

Shadow Report in Response to the Initial Report of the State of Eritrea to the African Commission on Human and Peoples' Rights

By PEN Eritrea and PEN International

April 2018

I. Introduction

PEN Eritrea and PEN International¹ submit this shadow report on Eritrea pursuant to Rule 74(2) of the Rules of Procedure of the African Commission on Human and Peoples' Rights (ACHPR), with a view to contributing to the examination of the Initial Report of the State of Eritrea.² PEN welcomes Eritrea's report covering the period 1999-2016 submitted under Article 62 of the African Charter on Human and Peoples' Rights (African Charter), but notes that this is the first report submitted by Eritrea after years of failing to do so, despite requirements by all States Parties to the African Charter to submit a report every two years.

This report focuses in particular on the dire state of media freedom and freedom of expression in Eritrea as well as the continuing practice of incommunicado detention of writers and journalists. Eritrea has a very problematic record in the area of freedom of expression. It is a well-known fact that Eritrea is one of the most dangerous places on earth for journalists and independent writers, and free thinkers. In regional and international reports ranking the state of media freedom in Africa and around the globe, Eritrea is frequently ranked lowest. For instance, in the annual *Press Freedom Index* of Reporters Without Borders, Eritrea had been ranked for ten consecutive years as the worst place in the world for media freedom. Eritrea only relinquished the bottom place to North Korea in 2017, but there has not been "fundamental change in the situation in this aging dictatorship where freely reported news and information have long been banned."³ According to the Committee to Protect Journalists' (CPJ) 2015 report on media freedom, Eritrea was the most censored country in the world followed by North Korea.⁴

The lack of independent media and the systematic harassment and censorship of the creative community have destroyed independent thinking in Eritrea, and left it extremely isolated on the world stage.

¹ PEN Eritrea is a chapter of PEN International, which is a global movement of writers, artists, journalists and others, primarily concerned with the promotion of literature and the right to freedom of expression.

² Eritrea: Initial National Report (1999-2016) - Prepared on the African Charter on Human and People's Rights (ACHPR)" 28 March 2017, The State of Eritrea, Ministry of Foreign Affairs http://www.achpr.org/files/sessions/62nd_os/state-reports/1st-1999-2016/achpr_eritrea_initial_report_1999_2016.pdf

³ Reporters Without Borders, "2017 Press Freedom Index - Ever Darker World Map," <https://rsf.org/en/2017-press-freedom-index-ever-darker-world-map>

⁴ CPJ, "10 Most Censored Countries," available at <https://cpj.org/2015/04/10-most-censored-countries.php>

Through this report, PEN wishes to highlight the grave situation in which Eritrean journalists, other writers and artists currently find themselves. By providing an alternative view to the State Party Report of Eritrea, PEN Eritrea and PEN International aim to provide the ACHPR with a broader understanding of the issue of freedom of expression in Eritrea.

II. Concerns about freedom of expression

Eritrea states in its report that it respects human rights and lists the number of international treaties to which it is party, which include the International Covenant on Civil and Political Rights (ICCPR) and the African Charter on Human and Peoples' Rights.⁵

The government of Eritrea also states in its report that “the fundamental principle in the National Charter, Eritrea’s Constitution of 1997 and the national codes and proclamations is that citizens have the right for lawful expression and opinion without interference. Citizens are both participants and beneficiaries of information and ideas and the ground is leveled without discrimination.”⁶

However, in reality, the situation in regards to respect for human rights and freedom of expression is much different. The Constitution, which includes a Bill of Rights, is not being implemented. The government of President Isaias Afwerki rules the country by decree, and dissent of any form is not tolerated.⁷ PEN has long raised concerns about the lack of freedom of opinion and expression and the continuing practice of incommunicado detention without trial of writers and journalists in Eritrea.

