated political opposition. Created in 2011 by Eritrean activists in the United States and the European-based diaspora, the "Freedom Friday" (*Arbi Harnet*) Movement has reportedly managed to promote civil disobedience inside Eritrea through robot-call campaigns, an underground newspaper and poster campaigns. The Movement seems to have managed to establish a cell in Asmara.⁹⁸

⁹⁶ Formerly the Eritrean People's Party (EPP).

⁹⁷ Including a split that in 2004 gave birth to the Eritrean People's Movement, which later joined EDA.

⁹⁸ Eritrea: Conversation with the resistance movement inside Asmara, Horn Affairs – English, 26 October 2014.

2. Migration

150. The human rights situation prompts many Eritreans to leave their country. Former members of the Government, EDF members or football players, already mentioned, are the more well-known cases among the thousands of people fleeing Eritrea every year. In its report “Asylum Trends 2014”, UNHCR states that “the increase in the number of Eritrean asylum-seekers observed in recent years continued into 2014 reaching unprecedented levels among the group of 44 industrialised countries. The figure was at its highest with 48,400 new asylum applications registered during the year, thereby more than doubling compared to 2013 (22,300).” This made Eritrea the fifth largest producer of asylum seekers.

151. Overall, it is estimated that 5,000 people leave Eritrea each month, mainly to neighbouring countries. The trend has been upwards, with a marked spike during the last months of 2014. In October 2014, the registered refugee population was 109,594 in Sudan and 106,859 in Ethiopia. The total Eritrean population of concern to UNHCR in mid-2014 was 357,406 – depending on estimates of the current population, this would constitute between 6 per cent and 10 per cent of the national population.⁹⁹

152. Neighbouring countries are usually the first port of call but not the final destination for Eritreans leaving their country. With the situation in Yemen progressively worsening, routes used to move towards Europe have mainly been the land routes northward through Sudan to Libya or to Egypt and Israel.

153. The movement of people through the Sinai hoping to reach the northern shores of Africa and hence Europe has created a phenomenon that is termed by some as “Sinai Trafficking.” While still covered by the legal human trafficking definition, it is argued that this phenomenon “can be used to differentiate a particular new set of criminal practices that have first been reported in the Sinai Peninsula.”¹⁰⁰

154. These criminal practices include the kidnapping, selling and re-selling of individuals among people smugglers and traffickers with the final purpose of extorting ransom money from their families. The extortion is often conducted by torturing victims with extreme cruelty and sometimes to a live audience, as relatives are called during torture sessions and made to listen what is happening to their loved ones. Torture includes rape and other forms of sexual violence, severe beatings, pouring of molten plastic on various parts of the body, hanging in various positions for extended periods of time leading to loss of circulation and body limbs, starvation, electrocution and mental abuse. Protracted torture leads to death: “it is believed that between 5,000 and 10,000 people have died in the context of the Sinai trafficking. The interviews consistently show that approximately 25 per cent of Sinai hostages are killed or die. In some groups, the figure is closer to 50 per cent.”¹⁰¹

155. The United Nations Monitoring Group on Somalia and Eritrea has alleged in several of its reports to the Security Council the complicity of some Eritrean officials in the trafficking of Eritreans, with individuals apparently being abducted in Eritrea and ransom money being paid to those officials. As an example, in its 2013 report it stated: “The kidnapping, ransom and extortion of Eritrean migrants by human trafficking rings is a complex business involving a number of parties. The Monitoring Group has attempted to obtain evidence of extortion payments for which Eritrean agents are the direct beneficiaries

⁹⁹ See chapter IV, A, Political context and migration.

¹⁰⁰ M. Van Reisen and C. Rijken, *Sinai Trafficking: Origin and Definition of a New Form of Human Trafficking* (Cogitation, Social Inclusion, 2015, Volume 3, issue 1), pages 113-124.

¹⁰¹ M. van Reisen, M. Estefanos and C. Rijken, *The Human Trafficking Cycle: Sinai and Beyond*, (Wolf Legal Publishers 2013), Page 63.

in order to demonstrate, as clearly as possible, the continuing involvement of the Government of Eritrea in this trade.”¹⁰²

156. It is assessed by some researchers that between 2009 and 2013, 25,000 to 30,000 individuals were victims of the Sinai trafficking; approximately 90 per cent of them are believed to be Eritreans. This high percentage is explained not only by the preponderance of Eritreans using the Sinai route but also by the fact that Eritreans are seen as the most lucrative of victims. The Eritrea diaspora network has become known for paying higher ransoms than any other national groups – requests for Eritreans can reach 50,000 USD per person; sometimes victims are sold a number of times and released only through the payment of progressively higher ransoms. Ransoms are also known to have been paid for people who were dead by the time the money was demanded and/or delivered.

157. Several reports have now been published indicating that Eritreans can become victims of trafficking at different stages of their journey. While some put themselves in the hands of people smugglers from the beginning (and are sold on to traffickers), many others are abducted close to the border (in a third country or within Eritrea) or in transit countries (particularly in Sudan and Ethiopia), from refugee camps and anywhere along the route north.

C. Eritrea’s foreign relations and role in the international arena

1. Foreign relations

158. The Eritrean armed struggle only attracted diplomatic interest at the end of the 1980s, when the end of the Cold War drastically changed international dynamics. Before that, Western States had been reluctant to support Maoist-inspired liberation forces like EPLF, even if as of 1982 it was the only one fighting Soviet-backed Ethiopian troops in Eritrea. The end of the Soviet Union’s massive military support to the Ethiopian communist regime in 1988 precipitated the fall of its leader, Mengistu Haile Mariam, in 1991 and the subsequent recognition by the new Ethiopian Government of the Eritreans’ right to self-determination.

(a) Eritrean independence and international recognition

159. Eritrea’s official accession to independence on 24 May 1993 increased international interest in the country. Upon independence, Eritrea immediately became a member of the United Nations,¹⁰³ the Organization of African Unity, (OAU)¹⁰⁴ and the Inter-Governmental Authority on Development (IGAD).¹⁰⁵ Eritrea was also granted observer status at the Arab League. President Afwerki’s speeches at international level, in which he laid emphasis on self-reliance and denounced corruption, made him and Eritrea a symbol of the “African Renaissance” promoted at that time by US President Bill Clinton.¹⁰⁶

¹⁰² S/2013/440.

¹⁰³ See chapter III, C, Post-independence.

¹⁰⁴ Eritrea acceded to the OAU Treaty on 24 May 1993. The OAU later transitioned into the African Union.

¹⁰⁵ IGAD is a trade regional organization founded in 1986 and gathering States of the Horn of Africa (Djibouti, Ethiopia, Somalia and Eritrea), the Nile Valley (Sudan and South Sudan); and the Great Lakes (Kenya and Uganda). In 1993, Eritrea became the seventh member of the organization.

¹⁰⁶ During his African journey in March 1998, Bill Clinton popularised this notion when he said he placed hope in a new generation of African leaders devoted to democracy and economic reforms. Although the US President did not identify African leaders by name, it is generally assumed that he was referring to, among others, Yoweri Museveni of Uganda, Paul Kagame of Rwanda, Meles

160. The cornerstone of Eritrea's foreign policy during those years remained the building of a strategic alliance with Ethiopia, facilitated by ties between President Afwerki and his counterpart President Meles Zenawi who, before becoming Ethiopia's Head of State, was the chairman of the Tigray People's Liberation Front (TPLF). The two countries signed a trade agreement in January 1992. The following April they entered into an agreement on transit that turned Assab into a "free port" for Ethiopian imports and exports. In July 1992, further bilateral accords were concluded on cultural and technical exchanges; immigration; the use of trans-border rivers, particularly the Setit river; and security and defence cooperation. Eritrea also continued to use the Ethiopian Birr as its currency. Besides Ethiopia, Eritrea's main trading partners at the time included Italy, Saudi Arabia, Sudan, the United Arab Emirates, the United States and Yemen.

(b) Tensions with Sudan and border dispute with Yemen

161. Tensions with two of Eritrea's neighbours, Sudan and Yemen, nevertheless arose soon. Sudan hosted both the ELF and the EPLF during the armed struggle.¹⁰⁷ It was one of the first countries of the region to send an official representative to liberated Eritrea, as of December 1991, and at around the same time it withdrew its support to the ELF, closing their offices in Sudan. In 1989, though, Mr. Omer al-Bashir had seized power in Sudan with the help of the National Islamic Front (NIF) led by Mr. Hassan Al-Turabi. The latter supported the Eritrean Islamic Jihad Movement (EIJM) that led campaigns against the EPLF and Eritrean military forces, and called for the establishment of Islamic governments throughout the Horn of Africa.¹⁰⁸ In spite of his influence, in August 1994 Eritrea and Sudan signed a joint statement aimed at ensuring non-interference in each other's affairs. Soon afterwards, though, the Eritrean government accused Sudanese authorities of allowing EIJM fighters to infiltrate among Eritrean refugees returning from Sudan. In December 1994, Eritrea broke its diplomatic relations with Sudan. In June 1995, the PFDJ hosted a conference of Sudanese opposition forces in Asmara, during which the dormant Sudanese National Democratic Alliance (NDA), a coalition of parties opposing the regime of President Al-Bashir, was revived to launch an armed struggle against the NIF-controlled Sudanese Government.¹⁰⁹ In a symbolic gesture, the NDA was hosted in the former Sudanese embassy in Asmara and NDA military training camps were set up in western Eritrea. In January 1997, the NDA opened a front on the Eritrea-Sudan border. In June of the same year, the Eritrean government accused Sudan of an assassination plot against President Afwerki.

Zenawi of Ethiopia and Isaias Afwerki of Eritrea. Other leaders were later added to that list, including Ghana's Jerry Rawlings, Mozambique's Joaquim Chissano and South Africa's Thabo Mbeki.

¹⁰⁷ The ELF started to operate from Sudan in the 1960s ; the EPLF in the 1970s. Yet, Sudan's support to Eritrean independence forces varied depending on the authorities in place in Khartoum and their relations with Ethiopia. However, even when the Government of Sudan was not officially supportive of them, notably under Generals Abbud and al-Nimeri's rule, Eritrean liberation movements were always able to operate in Sudan. The ELF supply network ran largely through Kassala and the EPLF's through Port Sudan.

¹⁰⁸ The EIJM was formed in the early 1980s in Gedaref, Sudan, among the Eritrean Muslim refugees. It gathered Islamist-oriented former ELF members, students having been trained in Saudi Arabia, and fighters having served as *mujahideen* in Afghanistan. The EIJM started to launch a guerrilla campaign against the EPLF from Sudan along the western border with Eritrea in 1989. Despite EPLF's attempts to negotiate a cease-fire in 1993, the EIJM continued to attack Eritrean Government forces throughout the 1990s and in the early 2000s. In 2003, the EIJM split into two movements: the Eritrean Islamic Salvation and the Eritrean Islamic Reform Movement, known as Eslah.

¹⁰⁹ Further conferences were organised in Asmara in January and October 1996 and March 1997.

