



Eritrea

Joint Submission to the UN Universal Periodic Review

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**Submission by CIVICUS: World Alliance for Citizen Participation, NGO  
in General Consultative Status with ECOSOC**

**And**

**Eritrean Movement for Democracy and Human Rights (EMDHR)**

**And**

**Eritrea Focus**

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## **1. Introduction**

- 1.1** CIVICUS is a global alliance of civil society organisations (CSOs) and activists dedicated to strengthening citizen action and civil society around the world. Founded in 1993, CIVICIUS has members in more than 170 countries throughout the world.
- 1.2** The Eritrean Movement for Democracy and Human Rights (EMDHR) is an independent and membership-based CSOs dedicated to promoting human rights, democratic values and principles in all spheres of Eritrean society. EMDHR was founded in 2003 and its programmes are aimed at Eritreans inside the country who lack all forms of liberties. EMDHR also assists CSOs, activists and refugee organisations who are outside Eritrea.
- 1.3** Eritrea Focus is an association of CSOs, human rights organisations, exile and refugee groups and individuals concerned with the gross abuses of human rights in Eritrea. It is an open and inclusive organisation that welcomes members from all sections of Eritrean communities, both at home and in the diaspora, as well non-Eritreans who are concerned with the dictatorship and the complete absence of rule of law in Eritrea.
- 1.4** In this document, CIVICUS, EMDHR and Eritrea Focus examine the Government of Eritrea’s compliance with its international human rights obligations to create and maintain a safe and enabling environment for civil society. Specifically, we analyse its fulfilment of the rights to the freedoms of association, peaceful assembly and expression and unwarranted restrictions on human rights defenders (HRDs) since its previous UPR examination in 2014. To this end, we assess Eritrea’s implementation of recommendations received during the 2<sup>nd</sup> UPR cycle relating to these issues and provide a number of specific, action-orientated follow-up recommendations.
- 1.5** During the 2<sup>nd</sup> UPR cycle, the Government of Eritrea received 48 recommendations relating to civic space and HRDs. Of these recommendations, 18 were accepted and 30 were noted.<sup>1</sup> However, an evaluation of a range of legal sources and human rights documentation addressed in subsequent sections of this submission demonstrate that the government of Eritrea has not fully implemented all recommendations relating to civic space, with only two having been partially implemented and 46 not implemented at all. The government has persistently failed to address unwarranted restrictions on civic space since its first UPR examination.

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<sup>1</sup> Eritrea Country Database, UPR-Info, <https://www.upr-info.org/database>.

- 1.6** CIVICUS, EMDHR and Eritrea Focus are concerned that as substantiated by the findings of the Special Rapporteur on Eritrea and UN Commission of Inquiry on Eritrea, crimes against humanity have been committed in Eritrea since 1991, including arbitrary arrest and incommunicado detention, enforced disappearance and torture of citizens and activists.<sup>2</sup> In the absence of an independent judiciary, the perpetrators of these crimes enjoy utmost impunity. The situation forces many Eritreans to flee the country or engage in self-censorship. With no recourse for justice most Eritreans at home live in fear as in most cases they do not really know what the government defines as defiance.
- 1.7** As in the last cycle in 2013, CIVICUS, EMDHR and Eritrea Focus are deeply alarmed by Eritrea's persistent and violent suppression of basic freedoms for civil society. In almost all instances the Eritrean Government remains responsible for the gross violations committed against human rights activists, journalists and citizens who dare to speak out against the state. The actions of the government affect every aspect of the lives of Eritreans and the environment is heavily dominated by propaganda from state media.
- 1.8** The authors are further concerned about the fact that the Eritrean government engages selectively with its international human rights commitments, the Human Rights Council and Special Procedures. For example, it did not participate in the Enhanced Dialogue on 12 March 2018 and has not responded to requests from seven thematic mandates that have requested a visit over a period of 17 years.<sup>3</sup> It also did not collaborate with the former Special Rapporteur on Eritrea and the Commission of Inquiry on Eritrea created by the Human Rights Council in 2016.<sup>4</sup> The implications for this are that in the absence of an independent judiciary there are no other mechanisms to which the government has committed that can hold it accountable for its actions against its citizens. This leads to the high levels of impunity enjoyed by state actors.
- 1.9** As a result of these restrictions, civic space in Eritrea is currently rated as 'closed' by the CIVICUS Monitor, indicating a widespread and systematic denial of fundamental freedoms.<sup>5</sup>
- In Section 2 of this submission, CIVICUS, EMDHR and Eritrea Focus examine concerns relating to freedoms of association and peaceful assembly.

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<sup>2</sup> 'Situation of human rights in Eritrea', 2018 Report of Special Rapporteur on Eritrea, 4 July 2018, [http://ap.ohchr.org/documents/dpage\\_e.aspx?m=201](http://ap.ohchr.org/documents/dpage_e.aspx?m=201).

<sup>3</sup> 'Statement by Ms. Sheila B. Keetharuth, Special Rapporteur on the situation of human rights in Eritrea at the 38<sup>th</sup> session of the Human Rights Council', Office of the UN High Commissioner for Human Rights (OHCHR), 26 June 2018, <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=23272&LangID=E>.

<sup>4</sup> 2018 Report of Special Rapporteur on Eritrea, op. cit.

<sup>5</sup> 'CIVICUS Monitor: Eritrea', <https://monitor.civicus.org/country/eritrea>. Rating correct as of 12 July 2018.