These concerns were confirmed by the United Nations Commission of Inquiry on Human Rights in Eritrea when it published its report on 8 June 2016 documenting the crimes against humanity committed in the 25 years since independence “as part of a campaign to instil fear in, deter opposition from and ultimately to control the Eritrean civilian population”.⁸

⁵ These treaties oblige Eritrea to protect the right to freedom of opinion and expression as well as the following rights, among others: the right to life and security; freedom from torture or cruel, inhuman or degrading treatment or punishment; freedom from arbitrary arrest and detention; to humane treatment in detention; a fair trial; freedom of thought and conscience; and freedom of association.

⁶ Eritrea: Initial National Report (1999-2016) - Prepared on the African Charter on Human and People’s Rights (ACHPR)” 28 March 2017, The State of Eritrea, Ministry of Foreign Affairs http://www.achpr.org/files/sessions/62nd_os/state-reports/1st-1999-2016/achpr_eritrea_initial_report_1999_2016.pdf, para 72.

⁷ PEN International Contribution to the 18th session of the Working Group of the Universal Periodic Review Submission on Eritrea, June 2013, <http://pen-international.org/app/uploads/archive/2013/06/24-06-2013-Eritrea-Report-to-UPR-PEN-International1.pdf>

⁸ “UN Inquiry finds crimes against humanity in Eritrea,” United Nations Human Rights Office of the High Commissioner, 8 June, 2016 <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=20067&LangID=E>

Over this period, Eritrean journalists—reporting for both independent and state media—have been subjected to systematic arbitrary arrests, intimidations, enforced disappearances, and in some cases, extra-judicial killings. Since the government crackdown on dissent in September 2001, there has been no independent media in Eritrea.

Reminiscent of the Orwellian neologism of “thought crime,” the equivalent of “an illegal thought,” the UN Commission of Inquiry observed that in Eritrea “even conjectured thoughts are used to rule through fear” based on which “individuals are routinely arbitrarily arrested and detained, tortured, disappeared or extrajudicially executed.” That is why the commission concluded: “It is not law that rules Eritreans, but fear.”⁹

Thousands of Eritreans have been detained since 1993 for their actual or perceived criticism, their opposition to the government and its policies, or other opinions or beliefs. Available information suggests that few, if any of these detainees have ever been tried or charged, been given access to a lawyer or brought before a judge. The Eritrean judiciary is not independent and there is no way to appeal against arbitrary detention. In many cases, the detention amounts to enforced disappearance since the authorities refuse to confirm the arrest, whereabouts or fate of the missing individual.¹⁰

Among those detained are the politicians and journalists arrested in the 2001 crackdown as well as other journalists who have been arrested over the years; see below for more information. PEN is aware of at least 16 journalists currently held in circumstances amounting to enforced disappearance, without charge or trial. There are concerns that some of these individuals may have died in the appalling conditions of Eritrean prisons, however such information is unverifiable as the Eritrean government refuses to release information about those held.

Eritrea has also continued to ignore requests by the UN Special Rapporteur on the situation of human rights in Eritrea to visit the country in order to assess the human rights situation in accordance with her mandate, as well as requests by independent experts from regional and international human rights mechanisms.¹¹

III. Arrests of writers and politicians

Eritrea’s deep-seated political crisis intensified in September 2001 when the government summarily detained a group of fifteen high-ranking government officials, known as the Group of 15 (G-15), who collectively challenged the increasingly authoritarian leadership of the Eritrean President. Ever since, there

⁹ *First Report of the Commission of Inquiry on Human Rights in Eritrea*, A/HRC/29/42, 4 June 2015 p. 1 and para 38, <https://daccess-ods.un.org/TMP/9278236.62757874.html>

¹⁰ PEN International Contribution to the 18th session of the Working Group of the Universal Periodic Review Submission on Eritrea, June 2013, para 8, <http://pen-international.org/app/uploads/archive/2013/06/24-06-2013-Eritrea-Report-to-UPR-PEN-International1.pdf>

¹¹ Report of the Special Rapporteur on the situation of human rights in Eritrea, 7 June 2017, Sheila B. Keetharuth, A/HRC/35/39, <http://www.ohchr.org/EN/HRBodies/SP/CountriesMandates/ER/Pages/SREritrea.aspx>

has been a complete denial of media freedom in Eritrea, and an ever-worsening crackdown on free speech.