162. The two countries resumed peaceful relations in late 1999, thanks to a mediation process led by Qatar.¹¹⁰ The entente, nevertheless, did not last as during the Eritrea-Ethiopia border conflict, Ethiopian troops were allowed to use Sudanese territory and airspace to fight Eritreans. In response, Eritrea revived its support to the NDA, and provided assistance to rebel forces in Darfur and to the Sudan People's Liberation Movement (SPLM) in southern Sudan.¹¹¹ The Comprehensive Peace Agreement between the Sudanese Government and the SPLM in January 2005, which Eritrea helped to mediate, favoured the resumption of diplomatic relations between the two countries by years-end. These relations grew even closer when President Afwerki became one of the first Heads of State to invite President Al-Bashir for a visit after the International Criminal Court (ICC) indicted him for war crimes in Darfur. President Al-Bashir visited Eritrea in March 2009, a visit reciprocated in 2011 by President Afwerki in October 2011. Later that month, President Al-Bashir officially announced the end of border tensions between Sudan and Eritrea at a road inauguration meeting.¹¹² In June 2013, talks between Presidents Afwerki and Al-Bashir resulted in an agreement to establish a free-trade zone along their common border, to extend a highway from Eritrea to Port Sudan and to bring electricity provision from power stations in Sudan to towns in western Eritrea. In May 2014, during President Afwerki's visit to the Al Jeili oil refinery in Sudan, the Sudanese news agency announced that Sudan had agreed to supply Eritrea with fuel as part of its plans to boost economic cooperation between the two countries.¹¹³

163. Eritrea also experienced tensions with Yemen, eventually leading to open conflict. After supporting Eritrean liberation forces in the late 1960s and most of the 1970s, in 1977 the Government of Yemen aligned itself with the Soviet Union and broke its relations with the liberation forces. Yemen's support to the Ethiopian Derg regime declined at the end of the 1980s, along with the Soviet Union's. Yemen established diplomatic relations with Eritrea in 1991 and recognised its independence in 1993. Despite important trading exchanges, though, the relations between the two countries suffered from an unclear delimitation of their maritime boundary in the Red Sea. This led to a dispute about Yemeni fishing in Eritrean waters, settled by an agreement reached in November 1994. A second dispute erupted one year later, in November 1995, over the control of the Hanish Islands, a group of 23 hilly, barren islands, islets and rocks located at a point equidistant from the Eritrean and Yemeni coasts. Both Eritrea and Yemen claimed historic sovereignty over the archipelago, dating back to the Ottoman period. Tensions mounted when both Eritrean and Yemeni contingents occupied parts of the islands. In mid-December 1995 fighting erupted, leading to the killing of 12 soldiers from both sides and to the capture of 200 prisoners of war. On 17 December, Eritrea and Yemen agreed to a cease-fire. After several attempts at mediation by Ethiopia, Egypt and France succeed in 1996 in bringing the dispute to the Permanent Court of Arbitration. After two years of proceedings, the Court concluded that the Hanish Islands should be under shared sovereignty.¹¹⁴ Both Eritrea and Yemen accepted the ruling, and since then relations between the two countries have been relatively stable in spite of repeated disputes over fishing.

¹¹⁰ A normalisation agreement was signed by the Foreign Ministers of the two countries in Doha, in June 1999.

¹¹¹ Founded in 1983 as the political wing of the Sudan People's Liberation Army (SPLA) fighting forces, the SPLM, led by late John Garang, was one of the members of the NDA.

¹¹² <http://news.sudanvision daily.com/>.

¹¹³ <http://www.caperi.com/>.

¹¹⁴ Reports of International Arbitral Awards, Territorial Sovereignty and Scope of the Dispute (Eritrea and Yemen), 9 October 1998, Volume XXII, pp. 209-332.

(c) The “no war, no peace” relations with Ethiopia

164. The failure to delimit state boundaries was to have more serious consequences on the relations between Eritrea and Ethiopia where their shared border had never been demarcated, which meant that sovereignty over areas along the 1,000-kilometer frontier between the two countries remained unclear. This was the case of the western border locality of Badme, which fell under the EPLF control in November 1977 but over which sovereignty was not determined. On 6 May 1998, Ethiopian soldiers shot Eritrean soldiers near Badme, following which a heavy military response from Eritrea caused an escalation into a large conflict involving 500,000 troops from both sides. The border incident in Badme had in reality followed other minor disputes. In October 1997, Ethiopia provoked the Eritrean Government by issuing currency on which a map was printed that showed areas claimed by Eritrea to be part of Ethiopia. All these incidents occurred in an overall context of deteriorated relations between Eritrea and Ethiopia due to political, economic and military competition. In November 1997, Eritrea abandoned the Birr and adopted its own currency, the Nakfa, a decision that contributed further to political tensions. The military incident near Badme was the spark that started the fire.

165. The border war between Eritrea and Ethiopia continued until a peace agreement was signed on 12 December 2000 in Algiers.¹¹⁵ The accord provided for the creation of a joint Eritrea-Ethiopia Boundary Commission (EEBC) under the auspices of the Permanent Court of Arbitration, with a mandate to delimit the disputed border. It also established the Eritrea-Ethiopia Claims Commission (EECC), which was mandated to resolve the damage claims arising from the border conflict. Headed by Cambridge Law Professor Sir Elihu Lauterpacht, who was chosen by both parties, the EEBC was composed of two members appointed by Eritrea¹¹⁶ and two by Ethiopia.¹¹⁷ By common consent the decision of the Commission was to be final and binding. However, on 13 April 2002, when the EEBC defined the border and granted the disputed village of Badme to Eritrea, Ethiopia rejected the ruling¹¹⁸ and unsuccessfully appealed to the United Nations Security Council to set aside the decision. When this request was refused, Ethiopia refused to cooperate with the EBBC. Eritrea for its part accepted the findings of the EEBC. The EEBC dissolved itself on 30 November 2007, without having physically demarcated the disputed border. On the issue of compensations, in December 2005 the EECC found that because Eritrea had sent troops into the area of Badme before the outbreak of war, it had not acted in self-defence in 1998 and had, therefore, precipitated or caused the war. In December 2005, the Commission issued its final determination of liability and awarded Eritrea 161.4 million USD and Ethiopia 174 million USD. However, neither country has paid any compensation.¹¹⁹

166. The two countries remained in a stalemate defined by observers and Eritrea itself as a “no war, no peace” situation. Pursuant to the EEBC ruling, Eritrea has consistently accused Ethiopia of occupying its sovereign territory, while blaming the international

¹¹⁵ See chapter III, C, Post-independence

¹¹⁶ Yale professor Michael Reisman, former President of the International Court of Justice, and John Hopkins University professor Stephen M. Schwebel.

¹¹⁷ Nigeria’s former Attorney General and Minister of Justice Prince Bola Adesumbo Ajibola and British lawyer, diplomat, and arbitrator Sir Arthur Watts.

¹¹⁸ Reports of International Arbitral Awards, Decision regarding delimitation of the border between Eritrea and Ethiopia, 13 April 2002, Volume XXV pp. 83-195.

¹¹⁹ EECC, Partial Award, *Jus Ad Bellum*, Ethiopia’s Claims 1-8 between the Federal Democratic Republic of Ethiopia and the State of Eritrea, by the Claims Commission composed of Hans van Houtte, President, George H. Adrich, John R. Crook, James C.N. Paul, Lucy Reed, 19 December 2005 (<http://www.haguejusticeportal.net/index.php?id=6161>).

community for failing to compel Ethiopia to comply with the Algiers Agreement. Ethiopia, on its part, has accused Eritrea of being at the origin of the border dispute and of fuelling conflict in the region, notably in Somalia.¹²⁰ Both countries have led a fight by proxy by providing support to opposition and rebel groups. In April 2011, the Ethiopian Foreign Minister officially recognised the support of its government to Eritrean political organizations based in Ethiopia.¹²¹ He presented this support as one of the components of a three-layered approach to Eritrea, the two others being “diplomatic efforts to get the international community to act decisively about Eritrea” and “a proportionate response to any and every act by the regime in Asmara.”¹²²

(d) Involvement of Eritrea in Somalia and international sanctions

167. In June 2006, the Islamic Court Union (ICU), an alliance of various Islamists groups operating in Somalia, ousted the Ethiopia-backed Somali Transitional Federal Government (TFG) from Mogadishu.¹²³ The ICU had reportedly received some support from Eritrea in this endeavour. By the end of 2006, Ethiopia’s counter-offensive in Somalia managed to restore the TFG in the capital city and displace the ICU from specific areas. In response, Eritrea supported the organizations that emerged from the ICU and which plunged Somalia into a civil war. The insurgents met in September 2007 in Asmara to form the Alliance for the Re-Liberation of Somalia (ARS).¹²⁴ The same year Eritrea withdrew from IGAD in protest at the organization’s support for Ethiopia’s intervention in Somalia. In January 2009 a peace agreement was reached and the Africa Union Mission in Somalia (AMISOM), set up in 2007, took over military operations in Somalia.¹²⁵ Members of the ARS were then integrated in the Somali Transitional Federal Parliament (TFP).

168. Eritrea’s support to rebel and opposition groups in Somalia, nevertheless, did not cease. On 23 December 2009, the United Nations Security Council imposed an arms embargo on Eritrea, as well as a travel ban and the freezing of the assets of some of the countries’ military officials.¹²⁶ It also extended the mandate of the United Nations Monitoring Group on Somalia, created in 2002, to monitor Eritrea’s compliance with the new set of sanctions.¹²⁷ The Eritrean Government has never allowed the Group access to Eritrea.

169. The four reports of the Monitoring Group¹²⁸ have confirmed that until recently Eritrea supported Al-Shabaab, the main off-shoot of the ICU.¹²⁹ They have also found evidence of Eritrea’s support for Ethiopian rebel groups based outside of Ethiopia. These groups include the Ogaden National Liberation Front (ONLF), based in Somalia, as well as

¹²⁰ See chapter III, C, Post-independence.

¹²¹ For a list of Eritrean opposition groups, see chapter IV, B, 1, Political context.

¹²² The Ethiopian Minister for Foreign Affairs’ statement can be read on: <http://hornaffairs.com/>

¹²³ The TFG was established in 2004 by the Transitional Federal Parliament of Somalia. It functioned until 20 August 2012, when its tenure ended.

¹²⁴ Somali opposition alliance begins fight against Ethiopia, Agence France Presse (AFP) report by Peter Martell, 20 September 2007 (<http://reliefweb.in/>).

¹²⁵ AMISOM was created by the Africa Union Peace and Security Council on 19 January 2007 and approved by the United Nations Security Council on 21 January 2007. AMISOM’s mandate is still ongoing.

¹²⁶ S/RES/1907 (2009).

¹²⁷ UN Security Resolution S/RES/1407 (2002).

¹²⁸ S/2011/433, S/2012/545, S/2013/440, S/2014/727.

¹²⁹ Al-Shabaab, literally the “Mujahedeen Youth Movement”, formed in 2006 and pledged allegiance to Al-Qaeda in 2012. It still operates in Somalia, as illustrated by the 27 March 2015 attack against a hotel in Mogadishu that cost the life of the late Somali Ambassador to the United Nations in Geneva, H.E. Mr. Yusuf Mohamed Ismail ‘Bari Bari’.

the Tigray People’s Democratic Movement (TPDM)¹³⁰ and Ginbot Sebat,¹³¹ based in Eritrea. The military intervention of Ethiopia against the Afar Revolutionary Democratic Unity (ARDUF)’s positions inside Eritrean territory in March 2012¹³² indicates that Eritrea was also refuge for that Ethiopian rebel group.