- In Section 3, CIVICUS, EMDHR and Eritrea Focus examine concerns relating to harassment, intimidation, disappearance and attacks against HRDs, civil society activists and journalists.
- In Section 4, CIVICUS, EMDHR and Eritrea Focus examine concerns relating to the freedom of expression, media freedom, media independence and access to information.
- Section 5 contains a number of recommendations to address the concerns to address the concerns raised and to advance implementation of recommendations under the 3rd cycle.
- An annex of implementation of 2<sup>nd</sup> cycle UPR recommendations related to civic space.

## **2. Freedom of association and peaceful assembly**

**2.1** During Eritrea’s examination under the 2<sup>nd</sup> UPR cycle, the government received 13 recommendations on the right to the freedoms of association and peaceful assembly and creating an enabling environment for CSOs. Among other recommendations, the government committed to “guarantee the right to freedom of expression, opinion, conscience and religion or belief as well as the right to peaceful assembly and the right to freedom of association” and “respect and promote the right to freedom of association.”<sup>6</sup> Of the recommendations received, the government accepted six and noted seven. However, as evidenced below, the government has failed to take adequate measures to realise these 13 recommendations, and has implemented none.

**2.2** Eritrea’s 1997 Constitution (Article 19)<sup>7</sup> guarantees the right to the freedom of association. Article 18 guarantees the right to the freedom of peaceful assembly, noting that “All persons shall have the right to assemble and to demonstrate together with others peaceably.” Moreover, article 22 of the International Covenant on Civil and Political Rights (ICCPR), to which Eritrea has acceded, also guarantees the freedom of association. However, despite these commitments, the Constitution is not in operation as the government refused to implement it.<sup>8</sup> With no Constitution in place, Eritrea is governed by fear and the civilian population are terrorised and have no redress for crimes committed. The government rules by decree and there are no independent mechanisms or processes through which citizens can voice their grievances on issues affecting them.

**2.3** The 2005 Proclamation Determining the Administration of Non-Governmental Organisations censors CSOs heavily, imposes onerous reporting guidelines and

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<sup>6</sup> UPR-Info, op. cit.

<sup>7</sup> Eritrea Constitution, International Centre for Not-for-Profit Law, <http://www.icnl.org/research/library/files/Eritrea/Const.pdf>.

<sup>8</sup> ‘The Status and fate of Eritrea’s Constitution’, African Human Rights Law Journal, 2008, [http://www.scielo.org.za/scielo.php?script=sci\\_arttext&pid=S1996-20962008000100007](http://www.scielo.org.za/scielo.php?script=sci_arttext&pid=S1996-20962008000100007).

empowers the authorities to exert control over the activities of CSOs.<sup>9</sup> The Proclamation states that CSOs that wish to carry out activities in Eritrea must apply to the Ministry of Labour and Human Welfare. It notes that upon the receipt of applications, the Ministry will inform applicants about the outcome within a period of 30 days. In practice, however, independent CSOs are not allowed to operate in Eritrea as the Ministry has failed to process applications of those that do not support the actions of the government. Article 3 of the Proclamation empowers the Ministry to approve and coordinate activities that are funded and implemented by CSOs. In addition, Article 7 states that “the activities of NGOs shall be limited to relief and humanitarian works.”<sup>10</sup> The Proclamation requires CSOs that seek to engage in relief and rehabilitation work to prove that they have deposited US\$1 million or its equivalent in another convertible currency before they can start work.<sup>11</sup> The prescription for international CSOs is US\$2 million. Because of this, all independent CSOs operate from abroad, run by Eritreans in exile.

**2.4** The Labour Proclamation No 118/2001 of 2001 guarantees the rights of citizens, employers and employees to form associations and participate in their activities. The Proclamation states that no measures shall be taken by the authorities to refuse or cancel the registration of an association in accordance with Article 94 to 97 of the Proclamation. The Proclamation states that a minimum of 20 persons are needed to form an association, and approval must be given by the Ministry of Labour and Human Welfare.<sup>12</sup> In addition, associations are not allowed in professions that the government classifies as providing essential services, such as the military and the police. In practice however, there are no independent associations and unions in Eritrea. Student and teachers’ unions that existed were closed as part of the crackdown in 2001. The only union that is functional is the National Confederation of Eritrean Workers, which is controlled by the state.<sup>13</sup> Workers have no rights to assemble peacefully and independent associations or unions by workers are not allowed. The Commission of Inquiry noted that the fact that independent unions are not allowed operate in Eritrea means individuals do not have access to any mechanisms that enable them to participate in the conduct of issues affecting them.<sup>14</sup>

**2.5** In May 2002 the government banned all unregistered religious activity, making it illegal for Eritreans to exercise their right of association and religious freedom outside

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<sup>9</sup> ‘Eritrea: Proclamation No 145/2005 of 2005, Non-governmental Organization Administration Proclamation’, UN Refugee Agency, <http://www.refworld.org/docid/493507c92.html>.

<sup>10</sup> Ibid.

<sup>11</sup> Ibid.

<sup>12</sup> ‘Eritrea: Labour Proclamation No 118/2001 of 2001, UN Refugee Agency, <http://www.refworld.org/docid/4d4a9e192.html>.

<sup>13</sup> ‘Freedom in the World Report: Eritrea’, Freedom House, 2018, <https://freedomhouse.org/report/freedom-world/2018/eritrea>.