At that particular time, the government shut down all seven privately-owned newspapers of the country¹², simply because they provided wider coverage of the critical views of the G-15.

Ten journalists were also arrested including: Said Abdelkader, Yusuf Mohamed Ali, Amanuel Asrat, Temesgen Ghebreyesus, Mathewos Habteab, Dawit Habtemichael, Medhanie Haile, Dawit Isaac, Fesshaye Yohannes (Joshua) and Seyoum Tsehaye. Two other journalists, Idris Said 'Abu'Are' and Sahle 'Wedi-itay' Tsegazab were arrested in October 2001.¹³

Over the years, the authorities have either denied that a clampdown took place, claiming instead that the journalists have merely been sent to carry out their national service, or that the closures and mass arrests were necessary for the sake of national unity or were carried out because of the newspapers' failure to comply with laws covering media licences.

There has been little known change in the circumstances of the political leaders and journalists arrested in the September 2001 crackdown, who remain detained incommunicado. Although their whereabouts have never been officially confirmed, the politicians and at least some of the journalists are reportedly detained in Eiraeiro, a high security prison which was purpose-built to hold them, in a remote location north of Asmara-Massawa road.

For many years, there have been rumours that several of the detained journalists died in custody as a result of ill-treatment and neglect. Their deaths – which have not been officially confirmed – were attributed to harsh conditions and lack of medical attention.

More recently, in June 2016 in an interview with Radio France Internationale, the Foreign Minister of Eritrea claimed that all of the journalists and politicians arrested in 2001 are alive, though no proof has been provided. In the same interview, the foreign minister said that these men would be tried 'when the government decides'.¹⁴

Referring to the politicians arrested in 2001, Eritrea's state report claims that they were not arbitrarily arrested, and that in 2002 the National Assembly discussed a report on the nature of the 'criminal acts', but that "subsequent developments...[including]...a prolonged state of belligerency by Ethiopia, a state of no war no peace; and Ethiopia's pronounced policy of 'regime change' have

¹² These include the weeklies *Meqaleh*, *Setit*, *Tsigenay*, *Zemen*, *Wintana* and *Admas*

¹³ For more information see PEN International Case List, January to December 2015, <http://pen-international.org/app/uploads/CASE-LIST-January-December-2015.pdf>

¹⁴ "Eritrea's foreign minister denies rights abuses, blames Ethiopia for clashes," RFI, Brenna Daldorph, 21 June 2016, <http://en.rfi.fr/africa/20160621-eritrea-foreign-minister-denies-human-rights-abuses-clashes-ethiopia-disappeared-act>

compounded the problem and made various options of resolving the issue difficult.”¹⁵

The authorities have not replied to repeated enquiries made by the UN Special Rapporteur on the situation of human rights in Eritrea on the whereabouts, state of health and access to medical treatment of the 10 journalists and 11 politicians arrested in September 2001, or why they have not yet been brought before an independent court to be charged with a crime recognised under international law.¹⁶

Over the years, other journalists and writers have been arrested as restrictions on free expression have become entrenched.

For example, Saleh Idris ‘Aljazeera’, journalist for the state-owned Arabic daily newspaper *Eritrea al-Haditha* and the Eritrean State Radio Arabic desk, was arrested in February 2002; Idris Mohamed Ali, popular singer and songwriter in the Tigre language, and Jim’ie Kimeil, investigative reporter and editor of the sports section for *Eritrea al-Haditha*, were arrested in November 2005. According to the available information, all remain detained incommunicado as of the date of reporting.¹⁷

In December 2006, at least a dozen journalists who worked for the state media were arrested and many of them were detained for between two to four weeks.¹⁸ They were not charged or brought before an independent court. Among other personal questions asked of them during their interrogations, the journalists were required to provide their email passwords. Apart from instilling fear, it is unclear as to the reason for their arrests.