(e) Relations with Djibouti

170. The 2009 United Nations Security Council Resolution that established international sanctions against Eritrea was also partly motivated by the refusal of the Eritrean Government to withdraw its troops from Ras Doumeira.¹³³ The Eritrean occupation of Ras Doumeira, which started in June 2008, ended two years later after mediation led by Qatar provided for a demilitarised zone in the area, monitored by Qatari contingents. The issue of prisoners of war captured during the skirmishes, though, could not be resolved. Eritrea has repeatedly denied having any Djiboutian prisoners of war, because it refuses to officially recognise the existence of a conflict with Djibouti. Yet, following the escape of two Djiboutian soldiers from Eritrea to Sudan, the United Nations Monitoring Group, whose mandate includes monitoring Eritrea-Djibouti relations, reported in 2012 that as of September 2011, at least five Djiboutian prisoners of war were still in detention in Eritrea. On its part, in April 2014 Djibouti handed over 267 Eritrean asylum seekers with military background who were detained in the Nagad Police Academy in Djibouti City to the United Nations High Commissioner for Refugees (UNHCR). Nineteen Eritrean prisoners of war are still held in custody. In 2014, Eritrea reportedly captured and detained a Djiboutian soldier who was accompanying Qatari officers in the demilitarised zone. The Djiboutian soldier was eventually released in September 2014, after condemnation of Eritrea by the Arab League.¹³⁴ Djibouti has replaced Eritrea as the port for Ethiopia; the country has also consistently joined Ethiopia in the condemnation of the Eritrean Government for being a destabilising influence in the region.¹³⁵ Relations between Djibouti and Eritrea remain tense.

171. While the country remains under international sanctions, since 2011 Eritrea has seemingly made proactive efforts to renew diplomatic ties with a number of countries, in particular European ones in the context of attempts to address migration.¹³⁶

¹³⁰ As already highlighted (see chapter III, C), the TPDM, also known as “Demhit”, was founded in 2001 by dissidents from the TPLF, who seized power in Ethiopia in 1990. In its last report (S/2014/727), the United Nations Monitoring Group on Somalia and Eritrea stated that the TPDM “continues to be trained in Harena”, a Red Sea island under Eritrea’s sovereignty. The TPDM is, according to the United Nations Monitoring Group, “the most important Ethiopian opposition group inside Eritrea” and “it had a dual function as an Ethiopian armed opposition group and a protector of the Afwerk regime.”

¹³¹ Ginbot Sebat is an opposition group formed in 2005 by Amhara political elites committed to regime change in Ethiopia. It is banned by the Ethiopian Government. The United Nations Monitoring Group on Somalia and Eritrea has documented support of Eritrea to Ginbot Sebat in its 2011 and 2012 reports. In its 2014 report, it confirmed that “Eritrea continues to provide support to Ginbot Sebat” and that “Colonel Fitsum continues to direct and oversee training for Ginbot Sebat.”

¹³² See chapter III, C, Historical Background- Post-independence.

¹³³ Ibid.

¹³⁴ <http://www.geeskaadrica.com/>.

¹³⁵ See for instance: Djibouti, Ethiopia Accuse Eritrea of Sabotaging Stability (in <http://www.bloomberg.com/>).

¹³⁶ See *infra*. In July 2014, the Italian Deputy Minister of Foreign Affairs, Mr. Lapo Pistelli, made a visit to Asmara during which he declared that it was “time for a new start” in the relations between Italy and Eritrea. This was the first visit of an Italian official since the expulsion of the Italian Ambassador, H.E. Mr. Antonio Bandini, in 2001.

2. Eritrea's relations with the United Nations and with regional organizations

(a) Eritrea's relations with the United Nations

172. Relations between Eritrea and the United Nations (UN) have been difficult. The “Eritrean Question” was put on the agenda of the newly established UN General Assembly in 1948, after the “Four Powers” (the United Kingdom, the United States, France and the Soviet Union) had failed to find an agreement on the future of the former Italian colony. The same lack of consensus, though, was to be found in the UN General Assembly, with States proposing various solutions including the partition of the country between Ethiopia and Sudan; unification/federation with Ethiopia; and independence.¹³⁷ The federal solution was eventually adopted by the UN General Assembly on 2 December 1949, after strong lobbying from the United States.¹³⁸ Protests by Eritreans against Ethiopia’s attempts to dismantle the Federation during the 1950s were unheeded, and in 1962 the UN remained silent when Ethiopia officially annexed Eritrea.¹³⁹ The EPLF, which had become the only liberation front in Eritrea in the 1980s, found itself isolated on the international scene and lacked support for its struggle. Despite efforts made at that time by the EPLF to have the UN adopt resolutions on decolonisation applied to Eritrea, in the context of the Cold War balances the issue was never taken up.¹⁴⁰ It was only in 1991, when the new Ethiopian Government agreed on Eritrea’s right to self-determination, that the UN turned its attention to the country and approved the UN Mission to Verify the Referendum in Eritrea (UNOVER).¹⁴¹

173. Eritrea officially joined the UN as its 182nd member on 28 May 1993. The following October, the UN Development Programme (UNDP) opened an office in Asmara. Tensions between the UN and Eritrea surfaced in 1993 and 1994 regarding the repatriation of refugees from neighbouring countries. These tensions were overcome with the acceptance of the Programme for Refugee, Reintegration and Rehabilitation of Resettlement Areas in Eritrea (PROFERI).¹⁴² Further difficulties occurred between the authorities and the humanitarian community when the Government imposed high taxes on expatriate relief employees and restricted the operation of foreign aid agencies. In May 1997, UNHCR international staff members were ordered to leave the country within 48-hours.

174. UNHCR was invited back at the end of the border conflict between Eritrea and Ethiopia, which had generated large numbers of refugees and internally displaced persons. In July 2000, the UN Security Council established the UN Mission in Ethiopia and Eritrea (UNMEE)¹⁴³ to monitor the cease-fire concluded between Eritrea and Ethiopia one month

¹³⁷ The four proposals were respectively made by: the United Kingdom-Italy “Bevin-Sforza Plan” which failed at the Third General Assembly in 1949; Norway; Burma and South Africa; and Pakistan and Guatemala, after a ten-year trusteeship. See chapter III, A, 3, Historical Background - British administration.

¹³⁸ Resolution 390 A (V).

¹³⁹ Three petitions were taken by Eritreans to the UN General Assembly in 1957, 1962 and 1963, respectively.

¹⁴⁰ Mr. Bereket Habte Selassie, who would serve as president of the Constitutional Commission after independence, was sent to New York during the 1980s to represent the EPLF at the General Assembly.

¹⁴¹ Created by UN General Assembly Resolution 47/114, UNOVER operated from 16 December 1992 to 25 April 1993.

¹⁴² The plan was, however, coordinated by UNDP instead of UNHCR because of divergent views between the Eritrean Government and the UN refugee agency.

¹⁴³ S/RES/1312(2000).

earlier (confirmed in the Algiers Peace Agreement).¹⁴⁴ UNMEE was staffed with 1,676 military personnel, as well as with 147 international and 202 national civilians. Its mandate included human rights monitoring but was limited to the 25-kilometer-wide buffer Temporary Security Zone (TSZ) established inside Eritrea along the border with Ethiopia. Relations between the Eritrean Government and UNMEE deteriorated following the perceived UN failure to implement the 2002 decision of the EEBC that granted the disputed locality of Badme to Eritrea. The Eritrean authorities imposed severe restrictions on UNMEE's operations, including on helicopter flights along the border and the movement of its ground patrols inside the TSZ. These restrictions culminated with cutting-off of UNMEE fuel supplies, which forced the UN to close the Mission on 31 July 2008.¹⁴⁵

175. In the meantime, the Eritrean Government has cooperated with the UN Country Team (UNCT). A first UN Development Assistance Framework (UNDAF) was concluded between the two entities for the period 2002-2006. It focused on three strategic objectives: the promotion of democratic governance; the promotion of access to basic social services; and the promotion of pro-poor economic growth and sustainable livelihoods. Programme expenditure exceed its indicative budget of 120 million USD, with actual expenditure, amounting to 462 million USD due to increased humanitarian support towards emergency and recovery. A second UNDAF was signed for the period 2007-2011. The promotion of democratic governance as an objective disappeared. The new five strategic areas of cooperation included: basic social services; capacity development for attaining Millennium Development Goals (MDGs); food security; emergency and recovery; and gender equality and the empowerment of women. This UNDAF had a total indicative budget of 116 million USD, but actual expenditure exceeded 175 million USD. During this period, relations between the Government of Eritrea and the UN became more complicated by the imposition of sanctions following UN Security Council Resolution 1907.¹⁴⁶ Discussions taking place in the context of the new Framework agreement saw Eritrean authorities' express an intention to curb external aid. Only an interim Framework Cooperation Agreement (2011-2012) could, therefore, be signed between the Government and the UN System in July 2011, earmarking support to health, safe water supply and sanitation. The Government also underscored its determination to see a new approach to UN cooperation in Eritrea, with a significant shift from emergency aid to development assistance.

176. The signing on 28 March 2013 of a Strategic Partnership Cooperation Framework (SPCF) between the Government of Eritrea and the UNCT for the period 2013-2016, witnessed improved cooperation between the two stakeholders. This new step coincided with Eritrea's efforts to improve its international image.¹⁴⁷ The SPCF, with a budget estimated at 188 million USD, builds on former UNDAFs while taking into account the priorities selected by the Eritrean government.¹⁴⁸ The SPCF strategic areas are: basic social services; national capacity development; food security and sustainable livelihoods; environmental sustainability; and gender equity and the advancement of women.

¹⁴⁴ Signed in December 2000.

¹⁴⁵ S/RES/1827 (2008) adopted by the UN Security Council on 30 July 2008.

¹⁴⁶ See *supra*.

¹⁴⁷ This effort has continued since then. For instance, on 16 March 2015, the Permanent Mission of Eritrea in New York, in partnership with the UNCT in Eritrea, organised a side event to the UN General Assembly entitled "Empowering women: Eritrea's achievement" to showcase the country's performance in that area.

¹⁴⁸ Among others, the Eritrea SPCF 2013-2016 notes that "lessons learned from last UNDAF reveal that the UN has a role to play in accelerating the progress towards the MDGs while supporting the integration of critical enablers to effective programming such as ... human rights."

177. On 28 March 2013, the Government of Eritrea endorsed the UNDP, UN Children's Fund (UNICEF) and UN Population Fund (UNFPA) Country Programme Actions Plans (CPAP), all based on the priorities set in the SPCF. UNDP- CPAP focuses on capacity development; environmental sustainability; food security and sustainable livelihoods; and gender equity and the advancement of women. UNICEF-CPAP components are: health and nutrition; basic education; water; sanitation and hygiene; and child protection. UNFPA's priorities include data for development and safe motherhood and women and youth empowerment policies. Other UN departments and agencies currently working in Eritrea are the UN Office for the Coordination of Humanitarian Affairs (OCHA); the Joint UN Programme on HIV/AIDS (UNAIDS); the World Health Organization (WHO); the Food and Agriculture Organization (FAO); and UNHCR. Other United Nations entities, such as the Office of the UN High Commissioner for Human Rights, are known to have conducted *ad hoc* missions.

(b) Cooperation of Eritrea with United Nations human rights mechanisms

178. The cooperation of the Eritrean government with the UN human rights has so far been limited. Outcome four of the Eritrea SPCF 2013-2016 provides for "human resource development and institutional strengthening in human rights." To that end, "the UNCT aims to deepen the knowledge of International Law and Human Rights Law, particularly of relevant International Conventions and standards ... Furthermore, support will go towards the implementation of the Universal Periodic Review on Human Rights (UPR) recommendations."