<sup>14</sup> Report of the Commission of Inquiry on human rights in Eritrea, June 2015, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G15/114/50/PDF/G1511450.pdf?OpenElement>.

the Catholic, Lutheran, Eritrean Orthodox and Islamic faiths recognised by the state. In 2002, unrecognised churches and religious communities were required to register with the Department of Religious Affairs. The authorities have not allowed any other denominations to exist formally. For denominations that are not recognised by the state, religious gatherings are not allowed and their followers are targeted, attacked, arbitrarily arrested and detained. Several members of such religious denominations have died while in detention and many have been forced to renounce their religious beliefs. In its report submitted to the Human Rights Council in June 2015, the Commission of Inquiry on Eritrea noted that in implementing this discriminatory treatment, members of the Jehovah Witness community have been stripped of their citizenship.<sup>15</sup> Many Eritreans who are currently detained in military prisons where arrested and for practising their faith while on national duty.

- 2.6** Eritrea Focus has reported that most mine workers are conscripts who are forcefully taken from the government's national service programme and are effectively used as slaves. Miners work in fear of their lives and are forced to work for long hours.<sup>16</sup> In the absence of independent unions, these and many other workers are at the mercy of the state.
- 2.7** Workers across the board are exposed to harsh working conditions. On 21 November 2017, a Canadian court unanimously dismissed an appeal from Canada-based mining company Nevsun Resources to block a case brought against the company by three Eritrean refugees. The case concerns allegations of forced labour at Nevsun's Bisha mine, 150 kilometres west of the capital, Asmara. The plaintiffs claim that they were national service conscripts, forced into slavery at the mine under threat of torture, imprisonment and reprisals against their families.<sup>17</sup>
- 2.8** All Eritreans in the diaspora are required to sign the B4/4.2 form (the so-called 'regret form'), in which they accept responsibility for any crime, if committed, before leaving the country, in order to access consular services from Eritrean diplomatic missions. This serves as a deterrent for Eritreans in exile in the diaspora from mobilising and criticising the state overtly, as they fear being unable to access consular services.<sup>18</sup>
- 2.9** The use of violence, intimidation and harassment against citizens in Eritrea means that protests are not allowed. When they happen, they are viciously repelled. In 2017, Mr Haji Musa, director of Al Diaa Islamic School in Asmara, was arrested for refusing

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<sup>15</sup> Ibid.

<sup>16</sup> 'Mining and repression in Eritrea: Corporate Complicity in Human Rights Abuses', Eritrea Hub, June 2018, <https://eritreahub.org/wp-content/uploads/2018/06/Mining-and-Repression-in-Eritrea-Corporate-Complicity-in-Human-Rights-Abuses-EMBARGOED-COPY.pdf>.

<sup>17</sup> 'Eritrean Refugees take labour rights case to Canadian Court', CIVICUS Monitor, 23 January 2018, <https://monitor.civicus.org/newsfeed/2018/01/23/eritrean-refugees-take-labour-rights-case-canadian-court>.

<sup>18</sup> 2018 Report of Special Rapporteur on Eritrea, op. cit.

to make changes at the school as prescribed by the state.<sup>19</sup> He was arrested after the state, in an attempt to further centralise power and control schools, sent correspondence to schools run by religious institutions asking them to comply with the state education system and transfer control over the running of the schools to the state. Thousands of people were arrested for protesting about his arrest in, including in police night raids.<sup>20</sup> In footage from the protest scenes, gunshots can be heard, but it is unclear if there were any casualties as no investigation was carried out.<sup>21</sup> Mr Musa died after being held for four months, with his death sparking further protests and arrests.<sup>22</sup>

**2.10** Hundreds of people were arrested during the protests and in their aftermath. There are risks associated with participation of peaceful protests even by those in exile. Family members based in Eritrea can be targeted if their relations take part in peaceful protests in another country.<sup>23</sup>

### **3. Harassment, intimidation, disappearance and attacks against human rights defenders, civil society activists and journalists**

**3.1** Under Eritrea's previous UPR examination, the government received four recommendations on the protection of HRDs, journalists and civil society representatives.<sup>24</sup> Of the recommendations received two were accepted and two were noted. The government committed to "ensure that any physical or moral harm against journalists or human rights defenders is investigated and that the perpetrators are duly prosecuted" and to "ensure a conducive climate to the work of the human rights defenders, civil society activists and journalists." Those that were noted included a commitment to releasing unconditionally those imprisoned for being suspected of holding dissenting opinions, including HRDs, civil society activists and journalists, and to ending all human rights violations and releasing all political prisoners, civil society activists and journalists, ending all practices of torture and eliminating all forms of

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<sup>19</sup> 'Eritrea United Nations Expert says embracing human rights vital to shape successful future', CNBC Africa, 26 June 2018, <https://www.cnbcfranca.com/apo/2018/06/26/eritrea-united-nations-expert-says-embracing-human-rights-vital-to-shape-successful-future>.

<sup>20</sup> 'UN Human Rights Council: Civic Space in Eritrea', CIVICUS, 28 June 2018 <https://civicus.org/index.php/media-resources/news/united-nations/geneva/3241-un-human-rights-council-civic-space-in-eritrea>.

<sup>21</sup> 'Statement at UN Human Rights Council: Citizen rights in Eritrea', CIVICUS, 12 March 2018, <https://www.civicus.org/index.php/media-resources/news/united-nations/geneva/3098-statement-at-un-human-rights-council-citizen-rights-in-eritrea>.