Yet more journalists have been arrested during further crackdowns on the press, for example, some 50 journalists and staff members of the Asmara-based Radio Bana were arrested on 22 February 2009.¹⁹ They were eventually released after spending four to six years in harsh military prisons, subjected to deplorable conditions.

IV. Torture and other cruel, inhuman or degrading treatment or punishment in detention

¹⁵ Eritrea: Initial National Report (1999-2016) - Prepared on the African Charter on Human and People’s Rights (ACHPR)” 28 March 2017, The State of Eritrea, Ministry of Foreign Affairs, para 294, http://www.achpr.org/files/sessions/62nd_os/state-reports/1st-1999-2016/achpr_eritrea_initial_report_1999_2016.pdf

¹⁶ Human Rights Council Report of the Special Rapporteur on the situation of human rights in Eritrea, Sheila B. Keetharuth, 7 June 2017, para 18
<http://www.ohchr.org/EN/HRBodies/SP/CountriesMandates/ER/Pages/SREritrea.aspx>

¹⁷ PEN International Case List, January to December 2015, <http://pen-international.org/app/uploads/CASE-LIST-January-December-2015.pdf>

¹⁸ “German media aid to Eritrea raises concerns”, CPJ, Letter, 14 May 2007, <https://cpj.org/2007/05/german-media-aid-to-eritrea-raises-concerns.php>

¹⁹ “Eritrea: Writers released after six years’ arbitrary detention,” PEN International, 23 January 2015, <http://pen-international.org/news/eritrea-writers-released-after-six-years-arbitrary-detention>

As PEN documented in its 2013 Universal Periodic Review shadow report on Eritrea, Eritrean detainees are systematically tortured and subjected to other ill-treatment, for purposes of punishment, interrogation and coercion. Prison conditions fall far short of international standards and amount to cruel, inhuman or degrading treatment or punishment. Prisoners are often held in underground cells or shipping containers, often in desert locations and are therefore subject to extremes of heat and cold. Food, water and sanitation are scarce.²⁰ As the journalists who were imprisoned in connection with the Radio Bana raid attested, they were forced to eat with defecation-tainted utensils.²¹

PEN has serious concerns about severe ill-treatment and possible torture of the journalists who remain detained. Medical care is thought to be extremely limited; reports of the detained journalists and politicians being allowed treatment are rare.

This is in total contrast to the state report's assertion that "...detained persons are treated with humanity and their dignity, security and development guaranteed in accordance to the National Codes."²²

V. Recent developments

The situation for freedom of expression remains dire. Since the closure of the independent press, the government controls and runs all news outlets in the country through the Ministry of Information and all journalists in the country are expected to follow a strict editorial line.

Since 2012, all state media journalists and staff members of the ministry of information have been armed and are required to undertake regular military training.²³ This further worsens the appalling state of the media as journalists have their performance measured according to their commitment to the military training. Various journalists have been sent to military prisons as a consequence of the new decree.²⁴

²⁰ PEN International Contribution to the 18th session of the Working Group of the Universal Periodic Review Submission on Eritrea, June 2013, <http://pen-international.org/app/uploads/archive/2013/06/24-06-2013-Eritrea-Report-to-UPR-PEN-International1.pdf>

²¹ "Firsthand account of four years in solitary confinement in Eritrea's most notorious prison," Tesfagiorgis Habte, 27 May 2017, <http://www.peneritrea.com/blog/an-account-of-four-years-in-solitary-confinement-in-eritrea-s-most-notorious-prison>

²² Eritrea: Initial National Report (1999-2016; Prepared on the African Charter on Human and People's Rights (ACHPR)) 28 March 2017, The State of Eritrea, Ministry of Foreign Affairs, para 77. http://www.achpr.org/files/sessions/62nd_os/state-reports/1st-1999-2016/achpr_eritrea_initial_report_1999_2016.pdf

²³ The 2012 military programme requires nationals between the ages of 18-70 to attend regular military training and guard government buildings in the evenings. Journalists in Eritrea, just like all civil servants, are required to attend this militarization program as well.