(i) The Universal Periodic Review (UPR)

179. In November 2009 and in February 2014, Eritrea participated in the first and second cycles of UPR, respectively, which took place under the auspices of the Human Rights Council. In the two reports it submitted for the UPR reviews, the Eritrean Government only provided information and concrete data about the implementation of its policies related to MDGs and children rights.¹⁴⁹ Eritrea's efforts to achieve the MDGs, to promote gender equality and to progress towards the elimination of female genital mutilation (FGM) were duly acknowledged by Member States of the Council. It was also noted that Eritrea was one of the rare African country to be on track with the three MDGs related to the child and maternal health and the environmental sustainability; and that significant progress was being recorded in the fight against HIV/AIDS and other serious contagious diseases such as tuberculosis and malaria. The Eritrean government recognised that further efforts were needed with regard to the eradication of poverty and hunger and universal access to primary education.¹⁵⁰

180. Information about other fundamental rights, nevertheless, was limited to statements according to which these rights are enshrined in the Constitution and relevant pieces of legislation and, therefore, guaranteed. Yet, no information about their implementation in practice or details about the legal safeguards provided by the law were given. The reports make no mention of the national service, except to explain that it had to be prolonged beyond the 18-month period provided by law because of the country's unresolved disputes with its neighbours on sovereignty and territory.¹⁵¹

181. During the UPR reviews, many Member States of the Human Rights Council expressed their concerns about the situation of human rights in Eritrea, its lack of

¹⁴⁹ A/HRC/WG.6/6/ERI/1 and A/HRC/WG.6/18/ERI/1.

¹⁵⁰ A/HRC/WG.6/18/ERI/1, par 50. See chapter IV, D, Economic and development context.

¹⁵¹ See Eritrea report, A/HRC/WG.6/18/ERI/1, par. 91.

cooperation with established human rights mechanisms and – during the second UPR – the lack of implementation of the recommendations accepted during the first one.¹⁵² During the second UPR, Member States made 200 recommendations to the Eritrean Government aiming at ensuring better respect for, protection and implementation of human rights in the country and in particular the civil and political rights. The Government had accepted 90 of the recommendations.¹⁵³

(ii) *Special Procedures*

182. Eritrea maintains on principle that a country-specific mandate should not exist, since in its view country specific mandates are politically motivated and undermine the UPR-initiated constructive dialogue between States.¹⁵⁴ On that basis, Eritrea has never cooperated with the Special Rapporteur on the situation of human rights in Eritrea and did not allow her to visit the country following her visit requests. The same attitude was maintained vis-à-vis the Commission.

183. During its Universal Periodic reviews, the Eritrean Government stated its refusal to grant standing invitations to the Special Procedures mandate holders. It added, however, that it would consider requests for visits by thematic mandate-holders on a case by case basis. Nevertheless, so far the Government has not accepted any of the visit requests that have been made by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression in 2003,¹⁵⁵ the Special Rapporteur on freedom of religion or belief in 2004, the Special Rapporteur on the right to food in 2003, the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment in 2005,¹⁵⁶ and the Special Rapporteur on extrajudicial, summary or arbitrary executions in 2010.

184. The Government has only replied to one of the communications sent by the Special Rapporteur on the freedom of religion or belief sent in October 2003 about the arrest and detention of Jehovah's Witnesses and members of other Christian religions.¹⁵⁷ Since then, the Government did not reply to the communications and urgent appeals sent by Special Procedures mandate holders. Three communications were sent in March, June and November 2004 by the Special Rapporteur on the freedom of religion or belief related to the arrest and detention of religious leaders.¹⁵⁸ A communication by the Chairperson of the Working Group on arbitrary detention together with the Special Rapporteur on freedom of religion or belief and the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health was sent in 2007 and reiterated in 2012. It raised the case of Abune Antonios, the Patriarch of the Eritrean Orthodox Church, who had been under house arrest from January 2006 until 27 May 2007 and detained *incommunicado* since then.¹⁵⁹ In 2010, the Special Rapporteur on torture sent urgent appeals on the conditions of detention of 26 journalists and two media workers.¹⁶⁰ In May 2014, the Working Group on arbitrary detention, together with the Special Rapporteur on the situation of human rights in Eritrea, the Special Rapporteur on freedom of religion or

¹⁵² During the First UPR review, Eritrea had accepted only 14 out of the 131 recommendations that had been made (see A/HRC/13/2 and A/HRC/13/2/Add.1).

¹⁵³ See A/HRC/13/2 and A/HRC/26/13.

¹⁵⁴ A/HRC/26/13, par. 96.

¹⁵⁵ Request reiterated in 2005.

¹⁵⁶ Request reiterated in 2007 and 2010.

¹⁵⁷ E/CN.4/2005/61/Add.1, p. 25 -26.

¹⁵⁸ E/CN.4/2005/61/Add.1, p. 25 -26.

¹⁵⁹ A/HRC/WG.6/18/ERI/2. See chapter VI, A, 4, Freedom of religion and belief.

¹⁶⁰ A/HRC/WG.6/18/ERI/2, par. 19 and 24.

belief and the Special Rapporteur on torture sent an urgent appeal about the alleged arrest and arbitrary detention of five members of the Evangelical Lutheran Church for their religious beliefs.¹⁶¹ In June 2014, the Working Group on arbitrary detention, together with the Working Group on enforced and involuntary disappearances, the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, the Special Rapporteur on torture and the Special Rapporteur on the situation of human rights in Eritrea sent an urgent appeal on the alleged arrest and arbitrary detention of Eritrea's Ambassador to Nigeria that is believed to be politically motivated.¹⁶² None of these requests or appeals was acknowledged.

(iii) *Treaty Bodies*

185. The Government of Eritrea has submitted initial and subsequent regular reports on the implementation of Convention to Eliminate All Forms of Discrimination against Women (CEDAW) and the Convention on the Rights of the Child (CRC).

186. It submitted its first report (combined with its second and third periodical reports) on the implementation of CEDAW in 2004, which was considered by the Committee in February 2006. It submitted its fourth and fifth reports in 2012, which were considered together by the Committee in February 2014.

187. In 2001, Eritrea submitted its initial report to CRC, due since 1996. The report was considered by the Committee in July 2003. It then submitted its combined second and third reports in 2007. They were considered by the Committee in October 2007. Finally, the Government submitted its fourth report in 2012, which was considered by the Committee during its 69th session of May-June 2015.

188. Eritrea did not submit its initial reports on the implementation of the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic Social and Cultural Rights (ICESCR), and the Convention on the Elimination of Racial Discrimination (CERD). The reports are overdue since 2003 under ICCPR and ICESCR and since 2002 under CERD. During its first UPR review in 2009, the Eritrean Government stated that it had not been in a position to submit these overdue reports in a timely manner because most of the country's legal experts are occupied with the issue of the delimitation and demarcation of the border with Ethiopia by the EEBC. The Government stated that it would restart working on them once the arbitration decision had been finalised.¹⁶³ In its report for the second UPR review in 2014, it did not mention the issue of the overdue reports to these three Committees but accepted the recommendation that it should submit all the reports due to Treaty Bodies and cooperate with these mechanisms.¹⁶⁴

189. The initial report on the implementation of the Convention against Torture (CAT) is due in November 2015.

190. Eritrea has not accepted the competency of any core human rights Treaty Bodies to examine individual communications about alleged human rights violations.

¹⁶¹ A/HRC/27/72, p. 66.

¹⁶² A/HRC/28/85, p. 14.

¹⁶³ A/HRC/WG.6/6/ERI/1, par. 83.

¹⁶⁴ A/HRC/26/13/Add.1 par. 122.74 and 122.75.

(b) Eritrea's relations with regional organizations

(i) The Africa Union and the Intergovernmental Authority on Development

191. Eritrea joined the Organization of the African Unity (OAU), later to become the African Union (AU), and the Intergovernmental Authority on Development (IGAD) in 1993, after it became independent.¹⁶⁵ The relations with these two regional organizations were, however, impacted by Eritrea's foreign relations with Ethiopia. For a long time, Eritrea withdrew from the AU in protest against the organization's support to the Ethiopian intervention in Somalia. For the same reason, it withdrew from IGAD in 2007. In 2011, the United Nations Monitoring Group on Somalia and Eritrea reported an attempt by the Eritrean intelligence services to organise a bomb attack at the January 2011 AU Summit.¹⁶⁶ The same month, though, perhaps with a view to break its isolation on the international scene, Eritrea reoccupied its seat in the AU. Similarly, in July 2011 the Eritrean Minister of Foreign Affairs sent a letter to the Executive Secretary of IGAD expressing Eritrea's wish to reactivate its membership. This request has not yet been examined by the IGAD Assembly of Heads of State and Government.

(ii) The African human rights mechanisms

192. The African human rights system provides for mechanisms to ensure the respect, implementation and promotion of the rights enshrined in the African Charter on Human and Peoples' Rights. Accordingly, every two years each State party to the Charter has the duty to submit to the African Commission on Human and Peoples' Rights reports in which it must detail the measures taken to fulfil its obligations under the Charter. The Commission considers the reports during a public session in the presence of State party representatives and NGOs. Eritrea ratified the Charter in 1999 but has never submitted a report. In October 2013, Eritrea submitted its report on the protection and implementation of the rights enshrined in the African Charter on the Rights and Welfare of the Child. Its initial report was due in 2001 and its first periodical report was due in 2004. The report will be considered by the African Committee of Experts on the Rights and Welfare of the Child.

193. In addition, the African Commission has a system of Special Rapporteurs mandated to undertake missions to specific countries in order to collect information on the human rights situation and disseminate knowledge about human rights. One of the objectives of such missions is also to enhance the visibility of the Commission and raise awareness about its work and its mechanisms established to protect and promote human rights on the African continent. Such missions, which may sometimes include a fact finding component, can only be organised with the consent of the State. Eritrea has never invited any Special Rapporteur of the African Commission to undertake a promotional mission and it explicitly refused the request made by the Special Rapporteur on Prisons and Conditions of Detention to visit the country.

194. Eritrea did not recognise the competency of the African Court on Human and Peoples' Rights to examine individual communications about specific cases of human rights violations. However, the African Commission has a mechanism that allows it to consider individual communications presented by individuals without requiring pre-approval by the State party. In this context, several communications were submitted against Eritrea and deemed admissible by the African Commission.

¹⁶⁵ See *supra*.

¹⁶⁶ S/2011/433.

195. In October 1999, communication No. 234/99 was submitted against Eritrea by the NGO Interights (on behalf of the Pan African Movement and Inter African Group), in parallel to communication No. 233/99 against Ethiopia, also submitted by Interights (on behalf of the Pan African Movement and Citizens for Peace in Eritrea). The two communications related to alleged human rights violations committed by both Governments during the border conflict between the two countries that began in 1998. It was alleged by the complainant that thousands of Ethiopian nationals were expelled from Eritrea directly or by coercing them to leave the country and that about 61,000 people of Eritrean ethnic descent were deported from Ethiopia while they were legal residents there. It was also alleged that during these events, numerous human rights violations occurred, including arbitrary detention, mass interment, torture, murder, enforced disappearances, forced conscription into the military, rape and confiscation of property. The communications were considered to be admissible by the Commission during its 27th ordinary session (2000). The two respondent States shared the view that the matters of the claims had been submitted to the Eritrean-Ethiopian Claims Commission (EECC) established under the 2000 Algiers Peace Agreement. The African Commission decided in May 2003 to suspend the consideration of the two communications pending the decision of the Claims Commission and that the Respondent States should keep the EECC regularly informed of the process. The EECC rendered its final award on Damages on 17 August 2009. The African Commission has so far not reopened the two communications.