<sup>22</sup> 'Mass arrests during protest around death in custody of Islamic School Director', CIVICUS Monitor, 7 May 2018, <https://monitor.civicus.org/newsfeed/2018/05/07/mass-arrests-during-protest-around-death-custody-islamic-school-director>.

<sup>23</sup> 'Overview of the human rights situation in the East and Horn of Africa', Defend Defenders, October 2016, <https://www.defenddefenders.org/wp-content/uploads/2016/10/ACHPR-report-October-2016.pdf>.

<sup>24</sup> UPR-Info, op. cit.

extrajudicial execution. As examined in this section, the government has failed to operationalise these recommendations, and has not implemented any.

- 3.2** Article 12 of the UN Declaration on Human Rights Defenders mandates states to take the necessary measures to ensure protection to HRDs. The ICCPR further guarantees the freedoms of association, peaceful assembly and expression. However, despite these protections, the Government of Eritrea has not taken steps to protect HRDs, civil society and activists.
- 3.3** While no civil society groups operate in Eritrea,<sup>25</sup> the regime disrupts the work of civil society groups and HRDs in the diaspora. HRDs operating outside Eritrea are subjected to threats, intimidation and harassment on social media. Diaspora civil society groups complain that the Eritrean government also employs spies to join these civil society groups with the aim of secretly collecting information and using this to destroy the groups.<sup>26</sup>
- 3.4** HRDs who criticise the state and president are subjected to arbitrary arrest, torture, prolonged detention and disappearances. Many die in prison and many more are unaccounted for. After the attempted coup d'état in January 2013, over 50 people, including public figures, were arrested and detained, with no information on their whereabouts. Many have not been formally charged and therefore have not been brought before courts.<sup>27</sup>
- 3.5** The Government of Eritrea has also attacked, intimidated and threatened HRDs and independent UN experts, including the Special Rapporteur and members of the Commission of Inquiry. When the latter presented their report in 2015, they noted that “(they) were followed in the streets and in (their) hotels and vilified in blogs online where the words of (their) report have been twisted and misquoted.” The Commission’s Chair added: “Of course this is trivial compared to the day to day experience of people in Eritrea itself, but it is indicative of a determination on the part of the authorities to control anyone they perceive as a critic.”<sup>28</sup>

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<sup>25</sup> ‘Closed and repressed: no space for democracy to take root in Eritrea’, CIVICUS, 24 January 2017, <https://www.civicus.org/index.php/media-resources/news/interviews/2724-closed-and-repressed-no-space-for-democracy-to-take-root-in-eritrea>.

<sup>26</sup> Ibid.

<sup>27</sup> ‘Report of the Special Rapporteur on the situation of human rights in Eritrea, Sheila B. Keetharuth’, UN Human Rights Council, 13 May 2014, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G14/028/56/PDF/G1402856.pdf?OpenElement>.

<sup>28</sup> ‘Oral Update by Mr. Mike Smith, Chair of the Commission of Inquiry on Human Rights in Eritrea, at the 70th session of the General Assembly’, OHCHR, 29 October 2015, <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=16731&LangID=E>.



#### **4. Freedom of expression, media freedom, media independence and access to information**

**4.1** Under the 2<sup>nd</sup> UPR cycle, the government received 20 recommendations relating to the freedom of expression and access to information. For example, the government pledged to “take policy and other measures which ensure the enjoyment of freedom of expression, opinion and assembly.” Of the recommendations received, seven were accepted and 13 were noted. Concerning media freedom, the government received 11 recommendations, of which eight were noted and three accepted. For example, the government pledged to “allow for the establishment of independent media and issue licenses to private broadcasting radio and television stations.” However, as discussed below, the government did not take effective measures to implement these recommendations.<sup>29</sup> Of the 31 recommendations pertaining to these issues, the government has not implemented any.

**4.2** Article 19 of the ICCPR guarantees the right to the freedoms of expression and opinion. Article 19 of the Constitution of Eritrea also guarantees the right to the freedom of expression.<sup>30</sup> However, the Constitution is not in operation and the state continues to exercise total control of the media. Eight independent newspapers existed in Eritrea prior to 2001, the year that marked the beginning of the complete closure of space for journalists and civil society to express their views. Following the publication of a letter in the Setit newspaper by progressive legislators calling for reforms and the implementation of the Constitution, the government responded by arresting the legislators and 11 journalists. More than 16 years later none of those detained have ever been charged and their whereabouts remain unknown. Unverified reports say that 10 of those detained have died and the remaining people are held in solitary confinement in deplorable conditions.<sup>31</sup>

**4.3** Many other journalists who have been detained remain unaccounted for since 2001. This includes journalist Seyoum Tsehaye.<sup>32</sup> Since the clampdown in September 2001, at least 11 journalists<sup>33</sup> have been detained in Eritrea. They have never been sentenced and are kept in undisclosed locations, isolated and not allowed visits.<sup>34</sup> Even those who work for government-run outlets live in fear. Eritrea currently has 23 journalists in prison, the highest amount in Africa.<sup>35</sup> In essence no private media

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<sup>29</sup> UPR-Info, op. cit.

<sup>30</sup> Eritrea Constitution, op. cit.

<sup>31</sup> ‘Ten Long Years, a briefing on Eritrea’s Missing Political Prisoners’, Human Rights Watch, 22 September 2011, <https://www.hrw.org/report/2011/09/22/ten-long-years/briefing-eritreas-missing-political-prisoners>.

<sup>32</sup> ‘One Day Seyoum’, <http://onedayseyoum.com>.

