

AMNESTY INTERNATIONAL



Background Note on Eritrea

59th ordinary session of the African Commission on Human and Peoples' Rights

21 October – 4 November 2016, Banjul, Gambia

September 2016 marked 15 years since the Eritrean authorities arrested and detained, without charge or trial, a group of 15 government officials, political opposition members, and journalists. It has been 11 years since the African Commission on Human and People's Rights (African Commission) issued any resolution condemning the continued arbitrary and incommunicado detention of those government officials, politicians, and journalists, and calling for their immediate and unconditional release.

The human rights situation in Eritrea has gotten progressively worse since 2001. Eritrea, which is not in a state of open war, is none-the-less one of the highest refugee producing countries in the world

This Background Note provides a short overview of Eritrea's relationship with the African Commission and makes the case for the adoption of a resolution on the human rights situation in Eritrea at the 59th ordinary session of the African Commission.

Non-compliance with the decisions and resolutions of the African Commission

The Eritrean government has had very little interaction with international human rights bodies since its formation in 1994. The UN Special Rapporteur on Eritrea and the UN Commission of Inquiry on Eritrea have made human rights recommendations that have yet to be implemented. This is also the case for the recommendations and resolutions set forth by the African Commission.

In 2003, the African Commission released its decision in the case of *Zegveld and Another v Eritrea*, in which it requested that the 11 members of the G-15, a group reformists who openly criticized the government, who were arrested in 2001 be immediately released.¹ The Commission found that the arrest of these politicians violated their rights to liberty, freedom of expression, fair trial, and to be free of discrimination. In 2005, the African Commission adopted Resolution 91 on the Human Rights Situation in Eritrea. In the

¹ See *Zegveld and Another v Eritrea*, African Commission on Human and People's Rights, 34th Ordinary Session, 6-20 November 2003.

Resolution, the African Commission called upon the Eritrean government to implement the decision in the case of *Zegveld and Another v Eritrea*.

Resolution 91 of the African Commission on Eritrea:

“**Condemns** the continued detention of the former cabinet ministers, government officials, members of Parliament, journalists, media practitioners, and others for many years;

Calls on the Government of Eritrea to fulfil its obligations in line with the *Constitutive Act of the African Union*, the *African Charter on Human Peoples’ Rights* and other pertinent instruments to which Eritrea is a party;

Calls on the Government of Eritrea to guarantee, at all times, the right to a fair trial, freedom of opinion and expression as well as the right to peaceful assembly;

Calls on the Government of Eritrea to immediately free the former cabinet ministers, government officials, members of Parliament, journalists, media practitioners and other individuals who have been arrested and detained without trial for many years; and

Calls on the Eritrea Government comply with the international instruments ratified by Eritrea, most notably the *African Charter of Human and People’s Rights* (ACHPR), the *International Covenant on Human and People’s Rights* (ICCPR) and the *International Covenant on Economic and Social Rights* (ICESCR) and to cooperate with the African Commission on Human and Peoples’ Rights.”

In 2007, the African Commission delivered its decision in another case regarding 18 journalists who were rounded up and detained without trial. In *Article 19 v Eritrea*, the African Commission found that the rights to liberty, freedom from torture, and freedom of expression of the 18 journalists had been violated. The Commission reiterated its recommendations to the Eritrean government that it lifts the ban on free press and either release the journalists or grant them access to a speedy and fair trial.² The African Commission also stressed the fact that the Eritrean government lacked the legal remedies to effect the human rights protections guaranteed in the African Charter on Human and Peoples’ Rights (African Charter). To date, the government has yet to implement the Constitution ratified by the National Assembly in 1997 and the judiciary remains closely controlled by the President.³

The Eritrean government has to this day done nothing to give effect to either one of these African Commission decisions.

UN Commission of Inquiry

The UN Commission of Inquiry on Eritrea (Commission of Inquiry), established in 2014, was mandated to investigate the international human rights violations that had been

² See *Article 19 v Eritrea*, African Commission on Human and People’s Rights, 41st Ordinary Session, 16-30 May 2007.

³ See Report on the United Nations Commission of Inquiry on Eritrea Report, June 2015, Document A/HRC/29/CRP.1, para. 266.

reported by the Special Rapporteur on Eritrea in her previous reports.⁴ Its first report documented a multitude of human rights violations, including but not limited to: enforced disappearances, torture, arbitrary detention, enforced servitude, extra judicial executions and forms of gender-based violence.⁵ The human rights violations contravened a variety of human rights conventions, and breached core human rights principles of the African Charter as well as the African Charter on the Rights and Welfare of the Child.

The Commission of Inquiry's second report, which was adopted at the UN Human Rights Council's 32nd Session in July 2016, reiterates its initial findings, and sets forth various recommendations.⁶ The Human Rights Council resolution calls for an amelioration of the current human rights situation in Eritrea (echoing the requests made by the African Commission regarding the jailed journalists and politicians, among others), and also highlights many of the human rights violations documented in the Commission of Inquiry report. The resolution also specifically encourages accountability through the African Union and/or through another regional mechanism.⁷

UN Resolution on the Human Rights Situation in Eritrea:

“ . . . 18. Strongly encourages the African Union to follow up on the report and recommendations of the commission of inquiry on human rights in Eritrea by establishing an investigation, supported by the international community, with a view to examining and bringing to justice those responsible for violations and abuses of human rights identified by the commission of inquiry, including any that may amount to a crime against humanity. . . .”

Resolution

Amnesty International encourages the African Commission to consider adopting a resolution referring Eritrea's non-compliance with its decisions and resolutions to the AU Executive Council. It should also draw the human rights situation in Eritrea to the attention of the AU Peace and Security Council and call upon the AU to implement the recommendations of the UN Commission of Inquiry on Eritrea.

⁴ See *generally* Report of the United Nations Special Rapporteur on the Situation of Human Rights in Eritrea, 28 May 2013, Document No. A/HRC/23/53; Report of the United Nations Special Rapporteur on the Situation of Human Rights in Eritrea, 13 May 2014, Document No. A/HRC/26/45; and Report of the United Nations Special Rapporteur on the Situation of Human Rights in Eritrea, 19 June 2015, Document No. A/HRC/29/41.

⁵ See *generally* Report of the United Nations Commission on Human Rights in Eritrea, 5 June 2015, Document No. A/HRC/29/CRP.1.

⁶ See Report of the United Nations Commission of Inquiry on Human Rights in Eritrea, 8 June 2016, Document No. A/HRC/32/CRP.1, paras. 347-364.

⁷ See UN Resolution on the Human Rights Situation in Eritrea, 28 June 2016, Document No, A/HRC/32/L.5/Rev.1, para. 18.