196. Two individual communications were submitted to the Commission in 2002 (No. 250/2002) and 2003 (No. 275/2003) on behalf of 11 members of the G-15¹⁶⁷ and 18 journalists¹⁶⁸ respectively, who have been detained *incommunicado* since 2001.¹⁶⁹

197. The African Commission considered communication No. 250/2002 in November 2003; and decided on the admissibility of communication No. 275/2003 in December 2004 and its merits in May 2007. Eritrea participated in the two quasi-judicial procedures by transmitting submissions on the admissibility and merits of the two communications. In its submissions, the Government of Eritrea stated that all the rights referred to by the complainants are guaranteed and protected in the Constitution. In its decisions, the Commission declared that human rights violations were committed by the Eritrean authorities who arbitrarily arrested and held in *incommunicado* detention the 11 political opponents and 18 journalists. It found violations of the right to freedom of expression and to receive information, the right to dignity and security of the person, the rights to fair trial and other related rights and the right to family life. The Commission urged the Government of Eritrea to order the immediate release of all the detainees and/or to bring them immediately before a court and to grant them access to their families and legal representatives. It also recommended that they be compensated and that the ban on the press in Eritrea be lifted. Eritrea has not complied with any of the recommendations.

198. In 2012, another individual communication on behalf of the Swedish-Eritrean journalist writer and playwright Mr. Dawit Isaak, who has been held in *incommunicado* detention since 2001, was submitted against Eritrea to the African Commission. The main claim is related to Eritrea's failure to act on a writ of *habeas corpus* that was sent in 2011 to the High Court in Asmara on Mr. Dawit Isaak's behalf. The Government of Eritrea also participated in the proceedings and made a submission on the admissibility of the

¹⁶⁷ African Commission of Human and People's Rights, Communication No. 250/2002 (2003), *Liesbeth Zegveld and Messie MUSSIE Ephrem v. Eritrea*.

¹⁶⁸ African Commission of Human and People's Rights, Communication No. 275/2003 (2007), *Article 19 v. the State of Eritrea*.

¹⁶⁹ See chapter III, C, Historical Background - Post-independence.

communication. In July 2014, the African Commission declared the communication admissible. The proceedings are on-going.

(iii) *The European Union*

199. Relations between Eritrea and the European Union (EU) date back to the first years of Eritrea's independence. The EU opened a delegation in Asmara in 1995, engaging in reconstruction activities and developing trade and economic exchange. Relations started to deteriorate following the 2001 political crackdown and the arrest and detention of the Swedish-Eritrean journalist Mr. Dawit Isaak. On 28 September 2001, the then Italian Ambassador to Asmara, His Excellency Mr. Antonio Bandini, presented a letter of protest to the authorities and was expelled. In response, all EU countries withdrew their Ambassadors, leading to a halt in the cooperation between the EU and Eritrea.¹⁷⁰ Yet, the EU re-evaluated its relations with Asmara at the end of the 2000s. In May 2007, President Afwerki visited Brussels, where he was welcomed by the then EU Development Commissioner, Mr. Louis Michel. The latter visited Asmara in August 2009 and, contrary to his expectations, was not allowed to visit Mr. Isaak. Notwithstanding this, the EU signed with Eritrea a Country Strategy and National Indicative Programme for the period 2009-2013 amounting to € 120 million.¹⁷¹ The Programme mainly targeted food security (€ 70 million). It acknowledged the past "slowdown in EU-Eritrea development cooperation" as well as "limited" political dialogue. In November 2011, the EU drew up a Strategic Framework for the Horn of Africa and in 2012 appointed a Special Representative for that region. The Strategic Framework insists on the EU's support to "the development of democratic processes and institutions that contribute to human security and empowerment", notably through "promoting respect for constitutional norms, the rule of law, human rights, and gender equality through cooperation and dialogue with Horn partners."

200. Throughout the years, the EU has regularly raised the issue of Eritrea's human rights obligations. On 18 September 2014, the Spokesperson of the EU External Action Service reiterated previous calls to the Eritrean authorities to release the 11 detained members of the G-15 as well as all the journalists detained in Eritrea, including Mr. Isaak. He also said that "the EU calls on the Government of the State of Eritrea to honour its international human rights obligations and to urgently improve its human rights situation. The EU also calls on the Government to fully co-operate with the UN Special Rapporteur on the human rights situation in Eritrea as well as to implement the recommendations made by the UN Human Rights Council during the Universal Periodic Review of the State of Eritrea in 2014."¹⁷²

201. In the context of an increasing number of refugees trying to reach Europe from the Horn of Africa (and particularly from Eritrea), the EU has recently renewed its engagement with Eritrea on migration and trafficking issues. In December 2014, Eritrea, along with Ethiopia, Somalia, South Sudan, Sudan, Djibouti, Kenya, Egypt and Tunisia, was one of the signatories of the EU-Horn of Africa Migration Route Initiative, now known as "Khartoum Process". This new initiative aims at increasing EU support to these countries to tackle trafficking and smuggling of migrants. Specifically with regard to Eritrea, reports have appeared suggesting that the EU is considering a multi-million development package for the country.

¹⁷⁰ The diplomats of four countries (Germany, the Netherlands, France and Denmark) returned to Eritrea shortly thereafter.

¹⁷¹ <http://ec.europa.eu/>.

¹⁷² <http://eeas.europa.eu/>.

202. In this changing context, Eritrean opposition parties, diaspora organizations and academics recently questioned the EU policy vis-à-vis Eritrea for lacking consistency with its human rights objectives.¹⁷³ In particular, Eritrean organizations fear that EU leaders may de-emphasise the Eritrean human rights situation in a bid to resolve the problem of migration flows from the Horn of Africa, or change their migration policies in disregard of the prevailing human rights situation in the country.

D. Economic and development context

1. Economic context

(a) Indicators¹⁷⁴

203. After a rapid economic development, averaging an annual growth of gross domestic product (GDP) of 7 per cent in the years following independence, the Eritrean economy registered a significant slowdown as a consequence of the border war with Ethiopia. GDP dropped to an estimated one to two per cent growth for the 2007-2008 period. The downward trend of GDP performance was reversed in the following years thanks to surging profits in the mining sector. GDP growth was of 2.2 per cent for 2010, peaking at 8.2 per cent in 2011 and slowing down to 6.3 per cent in 2012 because of falling mineral prices. Financial institutions have forecasted real GDP growth to pick up from 3.5 per cent in 2013 to an annual average of 8.2 per cent in 2014-2015.

204. Since its independence, Eritrea has faced chronic fiscal deficits impacting on economic performance. The average deficit was eighteen per cent of GDP in the 2000-2010 period. The Nakfa has been pegged to the dollar (USD) at Nakfa 15.38/USD 1, since 2005.¹⁷⁵ Over this period the Nakfa has become severely overvalued because of high inflation and large current-account deficits. The misaligned exchange rate has resulted in foreign-exchange shortages. The Eritrean Government substantially liberalised foreign currency transactions in early 2013 to adjust the Nakfa's rate against the USD and bring it closer to the market rate. According to the African Development Bank Group (AfDB),¹⁷⁶ the fiscal deficit of Eritrea is expected to decrease from an estimated 11.7 per cent of GDP in 2013 to 10.3 per cent of GDP in 2014 and 9.08 per cent of GDP in 2015, on account of the growth in revenues from mining.

205. AfDB also estimates that remittances from the Eritrean diaspora have declined as a consequence of the 2011 United Nations Security Council sanctions, which have prohibited UN member countries from facilitating transfer of the two per cent "Rehabilitation Tax" paid by Eritreans living abroad.¹⁷⁷

¹⁷³ See in particular: "Listen to our agony – responding to the Eritrean crisis", published in December 2014 by the Eritreans for Human and Democratic Rights-UK, Stop Slavery in Eritrea Campaign, Release Eritrea-UK, Freedom Friday, Citizens for Democratic Rights in Eritrea, Coordinamento Eritrea Democratica, Eritrean Initiative on Refugee Rights-Sweden, Human Rights Concern Eritrea/UK; the letter sent on 30 March 2015 by the Eritrean People's Democratic Party to EU authorities; and the statement on the European asylum and aid policy to Eritrea, published on 31 March 2015 by 22 academics, researchers and journalist working on Eritrea.

¹⁷⁴ Sources: World Bank, International Monetary Fund, UN Human Development Index, Economist Intelligence Unit.

¹⁷⁵ According to open source information, one USD would trade against about 50 Nakfa on the black market – but the exchange rate oscillates.

¹⁷⁶ East Africa Quarterly Bulletin, third quarter of 2014.

¹⁷⁷ See chapter VI, A, 1, Surveillance of the population in violation of the right to privacy.

(b) International Trade¹⁷⁸

206. Eritrea's international trade has been characterised by large deficits. The main constraints to trade include infrastructural deficiencies, institutional capacity weaknesses, governance challenges and unresolved regional instability and conflict. These constraints have resulted, *inter alia*, in Eritrea having little interregional trade with countries of the Common Market for Eastern and Southern Africa (COMESA)¹⁷⁹ – only 20 per cent of Eritrea's total international trade according to the United Nations Conference on Trade and Development (UNCTAD).

207. The Bank of Eritrea does not provide data on foreign direct investment (FDI). UNCTAD's 2011 FDI Report states that Eritrea had 74 million USD in FDI inward flow and 779 million in FDI stock (accumulated inflows) in 2012, the most recent year for which data is available. No data is available on outflows.

208. The total number of bilateral investment agreements reported by UNCTAD as of 1 June 2013 is four: one signed with Italy on 6 February 1996, one with Qatar on 7 August 2000, one with Uganda on 7 August 2001 and one with the Netherlands on 2 December 2003.

(c) Mining and other sectors¹⁸⁰

209. Activity in the mining sector has surged, with considerable impact on the recent economic growth of Eritrea. In 2012, the AfDB estimated that mining, along with quarrying and construction, represented 30 per cent of Eritrean GDP, against 58.4 per cent coming from the services sector. With 11.6 per cent of GDP, agriculture represents a small share of the Eritrean economy, although it constitutes the main source of livelihood for 80 per cent of the population. The agricultural sector in Eritrea is subjected to risks of drought and suffers from a lack of infrastructure, with reportedly less than 10 per cent of arable lands being irrigated.

210. The Mining Sector is regulated by Proclamation No. 68/1995 promulgated in April 1995. The Proclamation provides that the Eritrean National Mining Corporation (ENAMCO) is entitled to a 10 per cent share in any international mining project in Eritrea. In addition, ENAMCO has the right to purchase a further 30 per cent interest in all new mining projects in Eritrea. This requires ENAMCO to contribute approximately one third of the project's capital costs but it is entitled to 40 per cent of the dividends. Prospecting licences are valid for one year and are non-renewable. Exploration licences are valid for an initial period of three years, with the option to be renewed twice for additional terms of one year each. Mining licences, for their part, are valid for a period of 20 years, with the option for one 10-year renewal.