<sup>33</sup> ‘Closed and repressed: no space for democracy to take root in Eritrea’, op. cit.

<sup>34</sup> ‘Shadow report on Eritrea’, Reporters without Borders, 27 April 2018, <https://rsf.org/en/reports/rsf-unveils-shadow-report-press-freedom-eritrea>.

<sup>35</sup> ‘Eritrea most censored country in the world’, Committee to Protect Journalists, 21 April 2015, <https://cpj.org/2015/04/eritrea-most-censored-country-in-the-world.php>.

entity operates in Eritrea and many journalists live in exile. In 2016, some foreign journalists were allowed into Eritrea, but were under heavy police guard during their visit.<sup>36</sup>

- 4.4** The only media outlets inside Eritrea are the government TV station Eri and government newspapers, which are heavily monitored. The Ministry of Information exerts stringent controls over the content of information released by these government controlled-media agencies and the journalists who release information. Since 2012, journalists for state-run media agencies and staff of the Ministry of Communications have been forced to undergo military training on a regular basis and provided with firearms. In line with the policy of compulsory military conscription enforced by the state, the performance of journalists is rated in line with their commitment to military training.
- 4.5** Internet communication is virtually non-existent and where there is access, such as in Asmara, the connection is slow and some websites are blocked.<sup>37</sup> Eritrea has maintained its position over the years as the most censored country in the world.
- 4.6** The Press Proclamation No 90/1996, Part II, Section 4<sup>38</sup> gives the government the power to censor all mass media. Foreigners may not own media. Eritreans wishing to establish media organisations are mandated to undergo an onerous licensing exercise that includes revealing financial sources and submitting financial reports annually to the Minister of Information (Section 7). Media are also required to submit copies of every publication to the Minister of Information. The proclamation also prescribes certain content, for example making it illegal to publish maps of Eritrea without the approval of state agencies (Section 12.10).<sup>39</sup>
- 4.7** In addition, the Criminal Code contains provisions that have been used to restrict freedom of expression and media freedoms. Articles 580(1) and 580 (2) criminalise defamation. The Code states that it is a criminal offence for citizens to engage in insulting behaviour and outrage. The Code defines actions that attack the independence of the state and impair the defence of powers of the state as treasonable acts. These provisions are regularly used by the authorities to undermine the rights of citizens to express themselves.
- 4.8** In March 2018, journalists Mohammedrur Yahya, Abdulkader Ahmed and Abubeker Abdelawal were arrested by security forces and detained. All three journalists

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<sup>36</sup> Reporters without borders, op. cit.

<sup>37</sup> 'Eritrea worst press censor', The Guardian, 2 May 2012, <https://www.theguardian.com/world/2012/may/02/eritrea-worst-press-censor>.

<sup>38</sup> Press Proclamation, No 90/1996, Centre for Human Rights, [http://www1.chr.up.ac.za/chr\\_old/indigenous/documents/Eritrea/Legislation/Section%2010%20Information.pdf](http://www1.chr.up.ac.za/chr_old/indigenous/documents/Eritrea/Legislation/Section%2010%20Information.pdf).

<sup>39</sup> Ibid.

worked for state-controlled newspapers Eritrea Alhaditha and Haddas Ertra. The reasons for their arrest were not revealed but reports confirmed that Abubeker Abdelawel's arrest was related to the fact that his son was among the protesters at the Al Diah Islamic School (see 2.9). Following the protests, the authorities summoned Abubeker, assaulted him and blamed him for not doing enough to prevent his son from participating in the protests. He was later detained at the Adi-Abieto Prison.<sup>40</sup> All three journalists were released in April 2018.

- 4.9** In January 2017, the Eritrean authorities clamped down on YouTube-affiliated film and documentary makers after accusing them of broadcasting information and images that were at variance with views of the state. Several filmmakers, including director of Yonan video production, Yonas Solomon, Daniel Abraham and several members of LYE TV, a YouTube distribution channel, were arrested. As a result of the clampdown, several documentary makers and filmmakers fled Eritrea, including Tesfit Abaraha, who sought refuge in Ethiopia to avoid further reprisals. He had produced several films and documentaries and worked in the production section of news and documentaries for Eri TV. He also worked for the Ministry of Information. Before he fled he was arrested and detained for three months at the Asha Golgol detention camp on the orders of the Minister of Information. Before that, he was arrested in 2013 in the aftermath of the coup attempt in Asmara after releasing pictures of the tanks of the coup plotters stationed in front of the Ministry of Information as they demanded that the 1997 Constitution be implemented and the rule of law respected.<sup>41</sup>
- 4.10** On 19 February 2017, journalists Abraham Yitbarek and Senait Ekubay were arrested in their homes by four government agents and detained for attempting to flee the country. Both journalists worked for the state-owned Eritrean Radio and Television Agency. The Eritrean authorities view any attempt to leave the country as an act of treason, and those accused of planning to escape can be punished severely.<sup>42</sup>
- 4.11** In January 2015, six journalists - Ghirmai Abraham, Yirgalem Fesseha, Bereket Misguina, Meles Nguse, Petros Teferi and Basilos Zemo - were released from prison after serving nearly six years in detention.<sup>43</sup> All six journalists worked for the radio station Radio Bana at the time of their arrest. They were arrested together with 50 other journalists and members of staff of Radio Bana after security forces raided the station on 22 February 2009 and were detained at the Adi Abito military camp before

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<sup>40</sup> 'Eritrea security arrests three prominent state journalists', PEN Eritrea, 30 March 2018.

