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ERITREA: CHALLENGES AND CRISES OF A NEW STATE

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**commissioned by United Nations High Commissioner for Refugees,
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TABLE OF CONTENTS

List of Acronyms	i
Executive Summary	ii
1 Introduction	1
1.1 Historical Background.....	2
1.2 Socio-political Background	5
2 Contemporary Eritrea and Forced Population Displacement	6
2.1 The Formative Years of the State, 1991-1998	6
2.2 The Ethio-Eritrean Border Stalemate, 1998 to Present	9
3 Current Developments in Human Rights Practices in Eritrea....	10
3.1 Overview	10
3.2 Political Freedoms.....	11
3.3 Freedom of Religion.....	11
3.4 Draft Evaders and Army Deserters.....	13
3.5 Returning or Visiting Diaspora Eritreans	14
4 Citizenship, Statelessness, and Residence Rights.....	14
4.1 Citizenship Legislation	15
4.2 Effect of the Border War on Citizenship Attitudes	16
5 Ethnic and Minority Groups	17
5.1 The Kunama	17
5.2 Other Ethnic Groups	18
6 Conclusion: Key Issues, Trends, and Recommendations	19
6.1 The Nature of Eritrean Territorial Nationalism.....	19
6.2 The Nature of Eritrean Refugee Flows	20
6.3 The Border War and Prospects for Political Change.....	22
6.4 Recommendations	23
7 Bibliography	25

List of Acronyms

ACORD	Agency for Co-operation and Research in Development
CUD	Coalition for Unity and Democracy
ELF	Eritrean Liberation Front
EPLF	Eritrean People's Liberation Front
EPRDF	Ethiopian People's Democratic Revolutionary Front
G-15	Group of 15
ICRC	International Committee of the Red Cross
NCEW	National Confederation of Eritrean Workers
NGO	Non-governmental Organization
NUESY	National Union of Eritrean Students and Youth
NUEW	National Union of Eritrean Women
PFDJ	People's Front for Democracy and Justice
TPLF	Tigray People's Liberation Front
TSZ	Temporary Security Zone
UN	United Nations
UNHCR	United Nations High Commissioner for Refugees
UNMEE	United Nations Mission in Ethiopia and Eritrea
US(A)	United States (of America)
USAID	United States Agency for International Development

Executive Summary

The almost five-year old border stalemate between Ethiopia and Eritrea has become untenable and the stakes are now much higher than they were a year ago. This came about after Eritrea undertook a series of “high risk” measures, including a ban on UNMEE (United Nations Mission in Ethiopia and Eritrea) helicopter flights, expulsion of UNMEE personnel of certain nationalities, expulsion of various relief agencies, and so forth. Likewise at home, Eritrea has taken and continues to take various measures that have seriously and negatively affected the human rights of its citizens. These include the indefinite detention of PFDJ (People’s Front for Democracy and Justice) dissidents, journalists, and others deemed threats to national security. Over the last two years, in particular, the government clampdown on members of “official” as well as “non-official minority” faiths, draft evaders, and army deserters has dramatically increased. The Government of Eritrea has thus moved away from the “cautious authoritarianism” of the pre-1997 years in the direction of what may be referred to as “fully-fledged authoritarianism” after the border war.

All these developments were precipitated in large part by the border war with Ethiopia and the very great political and economic stresses on the new state the continuing stalemate is causing. In its quest to ensure the effective defence of the country, the Government of Eritrea has increasingly become less tolerant of competing views and more intrusive in individual and communal affairs. As a consequence, there is now a “generalized fear of insecurity” in the country and this, in turn, has caused flows of refugees and other persons of concern to UNHCR. It is expected that these flows will continue until the perceived or actual threat from Ethiopia is averted.

The paper concludes by offering the following suggestions to the UN and UNHCR:

- that the UN press forward and persuade the two countries to implement the Boundary Commission’s decision to demarcate the border, and encourage both countries to take steps to normalize their relations;
- that the UN maintain an adequate and adequately mandated UNMEE force until the border is demarcated;
- that UNHCR make contingency plans to receive more refugees from Eritrea (and Ethiopia) and other persons of concern to UNHCR in neighbouring countries and inside Eritrea;
- that UNHCR revoke the “ceased circumstances” clause applied to Eritrean refugees in Sudan (other than those who continue to have well-founded fear of persecution in case of return), and instead explore with the Government of Sudan ways of integrating the large remainder of this group of long-time refugees;
- that UNHCR welcome and support the recent normalization of relations between Eritrea and Sudan, and at the same time ensure that this does not adversely affect existing Eritrean refugees in Sudan and other potential refugees; and
- that UNHCR persuade Eritrea and Ethiopia to restore the rights of Ethiopian and Eritrean civilians, respectively, to their pre-war levels.