211. Nevsun Resources Ltd., a Canadian company, is the only mining company currently operating in Eritrea. It operates a mine in Bisha (150 kilometres west of Asmara) that produces gold, silver, copper and zinc. Nevsun is also the only foreign mining company paying royalties and taxes to the Eritrean treasury. Its published data show that it paid over

¹⁷⁸ Sources: UNCTAD, US Department of State Investment Climate Statements 2014, African Economic Outlook 2014 County Report on Eritrea, Economist Intelligence Unit.

¹⁷⁹ The COMESA is a common market formed in 1994 to replace a Preferential Trade Area which had existed since 1981. The COMESA gathers Djibouti, Eritrea, Ethiopia, Egypt, Libya, Sudan, Comoros, Madagascar, Mauritius, Seychelles, Burundi, Kenya, Malawi, Rwanda, Uganda, Swaziland, Zambia, Zimbabwe, the Democratic Republic of Congo, and South Sudan. Eritrea joined the COMESA in 1994.

¹⁸⁰ Sources: United Nations Monitoring Group on Somalia and Eritrea and Human Rights Watch report, Hear No Evil: Forced Labour and Corporate Responsibility in Eritrea's Mining Sector, 2013.

85 million USD to the Government of Eritrea in income taxes, royalties and other fees. The company estimates that it will pay a total of 14 billion USD to the Government of Eritrea over the next ten years. On 20 November 2014, three Eritreans filed a lawsuit against Nevsun in the Supreme Court of British Columbia, Canada, in relation to whether Nevsun relied upon forced labour.¹⁸¹

212. Three other foreign companies have received approval to develop mining projects in Eritrea and plan to launch production in 2015 and 2016. ENAMCO and the SFECO Group, a subsidiary of the Chinese firm “Shanghai Construction Group Co. Ltd.”, have created a joint venture to exploit the Koka gold mine, in northern Eritrea. The project plans to start operations during the third quarter of 2015. Two other projects are scheduled to launch operations in 2016. The first one is run by the Canadian-Chinese “Shanghai Construction Group Company and Sunridge Gold Corp” and will operate a gold, silver, copper and zinc mine in the Asmara region. The second is operated by the Australian company “South Boulder Mines Ltd.”, which was awarded an exploration licence in 2009 for the potash Colluli tenements in southern Eritrea. Colluli is reported to have the potential to be the world’s first and largest modern open-cast potash mine.

(d) Economic cooperation and regional integration

213. Eritrea is currently a member of COMESA, the Community of Sahel-Saharan States, the New Partnership for Africa’s Development, and the Intergovernmental Authority on Development (IGAD). Eritrea is also participating in a regional programme for financial integration under COMESA and is a beneficiary of the Generalised System of Preferences with a number of industrialised countries and regions, including the United States and the European Union.

(e) Support provided by international and regional financial institutions

214. The World Bank (WB) has no Country Partnership Strategy for Eritrea and no active projects with it. From 1997 to 2011, in partnership with the Eritrean Government, the European Union and the Italian government implemented a “Ports Rehabilitation Project” amounting to 36.6 million USD. The International Monetary Fund (IMF), for its part, has had no transactions with Eritrea since 1 January 1984.

215. The African Development Bank has two on-going projects: one to support Technical and Vocational Education and Training, implemented since 2012 and amounting to UA 13.3 million; and a second to support higher education development, implemented since 2010 and amounting to UA 15.6 million.¹⁸²

2. Development context

216. Reliable data on Eritrea focusing on development in various sectors is not available. The Government has recognised the need to strengthen its Statistics Office and has requested UN assistance to do so. In the meantime, it provides some statistical data through its Local Government Ministry. United Nations agencies are restricted in their access to vast areas of the country and are, therefore, unable to regularly collect data as they do in other countries. Information in the following paragraphs is, therefore, based on the limited data that is publicly available.

¹⁸¹ See chapter VI, C, 2, Forced labour.

¹⁸² UA are “units of account” used by the African Development Bank. In 2010, the exchange rate to the dollar was set at 1.54.

217. Despite recent economic growth, Eritrea remains one of the least developed countries in the world, with an average annual per capita income of 531 USD in 2013, for a population estimated today at 6.3 million.¹⁸³ Eritrea is ranked 177th out of 187 countries in the 2011 United Nations Human Development Index.

218. In January 2015, the United Nations Country Team (UNCT) made available on its website a concept note for the preparation of Eritrea's 2014 Millennium Development Goals (MDGs) progress report, which will assess progress towards attaining the MDGs since the publication of the last progress report in 2006.¹⁸⁴

(a) Progress in achieving health MDGs

219. The United Nations Development Programme in Eritrea (UNDP-Eritrea) considers that the country has made progress towards the achievement of health-related MDGs (i.e. MDG 4 on child health, MDG 5 on maternal health, and MDG 6 on combating HIV/AIDS, malaria and other diseases) and is one of the few African countries on track to meet these indicators.¹⁸⁵

220. Regarding MDG 4, Eritrea managed to reduce under-five mortality from 150 per 1,000 live births in 1990 to 50 by 2013.¹⁸⁶ UNDP-Eritrea points out that “the under-five mortality rate was 49.5 per cent in 2013, which surpassed 50 per cent target set for 2015. Infant mortality was 42 per cent in 2010 and is projected to meet the target of 20 per cent by 2015. The proportion of one-year old children immunised against measles was 99 per cent in 2013, which will surpass the target of 98 per cent set for 2015”.¹⁸⁷

221. Similarly, significant reductions of maternal mortality (MDG 5) have been achieved, with figures showing that rates have decreased from 1,700 per 100,000 live births in 1990 to 380 in 2013.¹⁸⁸ MDG 5 is divided in two. The first MDG 5 target is to reduce the maternal mortality ratio by three-quarters between 1990 and 2015. The maternal mortality ratio in Eritrea was 209 in 2013, while the target that had been set for 2015 was 220; the proportion of births attended by skilled health personnel was 55 per cent in 2013 and is projected to meet the target of 69.6 per cent set for 2015.¹⁸⁹ The second MDG 5 target aims at achieving universal access to reproductive health by 2015. In 2013, antenatal care coverage (women visited between at least one and four times by skilled health personnel) was 93 per cent in Eritrea. With regard to family planning and contraceptive prevalence, the indicators for 2010 are rather low suggesting that meeting these indicators by 2015 could be a challenge. No recent information on adolescent birth rates is available to assess progress made against this indicator.¹⁹⁰

222. Regarding MDG 6, as of 2010 HIV prevalence among population aged 15-24 years was 0.93; condom use for high-risk sex was 20 per cent; and the proportion of population aged 15-24 years with comprehensive correct knowledge of HIV/AIDS was 96 per cent.¹⁹¹ As for malaria, incidence and death rates associated with malaria (per 1,000) was 12 in

¹⁸³ In the absence of an official census, Eritrean population is estimated in-between 3.2 and 6.5 million.

¹⁸⁴ See: <http://www.er.undp.org/>.

¹⁸⁵ UNDP in Eritrea, People-Centred Development, February 2015.

¹⁸⁶ State of Eritrea, Health Millennium Development Goals Report, Innovations Driving Health MDGs in Eritrea, September 2014.

¹⁸⁷ See: <http://www.er.undp.org/>.

¹⁸⁸ State of Eritrea, Health Millennium Development Goals Report, Innovations Driving Health MDGs in Eritrea, September 2014.

¹⁸⁹ See: <http://www.er.undp.org/>.

¹⁹⁰ Ibid.

¹⁹¹ Ibid.

2010, down from 36 in 2001-2003. The proportion of children under five sleeping under insecticide-treated bed-nets was 67 per cent in 2010, up from 4 per cent in 2001-2003. Similarly, the proportion of children under five with fever who are treated with appropriate anti-malarial drugs was 60 per cent in 2010 compared to only 4 per cent in 2001-2003. The incidence, prevalence and death rate associated with tuberculosis was 97 per cent in 2011.

(b) Other Millennium Development Goals

223. According to UNDP, Eritrea is on track to achieve MDG 7 on environmental sustainability: in 2010 the proportion of population using improved drinking water was 74.5 per cent compared to the 2015 target of 50 per cent; and the proportion of the population using improved sanitation facilities was 24.2 per cent compared to the 2015 target of 50 per cent.¹⁹²

224. UNDP-Eritrea considers that much remains to be done to meet MDGs critical to human development. Out of the nine indicators designed to assess progress in the eradication of poverty and hunger (MDG 1), available information on three indicators show relatively little progress, especially with regard to the share of the poorest quintile in national income/consumption expenditure, which was 20 per cent in 2010; and employment to population ratio (women/men) which was 23/63 per cent in 2010. The prevalence of underweight children under-five years of age was 38.5 per cent in 2010 and is projected to meet the target of 22 per cent by 2015.¹⁹³

225. Regarding MDG 2 on universal primary education, education in Eritrea is officially compulsory between seven and 14 years of age and there are five levels of education: pre-primary, primary (five years), middle (three years), secondary (three years) and tertiary (vocational/technical school and university). As of 2010, net enrolment ratio in primary education was 66.2 per cent. The proportion of pupils starting grade one who reach last grade of primary education was 58.6 per cent. The literacy rate of 15-24 years-olds was 90 per cent, whereas literacy rate of the whole population is 68.9 per cent.¹⁹⁴

226. On MDG 3 (promote gender equality and empower women), UNDP-Eritrea notes that, while the Government has demonstrated a strong commitment to promoting gender equality, much work is needed to fully integrate gender issues into national development policies and strategies. While significant progress has been made in moving towards gender parity as indicated by the ratios of girls to boys in primary, middle and secondary schools, other indicators (i.e. share of women in wage employment in the non-agricultural sector and proportion of seats held by women in national parliament) require substantial improvements.¹⁹⁵

227. Finally, lack of data has hampered the assessment of progress made in MDG 8 (develop a global partnership for development) in Eritrea.

E. The situation of women

1. Efforts to overcome traditional inequalities prior to independence

228. Prior to independence, as in many countries, Eritrean society was traditionally patriarchal and women did not enjoy the same social status as men. The diversity of ethnic groups and livelihood systems meant that multiple gender norms existed. Discrimination

¹⁹² Ibid.

¹⁹³ Ibid.

¹⁹⁴ Ibid.

¹⁹⁵ Ibid.

against women was evident across all social groups. For example, historically women were excluded from community or leadership decisions in most ethnic groups. The exception appears to be among the Kunama. Similarly, women in all ethnic groups except the Kunama were not able to influence decisions about their marriage. Conversely, ethnicity affects the specific form in which Female Genital Mutilation/ Cutting (FGM/C) is carried out. The high prevalence of FGM/C in Eritrea is also linked to factors such as religion, rural residence, economic status and wealth.¹⁹⁶

229. Women's role and status were clearly proscribed by all social groups. Tradition dictated how and to whom a woman could be married, how her virginity could be tested and what penalties would be borne by the woman's family should her husband claim that she was not a virgin. Marriage payments, including dowries and bride-wealth, were also regulated, as were rules defining who a widow must/could marry upon the death of her husband. Suffice to say, traditional codes and practices governed all aspect of women's lives prior to the liberation struggle Eritrea, leaving them little autonomy or space to decide their own lives.