<http://www.peneritrea.com/blog/eritrean-security-arrests-two-prominent-state-journalists>.

<sup>41</sup> 'Eritrean filmmaker Tesfit Abaraha speaks out about state repression', PEN Eritrea, 7 February 2017, <http://www.peneritrea.com/blog/eritrean-filmmaker-tesfit-abaraha-speaks-out-about-state-repression>.

<sup>42</sup> 'Eritrea journalists detained attempting to flee', CIVICUS Monitor, 27 March 2017, <https://monitor.civicus.org/newsfeed/2017/03/27/eritrean-journalists-detained-attempting-to-flee>.

<sup>43</sup> 'After six years, Eritrea releases six journalists', Global Journalist, 27 January 2015, <https://globaljournalist.org/2015/01/six-years-eritrean-releases-six-journalists>.

being transferred to the Mai-Sirwa maximum security prison.<sup>44</sup> They were accused of assisting private radio stations and of taking part in a meeting in which one of those arrested criticised the government. No formal charges levelled against them were ever disclosed.

## **5. Recommendations to the Government of Eritrea**

CIVICUS, EMDHR and Eritrea Focus call on the government of Eritrea to create and maintain, in law and in practice, an enabling environment for civil society, in accordance with the rights enshrined in the ICCPR, the UN Declaration on Human Rights Defenders and Human Rights Council resolutions 22/6, 27/5 and 27/31.

At a minimum, the following conditions should be guaranteed: the freedoms of association, peaceful assembly and expression, the right to operate free from unwarranted state interference, the right to communicate and cooperate, the right to seek and secure funding and the state's duty to protect. Considering this, the following specific recommendations are made:

### **5.1 Regarding the freedom of association**

- Take measures to foster a safe, respectful and enabling environment for civil society, including through repealing the 2005 Proclamation Determining the Administration of Non-Governmental Organisations, which unwarrantedly limits the right to association.
- Implement the 1997 Constitution and ensure that it is respected by all.
- Remove all undue restrictions on the ability of CSOs to receive domestic and international funding, in line with best practices articulated by the UN Special Rapporteur on the rights to freedom of peaceful assembly and of association.
- Abolish criminal responsibility for organising and participating in the activities of non-registered organisations and lift the ban on the activities of non-registered organisations.
- Open a space to allow for the existence of CSOs.
- Refrain from acts censoring HRDs in the diaspora, CSOs, journalists, political activists and others.

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<sup>44</sup> 'Eritrea: writers released after six years of arbitrary detention', PEN America, 26 January 2015, <https://pen.org/eritrea-writers-released-after-six-years-of-arbitrary-detention>.

- Guarantee the space for autonomous trade unions to be formed and function, and allow the right to strike for unions.

## **5.2 Regarding the freedom of peaceful assembly**

- Adopt best practices on the freedom of peaceful assembly, as put forward by the UN Special Rapporteur on the rights to freedom of peaceful assembly and of association in his 2012 annual report, which calls for procedures in which there is simple notification of assemblies being held, rather than explicit permission being needed to assemble.
- Operationalise the 1997 Constitution, which guarantees the right to assemble peacefully.
- Unconditionally and immediately release all protesters, journalists and HRDs detained for exercising their right to the freedom of peaceful assembly. Make public the conditions of their detention and review their cases to prevent further harassment.
- Immediately and impartially investigate all instances of extrajudicial killing and excessive force committed by security forces while monitoring protests and demonstrations.
- Provide human rights training for police and security forces, with the assistance of independent CSOs, to foster the more consistent application of international human rights standards, including the UN Basic Principles on the Use of Force and Firearms.
- Publicly condemn the use of excessive and brutal force by security forces in the dispersal of protests, launch a formal investigation into such instances and bring the perpetrators of abuses to justice.
- Provide recourse to judicial review and effective remedy, including compensation, in cases of unlawful denial of the right to the freedom of peaceful assembly by state authorities.

## **5.3 Regarding the protection of human rights defenders**

- Provide civil society members, HRDs and journalists in Eritrea and the diaspora with a safe and secure environment in which to carry out their work. Conduct impartial, thorough and effective investigations into all cases of attacks against

and harassment and intimidation of them, and bring the perpetrators of such offences to justice.

- Ensure that HRDs can carry out their legitimate activities without fear or undue hindrance, obstruction or legal and administrative harassment.
- Unconditionally and immediately release all HRDs, including journalists and bloggers, detained for exercising their right to fundamental rights to the freedoms of association, peaceful assembly and expression.
- Make public the whereabouts of those held in detention.
- Publicly condemn, at the highest level of government, instances of harassment and intimidation of civil society activists and CSOs.
- Systematically legal provisions that promote and protect human rights and establish mechanisms that protect human rights activists by adopting a specific law on the protection of human rights activists, in accordance with Council resolution 27.31 of the Human Rights Council.

#### **5.4 Regarding the freedom of expression, media freedom, media independence and access to information**

- Ensure the freedom of expression and media freedom by all bringing national legislation into line with international standards.
- In particular, review the Press Proclamation No 90/1996 and ensure that it is in line with best practices and international standards on the freedom of expression.
- Reinstate all media outlets that have been unwarrantedly closed.
- Improve the diversity of media available by relaxing licensing conditions under the Press Proclamation No 90/1996.
- Refrain from adopting any laws providing for censorship or undue control over the content of the media.
- Refrain from censoring social and conventional media and ensure that freedom of expression is safeguarded in all forms, including in the arts.