²⁴ "The life of a state journalist in Eritrea," Abraham T. Zere, *The Independent*, 30 June 2016, <https://www.independent.co.uk/voices/campaigns/voicesindanger/the-life-of-a-state-journalist-in-eritrea-a7111931.html>

State journalists are also persistently abused at the hands of the government. Recent reports suggest that the Eritrean security forces arrested Mohammednur Yahya, Editor-in-Chief of the Eritrean State Arabic-language newspaper *Eritrea Alhaditha*; Abdulkader Ahmed, features editor of the Eritrean State Tigrinya-language newspaper *Haddas Ertra*; and Abubeker Abdelawal, former associate editor and “opinion” section editor of the state newspaper, *Haddas Ertra* in late March 2018. All three have worked for their respective newspapers for decades and are respected within the profession. The precise circumstance of their arrest are not yet clear. Reports indicate that the journalists were released in early April 2018.²⁵

In January 2017, reports indicated that owners and directors of content in the budding YouTube industry in Eritrea, such as LYE TV and YONAN, were summarily arrested, while some fled the country, fearing arrest. The arrests appear to have been a warning by the authorities to the growing YouTube industry, which defies the narratives and disproportionately patriotic songs that abound on state-media.²⁶

Extensive censorship practices have also severely restricted literary, artistic and cultural production. Although the pervasive practice of censorship was officially lifted in 2016, the inherent fear that persists among Eritreans and other conditions, such as limitations on money withdrawals from banks, has also crippled the country’s art production, such as the film industry.

VI. Conclusion

The specific examples above highlight how closed the space is for journalists and writers in Eritrea. We welcome the fact that the ACHPR has adopted various resolutions on Eritrea and has passed three different Communications on the situation of human rights in Eritrea, including the plight of journalists and writers who have been the subject of prolonged detention without trial or enforced disappearance. These Communications include *Zegveld and Another v Eritrea* (2003) AHRLR 84 (ACHPR 2003); *Article 19 v Eritrea* (2007) AHRLR 73 (ACHPR 2007); and *Dawit Issak v. Eritrea* (Communication 428/12). In each Communication, Eritrea was found to be in violation of several articles of the African Charter.

Time and again, the ACHPR has requested the Government of Eritrea to release all political prisoners and journalists and to compensate them for the abuse they have suffered. The Government of Eritrea has shown no interest in complying with the resolutions and decisions of the ACHPR, which calls for a more stringent action on

²⁵ “Eritrean security arrests three prominent state-journalists,” Tedros Abraham, 30 March 2018 <http://www.peneritrea.com/blog/eritrean-security-arrests-two-prominent-state-journalists>

²⁶ “Eritrean filmmaker Tesfit Abraha speaks out about state repression.” Yonatan Tewelde, 7 February 2017 <http://www.peneritrea.com/blog/eritrean-filmmaker-tesfit-abraha-speaks-out-about-state-repression>

the part of the ACHPR. We take this occasion to urge the ACHPR to adopt a more robust resolution, focusing mainly on the implementation of, and compliance with, its previous resolutions on Eritrea.

VII. Recommendations:

To the African Commission on Human and Peoples' Rights:

- Adopt a robust resolution to ensure implementation of previous ACHPR resolutions and decisions on Eritrea, urging that Eritrea grant the immediate and unconditional release of all detained journalists and other writers still alive who have been imprisoned solely for exercising their right to freedom of expression
- Request a country visit to Eritrea to assess the human rights situation in the country
- As per the recommendation of the UN Commission of Inquiry on Eritrea, urge the African Union to establish an accountability mechanism to hold perpetrators of crimes against humanity in Eritrea accountable