230. It is unclear whether there was a formal movement for equality of women in Eritrea prior to the armed struggle, and whether it developed independently of the nationalist struggle. Either way, a women's movement for gender equality emerged and was subsumed into the nationalist struggle. Women's involvement in the liberation Fronts (the ELF and the EPLF) began the transformation of gender relations in Eritrea. The degree to which changes in gender relations and the status of women actually took place, though, depended on several factors, including the degree of control each Front had in various regions of the country and the fronts' acceptance of proposed changes.¹⁹⁷

231. Women were involved in the nationalist movement from its earliest days, performing a variety of tasks from clandestine message delivery to frontline fighting. Neither the ELF nor the EPLF initially welcomed women's participation, but both soon came to realise the important roles that women could undertake and eventually accepted their participation. Women proved to be capable fighters, just as willing as men to die for the liberation cause.¹⁹⁸

232. Women's involvement in the liberation struggle was not without its difficulties. Within both Fronts, women had to fight to be included and, according to individual accounts, suffered ridicule and discrimination, and at times, abuse and violence from their male comrades-in-arms.¹⁹⁹ Nonetheless, with a strong belief in the goals of independence for Eritrea and gender equality, many women devoted themselves whole-heartedly to the cause of the ELF or EPLF.

233. Women not engaged on the frontline, including women refugees in neighbouring countries, were also instrumental during the liberation struggle at the community level. Many became heads of households while their husbands, fathers, brothers and sons were

¹⁹⁶ United Nations Children's Fund, *Female Genital Mutilation/Cutting: A statistical overview and exploration of the dynamics of change* (UNICEF, New York, 2013).

¹⁹⁷ B Byrne, R Marcus and T Powers-Stevens, *Gender, conflict and development Volume II: Case Studies: Cambodia, Rwanda, Kosovo, Algeria, Somalia, Guatemala and Eritrea* (BRIDGE Report No. 35, December 1995), p 131.

¹⁹⁸ TSH086; TSH087; TSH088; TSH089; V Bernal, *From Warriors to Wives: Contradictions of Liberation and Development in Eritrea* (Northeast African Studies 2001, Vol. 8 No 3) pp 129-254, 133.

¹⁹⁹ TSH086; TSH087; TSH089; TSH095; C Mason, *Gender, Nationalism and Revolution: Re-Assessing Women's Relationship with the Eritrean Liberation Front* (Working Paper #274, December 2001), p 10.

away fighting or in exile, taking on roles of responsibility in businesses and on farms while caring for their families.

234. The discourse of women's participation in the liberation struggle became part of the political battle for prominence between the EPLF and the ELF. The EPLF, inspired by Marxist and Maoist ideologies, emphasized equality and grass-roots efforts. Within this framework, the EPLF promoted itself as the only vehicle through which women could achieve gender equality and presented the role of women in the ELF as passive compared to their more active roles in the EPLF. In reality, women did participate in the ELF, albeit not in senior roles and while more women and girls joined the EPLF than the ELF, this should not diminish women's important contribution to the liberation efforts in the ELF.²⁰⁰ The ELF, perhaps somewhat belatedly, acknowledged women's participation in the Front in 1971 at the behest of the General Union of Women. It re-affirmed it in 1975, when at its Second National Congress the ELF also declared that once Eritrea was liberated, women would be freed of all historic inequalities:

“The revolutionary state shall protect the rights of women workers. It shall remove all historical prejudice against women and will safeguard equal opportunities for women in the different activities of the state, social and private life. Women shall have a revolutionary place in revolutionary Eritrea. Any manifestation of discrimination against women shall be severely punished.”²⁰¹

235. Meanwhile, the EPLF consistently championed efforts to improve the status of women. It assured women that they would be liberated if they took up the armed struggle and fought with the EPLF. In 1979, along with other mass organizations, the EPLF created the National Union of Eritrean Women (NUEW) to further the cause of the EPLF through engaging women's participation in the war effort. The NUEW, as the EPLF's women's engagement arm, supported the EPLF's efforts in this respect. For example, in 1983 when speaking of the EPLF's Second Congress, the NUEW Secretary General Ms Luul Gebreab reported that “[T]he skill and cultural levels of women ... at the moment are very low”,²⁰² and that the EPLF should focus “special attention to raising the skill levels and political consciousness of women through education”. The NUEW consistently emphasized that gender equality could only be achieved through participation in the nationalist struggle: “At a time when the Ethiopian occupationist [sic] regime is trying to eliminate the entire population, the primary goal of the NUEW is to mobilise and organise women to participate in the national liberation struggle, until independence has been achieved”.²⁰³ As a women's organization, the NUEW was an integral part of the EPLF, implementing its programmes and encouraging women to participate in the liberation struggle with the EPLF.²⁰⁴

236. Within the EPLF significant changes to traditional gender relations were seen as it attempted to put gender equality into practice in the Front. Women fighters were not restricted to traditional roles and after the initial reticence to train them as fighters, the EPLF recruited over 30,000 women (approximately one third of the 95,000 strong force) who were visibly engaged in combat. According to one of the first women fighters, the majority of women fighters were assigned to combat as they lacked specialised skills to

²⁰⁰ C Mason, *Gender, Nationalism and Revolution: Re-Assessing Women's Relationship with the Eritrean Liberation Front* (Working Paper #274, December 2001), p 1-4.

²⁰¹ The ELF Social and Cultural Practice of the Program, article 2.

²⁰² Women's Movement in Eritrea: An Interview Briefing by Luul Gebreab from Vol.10 No.27/28 of the *Review of African Political Economy* (Winter 1983, pp152-155), p 154.

²⁰³ The National Union of Eritrean Women, *Voice of Eritrean Women* (1989, Issue 89) p 7.

²⁰⁴ Dan Connell, *Eritrea : A Revolution in Progress* (Monthly Review 1993, Vol. 45, 3), p 17.

perform other tasks.²⁰⁵ While some women became senior officers, generally their low education and experience restricted their ability to be promoted.²⁰⁶ In 1987, eight women were elected to the EPLF Central Committee,²⁰⁷ but no women ever served on the EPLF Executive Committee during the war.²⁰⁸ Traditional women and girls' tasks such as cooking, cleaning, laundry and child rearing were systematised, becoming the responsibility of both men and women and undertaken according to rotation within units. After an initial ban on sexual relations between fighters, the EPLF later permitted marriages between its members, and allowed premarital sex.²⁰⁹ Fighters lived a collective life in which one's gender was not supposed to determine one's activities or status.

237. In liberated areas, the EPLF also attempted to improve the situation of women through the implementation of the National Democratic Programme (NDP).²¹⁰ Under the NDP, health and education services were provided and legal reforms aimed at abolishing discriminatory practices were instituted. The cornerstone of the NDP was the 1977 Marriage Law introduced in liberated areas. Among other things, the law abolished polygamy, stipulated that marriage must be at the free consent of both man and woman, forbade the repudiation of non-virgin brides, enabled divorce to be initiated by women and men and provided for the division of property between women and men upon divorce.²¹¹ This was a significant departure from traditional marriage practices.²¹² In 1980, the EPLF also began a land reform policy that for the first time allocated small allotments of land to women.²¹³ The impact of the NDP varied by region.²¹⁴

238. Upon achieving independence, the EPLF continued to improve the position of women by changing the discriminatory legal system. Between 1991 and 1993, with the adoption of the transitional codes, the Government changed the Ethiopian civil code to

²⁰⁵ V Bernal, *From Warriors to Wives: Contradictions of Liberation and Development in Eritrea* Northeast African Studies (2001), Vol. 8, No. 3, pp. 129-54, p. 134.

²⁰⁶ A Mehreteb, *Wake Up Hannah!: Reintegration and Reconstruction Challenges for Post-War Eritrea* (2004), p 153; V Bernal, *From Warriors to Wives: Contradictions of Liberation and Development in Eritrea* Northeast African Studies (2001), Vol. 8, No. 3, pp. 129-54, p 135; C Mason, *Gender, Nationalism and Revolution: Re-Assessing Women's Relationship with the Eritrean Liberation Front*, Working Paper #274 (December 2001), p. 7.

²⁰⁷ A Mehreteb, *Wake Up Hannah!: Reintegration and Reconstruction Challenges for Post-War Eritrea* (2004), p. 154.

²⁰⁸ V Bernal, *From Warriors to Wives: Contradictions of Liberation and Development in Eritrea* Northeast African Studies (2001), Vol. 8, No. 3 pp. 129-54, p. 135.

²⁰⁹ V Bernal, *From Warriors to Wives: Contradictions of Liberation and Development in Eritrea* Northeast African Studies (2001), Vol. 8, No. 3, pp. 129-54, p 135.

²¹⁰ B Byrne, R Marcus and T Powers-Stevens, *Gender, conflict and development Volume II: Case Studies: Cambodia, Rwanda, Kosovo, Algeria, Somalia; Guatemala and Eritrea*, BRIDGE Report No 35 (December 1995), p. 133.

²¹¹ Laws passed at the second regular meeting of the central committee in November 1977. C Green and S Baden, *Gender profile of the state of Eritrea*, BRIDGE report No. 22 (February 1994), p. 13.

²¹² V Bernal, *From Warriors to Wives: Contradictions of Liberation and Development in Eritrea* Northeast African Studies (2001), Vol. 8, No. 3, pp. 129-54, p. 135. Common traditional features included: marriages were arranged by male elders, generally within the same religious, ethnic and linguistic groups; girls were betrothed between 8-14 years and married between 13-15 years; and virginity was highly valued (C Green and S Baden, *Gender profile of the state of Eritrea*, BRIDGE report No. 22 (February 1994), p. 13-4).

²¹³ See chapter III, B, The struggle for independence.

²¹⁴ C Green and S Baden, *Gender profile of the state of Eritrea*, BRIDGE report No 22 (February 1994), p. 12; B Byrne, R Marcus and T Powers-Stevens, *Gender, conflict and development Volume II: Case Studies: Cambodia, Rwanda, Kosovo, Algeria, Somalia, Guatemala and Eritrea*, BRIDGE Report No. 35 (December 1995), p. 133.

include new provisions promoting women's rights and gender equality. While these changes reflected the EPLF Marriage Law, the new law was not implemented in its entirety.²¹⁵

239. Positive legal reforms continued in the early years of formal independence were not completed. The preamble of the Constitution underlined that Eritrean women have earned equality:

"Noting the fact that the Eritrean women's heroic participation in the struggle for independence and solidarity based on equality and mutual respect generated by such struggle will serve as an unshakable foundation for our commitment and struggle to create a society in which women and men shall interact on the bases [sic] of mutual respect, fraternity, and equality".²¹⁶

240. The Constitution included 59 articles prohibiting discrimination and acknowledging women's rights to development, land ownership, property etc. However, the Constitution has never been implemented.²¹⁷ The Government of Eritrea has stated that it intends to reform the civil and penal system to address discriminatory provisions and to criminalise domestic violence. However, such changes did not occur in the 22 years to date. The new civil and penal laws proclaimed on 11 May 2015 have not been reviewed by the Commission. Socialisation campaigns to complement legal reforms have not been undertaken.