- Develop an action plan to ensure that internet laws enable the freedom of expression and information, ensure free access to electronic media, liberalise electronic media ownership rules and allow domestic bloggers, journalists, other internet users to play a full and active role in promoting and protecting human rights.
- Guarantee unfettered access for all persons in Eritrea to domestic and foreign media information, both offline and online. Remove restrictions on access to national and international news websites, social media outlets and CSO websites.
- Ensure that journalists and writers may work freely and without fear of retribution for expressing critical opinions or covering topics that the government may find sensitive.
- Take adequate steps to lift restrictions on the freedom of expression and adopt a framework for the protection of journalists from persecution, intimidation and harassment.
- Implement legislative measures regarding access to information and establish mechanisms to facilitate public access in line with best practices.

## **5.5 Regarding access to UN Special Procedures mandate holders**

- The Government should extend a standing invitation to all UN Special Procedure mandate holders and prioritise official visits by the: 1) Special Rapporteur on the situation of human rights defenders; 2) Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; 3) Special Rapporteur on the rights to freedom of peaceful assembly and of association; 4) Special Rapporteur on the Independence of Judges and Lawyers; 5) Special Rapporteur on extrajudicial, summary or arbitrary executions; 6) Special Rapporteur on the rights to privacy; and 7) Working Group on Arbitrary Detention.

## **5.6 Regarding state engagement with civil society**

- Implement transparent and inclusive mechanisms of public consultations with CSOs on all issues mentioned above and enable more the effective involvement of civil society in the preparation of law and policy.

- Include CSOs, including those in the diaspora, in the UPR process before finalising and submitting the national report.
- Systematically consult with civil society, including in the diaspora, on the implementation of the UPR, including by holding periodical comprehensive consultations with a diverse range of civil society.
- Incorporate the results of this UPR into action plans for the promotion and protection of all human rights, considering the proposals of civil society, and present a midterm evaluation report to the Human Rights Council on the implementation of the recommendations of this session.

### Annex: Assessment of implementation of civic space recommendations under the 2<sup>nd</sup> cycle

Freedom of Expression & Assembly		
Recommendation	Status	Assessment
Implement fully the 1997 Constitution and the rights that it enshrines, including allowing independent political parties and non-government organizations to function freely	Noted	Not implemented. See 2.2, 4.2
Expediently and fully implement the Constitution adopted in 1997 and strive for the earliest adoption of a penal code, a criminal procedure code as well as a civil code and a civil procedure code, in accordance with international standards, and provide clearly in new legislation for freedom of expression, assembly, movement, religion and belief	Noted	Not implemented. See 2.2, 4.2
Expediently and fully implement the 1997 Constitution and the rights that it enshrines in order to end the 23 years of the one-party-State-led transitional period and seek technical assistance from regional bodies and the international community	Noted	Not implemented. See 2.2, 4.2
Reform the electoral system and organize periodic and genuine multi-party elections, in accordance with international democratic standards	Noted	Not implemented
Take the necessary measures to fully implement the 1997 Constitution and thus allow, among	Noted	Not implemented See 2.2, 4.2



others, the existence and independence of political parties and other organs of civil society		
Harmonize national laws to incorporate the International Covenant on Civil and Political Rights, in particular articles 9, 12, 19, 21	Supported	Not implemented
Guarantee the right to freedom of expression, opinion, conscience and religion or belief as well as the right to peaceful assembly and the right to freedom of association	Supported	Not implemented See 4.3, 4.4, 4.5
Guarantee the exercise of freedom of expression, association and peaceful assembly, including for the political opposition, journalists and civil society	Noted	Not implemented. See 4.3, 4.4, 4.5
Ensure that the rights of all its people to freedom of expression, religion, and peaceful assembly are respected	Supported	Not implemented See 2.5-2.9
Respect and promote the right to freedom of expression, peaceful assembly and association in line with its international human rights obligations	Supported	Not implemented See 4.3, 4.4, 4.5
Fully respect the freedoms of expression, opinion, association and peaceful assembly in accordance with Eritrea's obligations under the International Covenant on Civil and Political Rights	Supported	Not implemented See 2.5-2.9, 4.3, 4.4, 4.5
Implement constitutional provisions and international obligations that support the rights to freedom of expression, assembly, association, and religion and provide an opportunity to participate in free, fair, and transparent elections	Noted	Not implemented See 2.5-2.9, 4.3, 4.4, 4.5
Take policy and other measures which ensure the enjoyment of freedom of expression, opinion and assembly	Supported	Not implemented. See 2.5-2.9
<b>Human Rights Defenders</b>		
Put an end to all human rights violations and release all political prisoners, civil society activists and journalists, end all practices of torture and eliminate all forms of extrajudicial executions	Noted	Not implemented. See 3.3-3.6

That those imprisoned, suspected of holding dissenting opinions, including human rights defenders, civil society activists and journalists, should be unconditionally released	Noted	Not implemented. See 3.3-3.6
Ensure that any physical or moral harm against journalists or human rights defenders is investigated and that the perpetrators are duly prosecuted	Supported	Not implemented. See 3.3-3.6
Create a more favourable environment for a stronger civil society in the country, including guaranteeing the full legitimacy for human rights defenders to spare them from the harassment they had to face so far and establish closer links with international human rights non-governmental organizations	Supported	Not implemented. See 3.3-3.6
<b>Freedom of the press</b>		
Take the necessary measures to ensure respect for human rights, including the rights of women, political rights, the rights of persons in detention and the right of freedom of expression as it pertains to the press and other media	Supported	Not implemented. See 4.1-4.7
Put an end to all human rights violations and release all political prisoners, civil society activists and journalists, end all practices of torture and eliminate all forms of extrajudicial executions	Noted	Not implemented. See 4.1-4.7
That those imprisoned, suspected of holding dissenting opinions, including human rights defenders, civil society activists and journalists, should be unconditionally released	Noted	Not implemented. See 4.1-4.7
Ensure that any physical or moral harm against journalists or human rights defenders is investigated and that the perpetrators are duly prosecuted	Supported	Not implemented. See 4.1-4.7
Guarantee the exercise of freedom of expression, association and peaceful assembly, including for the political opposition, journalists and civil society	Noted	Not implemented, See 4.1-4.7

Take concrete measures to ensure full respect for freedom of expression and of the press and release persons detained for exercising their freedom of expression, or as a result of their political views	Noted	Not implemented. See 4.1-4.7
Lift severe restrictions on freedom of expression, both online and offline, and take concrete measures to protect journalists and media workers from violence and arbitrary detention without an official charge	Noted	Not implemented. See 4.1-4.7
Permit the establishment of independent media outlets	Noted	Not implemented. See 4.1-4.7
Allow the establishment of private media and issue licences to private broadcasting radio and television stations	Noted	Not implemented. See 4.1-4.7
Lift all the restrictions on the rights to freedom of expression and of the press, including Internet freedom and fully implement its obligations in accordance with ICCPR	Noted	Not implemented. See 4.1-4.7
Ensure a conducive climate to the work of the human rights defenders, civil society activists and journalists	Supported	Not implemented. See 4.1-4.7
<b>Freedom of expression and opinion</b>		
Expediently and fully implement the Constitution adopted in 1997 and strive for the earliest adoption of a penal code, a criminal procedure code as well as a civil code and a civil procedure code, in accordance with international standards, and provide clearly in new legislation for freedom of expression, assembly, movement, religion and belief	Noted	Not implemented. See 4.1-4.7
Take the necessary measures to ensure respect for human rights, including the rights of women, political rights, the rights of persons in detention and the right of freedom of expression as it pertains to the press and other media	Supported	Not implemented. See 4.1-4.7
Accede to the request of the Special Rapporteur on the promotion and protection of the right to	Noted	Not implemented. See 4.1-4.7

freedom of opinion and expression, introduced in 2003 and renewed in 2005, to visit the country		
Harmonize national laws to incorporate the International Covenant on Civil and Political Rights, in particular articles 9, 12, 19, 21	Supported	Not implemented. See 4.1-4.7
Implement all constitutional provisions and international obligations relating to the right to life, liberty and security of person, including by unconditionally releasing all prisoners held for their political or religious beliefs	Noted	Partially implemented. 4 Djiboutian prisoners of war were released in 2016
Put an end to all human rights violations and release all political prisoners, civil society activists and journalists, end all practices of torture and eliminate all forms of extrajudicial executions	Noted	Not implemented. See 4.1-4.7
Be accountable for all political prisoners, in particular the members of the "G15", and release them	Noted	Not implemented. See 4.1-4.7
Take all necessary measures to put an end to arbitrary arrests and prolonged detention without charge and without trial, especially for political reasons	Noted	Not implemented. See 4.1-4.7
That those imprisoned, suspected of holding dissenting opinions, including human rights defenders, civil society activists and journalists, should be unconditionally released	Noted	Not implemented. See 4.1-4.7
Immediately cooperate to facilitate the release of political prisoners, improve prison conditions, and account for those prisoners who have disappeared	Noted	Not implemented. See 4.1-4.7
Guarantee the right to freedom of expression, opinion, conscience and religion or belief as well as the right to peaceful assembly and the right to freedom of association	Noted	Partially implemented. 4 Djiboutian prisoners of war were released in 2016
Guarantee the exercise of freedom of expression, association and peaceful assembly, including for the political opposition, journalists and civil society	Noted	Not implemented. See 4.1-4.7

Ensure that the rights of all its people to freedom of expression, religion, and peaceful assembly are respected	Supported	Not implemented. See 4.1-4.7
Respect and promote the right to freedom of expression, peaceful assembly and association in line with its international human rights obligations	Supported	Not implemented. See 4.1-4.7
Fully respect the freedoms of expression, opinion, association and peaceful assembly in accordance with Eritrea's obligations under the International Covenant on Civil and Political Rights	Supported	Not implemented. See 4.1-4.7
Implement constitutional provisions and international obligations that support the rights to freedom of expression, assembly, association, and religion and provide an opportunity to participate in free, fair, and transparent elections	Noted	Not implemented See 4.1-4.7
Take policy and other measures which ensure the enjoyment of freedom of expression, opinion and assembly	Supported	Not implemented. See 4.1-4.7
Take concrete measures to ensure full respect for freedom of expression and of the press and release persons detained for exercising their freedom of expression, or as a result of their political views	Noted	Not implemented. See 4.1-4.7
Lift severe restrictions on freedom of expression, both online and offline, and take concrete measures to protect journalists and media workers from violence and arbitrary detention without an official charge	Noted	Not implemented. See 4.1-4.7
Lift all the restrictions on the rights to freedom of expression and of the press, including Internet freedom and fully implement its obligations in accordance with ICCPR	Noted	Not implemented. See 4.1-4.7