2. Post-independence status of Eritrean women

241. At the end of the liberation struggle, options were needed to secure the future of former fighters. A demobilisation process began in 1992 that was to provide former EPLF fighters with skills necessary for reintegrating into civilian life. By 1995, approximately 50,000 fighters were released. According to the Eritrean Relief and Refugee Commission (ERRC), approximately 80 per cent of released fighters lacked non-military skills and almost two-thirds had left school before the fifth grade.²¹⁸ By 1995, about 12,000 of the 30,000 women fighters had been discharged; they received the stipulated 10,000 Birr promised by the Government to facilitate them to civilian life. Women were discharged, mainly due to their age or because they had children. The EPLF fighters that were transitioned into government posts received salaries (and positions) according to their ranks and years in the EPLF. As they generally had lower rank and fewer years in the EPLF, the women who were transitioned into Government posts tended to receive lower salaries and positions than men. Thousands of women were left without a formal decision on their status.

242. In 1994, a group of former women fighters established the Eritrean Women War Association (BANA) to assist released former women fighters to retrain in income generating activities. A separate share company was established to invest the monies that

²¹⁵ Key components that remained included marriage to be only with full consent of both parties; the eligible age for marriage increased from 15 to 18 for women (the same as men); both parents recognised as heads of the family; discrimination of women prohibited in divorce; abortion made legal in cases where the mother's mental or physical health was at risk, and in cases of rape or incest; and the sentence for rape was increased to 15 years: Eritrea Transitional Code, Proclamation No. 1/1991 as noted by Eritrea in its first and second report to CEDAW (2004), UN Doc CEDAW/C/ERI/1-2, p.7.

²¹⁶ Preamble of the 1997 Eritrean Constitution.

²¹⁷ For more details, see chapter V, A, 1, Structure of the State.

²¹⁸ V Bernal, *From Warriors to Wives: Contradictions of Liberation and Development in Eritrea* Northeast African Studies (2001), Vol. 8, No. 3, pp. 129-54, p. 145.

released women fighters received into a fund supporting the establishment of income generating activities that could create jobs. In less than a year, the Association had over 1,000 members, raised about half a million US dollars in cash and kind (largely from foreign sources), trained over one hundred women and created two income generating activities, a fish market and a bakery.

243. The same year, another group of former women fighters established the Tesfa Association to address the lack of child care facilities. The Tesfa Association established the Aghi kindergarten and ran public campaigns and fundraising events to support its activities. Like BANA, the Tesfa Association was also successful in attracting substantial foreign funds. Although the two organizations were operated independently, their services complemented each other and both organizations planned to work closely together as they grew.

244. In 1996, the Government forced BANA and Tesfa to close, turning BANA's resources over to the ERRC and Tesfa's to the NUEW. According to official explanations at the time, they were closed because of the perceived duplication of activities with the NUEW. The forced closure of BANA and Tesfa posed a significant challenge to the welfare of women ex-fighters who did not transition into a government position. Without the services of BANA and Tesfa, they faced unemployment and had no childcare facilities.²¹⁹

245. During the liberation, the EPLF systematised traditional domestic-related tasks such as laundry, cooking and child rearing services so that fighters could serve the Front free from these burdens. At the cessation of hostilities, these traditionally female tasks reverted back to the responsibility of women as a consequence of the underlying patriarchal culture. The expectation that women should undertake these tasks and the existence of very few state-run childcare facilities, effectively prevented women ex-fighters from wholly engaging in the workforce in post-independence Eritrea.

246. Several academic researchers contend that former female fighters also found it difficult to reintegrate into society because the qualities that made them heroic fighters were considered unfeminine and undesirable in a wife. Many were divorced by their ex-fighter husbands in favour of a civilian wife who did not embody notions of equality in the way that women fighters did.²²⁰ These researchers suggest that many men faced pressure from their families to divorce their fighter-wives, not only because of the assertiveness they embodied or the assumed promiscuous sexual behaviour of fighter women, but also because marriage was traditionally a relationship that parents controlled.²²¹

247. Some women former fighters that were unmarried at the end of the struggle faced difficulties in getting a partner. Many men wanted a wife who would not claim male privileges as women fighters were perceived to, and many parents wanted a daughter-in-law that did not embody the bold concepts of equality. The absence of children was a further cause for divorce among fighters who had married.

²¹⁹ See chapter VI, A, 4, Freedom of religion and belief.

²²⁰ TSH087; TSH102; A Mehrebeb, *Wake Up Hannah!: Reintegration and Reconstruction Challenges for Post-War Eritrea* (2004), p 156; V Bernal, *From Warriors to Wives: Contradictions of Liberation and Development in Eritrea*, Northeast African Studies (2001) Vol. 8. No. 3. pp. 129-54, p. 137.

²²¹ B Byrne, R Marcus and T Powers-Stevens, *Gender, conflict and development Volume II: Case Studies: Cambodia, Rwanda, Kosovo, Algeria, Somalia, Guatemala and Eritrea*, BRIDGE Report No 35 (December 1995), p 141; V Bernal, *From Warriors to Wives: Contradictions of Liberation and Development in Eritrea* Northeast African Studies (2001) Vol 8 No 3 pp 129-54, p 137; A Mehrebeb, *Wake Up Hannah!: Reintegration and Reconstruction Challenges for Post-War Eritrea* (2004), p 156.

248. Moreover, many released or discharged former fighters found themselves in competition with civilian women for the few employment opportunities that existed in post-independence Eritrea. In contrast to civilian women, former fighters often did not have the requisite skill set or education for such positions. With the closure of BANA, many women ex-fighters were left in a difficult situation.

249. Women who were transitioned into the Government were often discriminated against. They were generally accorded lower ranks in the formal military structure than their male counterparts. Few women were accorded positions in the central Government and to date there are only a few women in high ranking political positions.

250. Many civilian women were also affected by the demobilisation of fighters. As men returned home, the majority of women who had been managing households, farms and businesses were moved aside by their fathers, husbands, brothers or sons who reasserted their claim as the head of the household. Rural civilian women in particular were disadvantaged as the small plots of land allocated to them during the land reforms of the 1980s were taken by male family members.²²²

251. Women refugees were similarly disadvantaged. When they returned home, many were ineligible for land allotments or had their land allotments appropriated by others. It has been noted that many men resisted the land reform and sought to block women from the peacetime distribution of land.²²³ Women were also vulnerable to the pressure of male relatives to hand over land allocated to them.²²⁴ In areas in which the land reforms had not been implemented,²²⁵ and in areas of land scarcity, refugee women faced particular difficulty in negotiating access to land.²²⁶ Perhaps as a consequence, up to 70 per cent of women refugees returning from Sudan preferred to return to urban areas.²²⁷ Urbanisation, few work opportunities and the burden of family care contributed to the difficulties faced by many women and girls in post-independence Eritrea.²²⁸

252. Women were not traditionally involved in community decision-making structures.²²⁹ During the conflict, initiatives were introduced in liberated areas to include women in political structures at the local level and these efforts continued through independence. At the most recent review of Eritrea by the Committee on the Elimination of Discrimination against Women, an elevation in the position of women in regional Assemblies was noted.²³⁰

²²² TSH103; D Connell, ‘*Strategies for Change: Women & Politics in Eritrea & South Africa*’ in *Review of African Political Economy* Vol.25 No.76 (June 1998, pp. 189-206) p 189.

²²³ The National Union of Eritrean Women, as cited in B Byrne, R Marcus and T Powers-Stevens, *Gender, conflict and development Volume II: Case Studies: Cambodia, Rwanda, Kosovo, Algeria, Somalia, Guatemala and Eritrea*, BRIDGE Report No 35 (December 1995), p 135.

²²⁴ B Byrne, R Marcus and T Powers-Stevens, *Gender, conflict and development Volume II: Case Studies: Cambodia, Rwanda, Kosovo, Algeria, Somalia, Guatemala and Eritrea*, BRIDGE Report No 35 (December 1995), p 136.

²²⁵ As of independence, approximately 60 per cent of rural areas had not been subject to land reforms. Land reforms prior to 1991 had been focussed in the land-scarce highlands: B Byrne, R Marcus and T Powers-Stevens, *Gender, conflict and development Volume II: Case Studies: Cambodia, Rwanda, Kosovo, Algeria, Somalia, Guatemala and Eritrea*, BRIDGE Report No 35 (December 1995), p. 135.

²²⁶ B Byrne, R Marcus and T Powers-Stevens, *Gender, conflict and development Volume II: Case Studies: Cambodia, Rwanda, Kosovo, Algeria, Somalia, Guatemala and Eritrea*, BRIDGE Report No 35 (December 1995), p. 136.

²²⁷ Ibid, p. 134.

²²⁸ See chapter VI, B, 6, Violations of the right to property.

²²⁹ B Byrne, R Marcus and T Powers-Stevens, *Gender, conflict and development Volume II: Case Studies: Cambodia, Rwanda, Kosovo, Algeria, Somalia, Guatemala and Eritrea*, BRIDGE Report No 35 (December 1995), p. 132.

²³⁰ CEDAW/C/ERI/CO/5, para. 24.

At the national level, there are few women in high level positions despite the 30 per cent quota. Low levels of representation are also seen in diplomatic and senior government positions. Efforts have been made to include women in the political and public spheres; however, this has been difficult because of the failure to hold elections.

253. The NUEW remained the only organization for women in post-liberation Eritrea. The mission of the NUEW is “to ensure that all Eritrean women confidently stand for their rights and equally participate in the political, economic, social, and cultural spheres of the country and share the benefits”.²³¹ Although the NUEW planned to become an independent civil society organization, it remains in the PFDJ, and only women affiliated with the PFDJ are members. The organization’s lack of independence and insufficient human and financial resources negatively impact upon its ability to operate effectively.²³²

V. The institutional and domestic legal frameworks

A. Political and security frameworks

254. The structure and operation of the Eritrean state reflects decisions by President Afwerki and the wider political and international context. The failure to put into place the Constitution adopted by the Constituent Assembly in 1997,²³³ has left Eritrea with institutions that were supposed to be transitional (many institutions exist in name only). During the past 15 years, the political system has progressively become more centralised and controlled by the President. The military and security apparatus remains very opaque but, again, is tightly controlled by the President.

1. Structure of the State

(a) From the Provisional Government of Eritrea to the Government of the State of Eritrea

255. In May 1991, during the last phase of the armed struggle, which culminated in the liberation of Asmara, the Executive Committee of the EPLF set up the Provisional Government of Eritrea (PGE). Isaias Afwerki, who had been the secretary general of the EPLF since 1987, became the head of the PGE. In May 1992, the Central Committee of the EPLF, created in the 1970s to manage the Front’s day-to-day operations, was transformed into the “legislative body” of the PGE. The first measure taken by this new body was to adopt Proclamation No. 23/1992, which formalised the structure of the PGE.

256. Proclamation No. 23/1992 stated that “until the Eritrean people decides its rights to self-determination through a plebiscite and until a constitutional government is established ... the EPLF, in this transitional period, has the responsibility to proclaim and establish a transitional government so as to take its fight for Eritrean independence to its final destination.”²³⁴ Article 3 of the Proclamation confirmed the legislative status of the Central Committee of the EPLF. Article 4 established an Advisory Council to serve as the executive wing of the Government. The Advisory Council was composed of 28 members including the heads of the 12 departments of the EPLF, the provincial administrators, the

²³¹ As stated on the NUEW website (<http://www.nuew.org/>).

²³² CEDAW/C/ERI/CO/5, para. 24.

²³³ Simon M Weldehaimanot, *The status and fate of the Eritrean Constitution* (African Human Rights Law Journal, 2008 1), pp. 108-137.

²³⁴ Translated by GlobaLex: <http://www.nyulawglobal.org/globalex/Eritrea.htm>.