1 Introduction

From the early 1960s to the early 1990s, Eritrea suffered the longest continuous war on the continent of Africa. As a consequence, it had generated more than 500,000 refugees in Sudan, and an additional 100,000 to 150,000 refugees and migrants scattered in the Middle East, Europe, North America, Australia and Ethiopia.¹ All told, an estimated one in four Eritreans had left the country because of war-related factors. On a per capita basis, therefore, Eritrea will long be remembered as having been one of the countries generating the highest refugee levels not only in Africa but in the world. However, Eritreans succeeded in establishing a sovereign state in 1991, having demonstrated both perseverance and patriotism.

There were hopes that such attributes would be an asset in establishing a peaceful and democratic Eritrea ready to meet the challenges of state and nation building, including the complete repatriation of the half million refugees in Sudan and the return of a significant portion of those in other countries. However, these hopes have yet to be realized some 15 years after Eritrean sovereignty was achieved. Indeed, at the end of 2005 there remained an estimated 116,746 Eritrean refugees in Sudan, roughly 23 per cent of the total number of those who had sought refuge in this country.² Although the percentage of those who did repatriate – either using their own means or through assistance from governmental and non-governmental agencies – is significant, it pales in comparison with the near total repatriation of Ethiopians from Sudan and Somalis from Ethiopia. Similarly, the anticipated massive returns of Eritreans from other countries did not materialize.

Rather than building democratic institutions, Eritrea remains a one-party state, where only the People's Front for Democracy and Justice (PFDJ) is legal. The constitution, which guaranteed a multi-party system, was ratified in 1997 but has yet to be implemented. Although there were independent newspapers in the 1990s, they were all closed after the border war with Ethiopia during 1998-2000. There are almost no independent civil society organizations. Those organizations that exist, including the National Union of Eritrean Women (NUEW), the National Union of Eritrean Students and Youth (NUESY), and the National Confederation of Eritrean Workers (NCEW) are all government-affiliated. The Eritrean economy registered remarkable growth during 1993-1997, especially in infrastructure development and rehabilitation of war-devastated areas.³ However, the growth stalled partly because of the border conflict and partly because of the government's increased control and management of the economy.⁴ Indeed,

¹ United Nations High Commissioner for Refugees, *1999 Global Appeal: Eritrea*, Geneva, 1998, <http://www.unhcr.org/cgi-bin/texis/vtx/publ/openssl.htm?tbl=PUBL&page=home&id=3eaff43e25> [accessed June 2006]; Habte Selassie, E., Homecoming in Eritrea, in T. Allen (ed.), *In Search of Cool Ground: War, Flight & Homecoming in Northeast Africa*, London: James Currey, 1996, p. 45

² United Nations High Commissioner for Refugees, *Statistical Yearbook for 2005*, Geneva, 2006, <http://www.unhcr.org/cgi-bin/texis/vtx/statistics> [accessed June 2006]

³ Mengisteab, K. and Yohannes, O., *Anatomy of an African Tragedy: Political, Economic and Foreign Policy Crisis in Post-Independence Eritrea*, Trenton NJ: Red Sea Press, 2005, p. 98

⁴ *Idem*, pp. 70-9

as the government has itself stated, albeit in the specific context of protest against the failure of implementation of the border settlement with Ethiopia, “reconstruction and economic development programmes could not proceed at their optimal and vibrant pace, and the country’s endowments continue to be underutilized or wasted due to missed opportunities and imposed security expenditures”.⁵ Critics have argued that “the regime’s economic centralism has ... [discouraged] a large number of national entrepreneurs with substantial capital” so much so that “a few Eritrean entrepreneurs chose to invest their capital in neighboring Ethiopia”.⁶ And for various reasons, many Eritreans have left the country after independence, many of them at great risk to their lives in escapes across sea or desert.

Therefore, over the last 40 years, conflict and displacement have remained unchanging attributes of the Eritrean political and social landscape. Why did some Eritreans choose to remain in Sudan as refugees and others risk leaving independent Eritrea despite their strong attachment to their country? Which factors are likely to contribute to additional population displacements in Eritrea? This paper is an attempt to answer these questions by focusing on recent and current political, economic, and other security-related aspects of the situation in the country. The contention of the paper is that the factors that have generated and may generate additional refugees and other persons of concern to UNHCR are closely linked to the formation and consolidation of the state in Eritrea. This is similar to the situations that generated refugees after many of the new countries in Africa were established. However, it is important to note that some new countries, such as Tanzania, Botswana, and Gabon in Sub-Saharan Africa and most of those in North Africa have never generated sizable numbers of refugees. Hence, the formation of a new state as such is unlikely to provide a complete explanation of refugee generation. To establish this, one needs to look into the political, economic and social policies instituted by post-independence governments.

In the case of Eritrea it is helpful to look not only at recent events but at the long, medium, and short-term domestic and regional political, economic, and social variables, in order to explain not only the non-repatriation of hundreds of thousands of Eritrean refugees, many of whom are now second generation refugees in Sudan, but also the recent outflows of refugees, and the potential moves of refugees and other displaced persons in the immediate future. These variables include the colonial takeover of Eritrea in 1890; Eritrea’s struggle for independence, which began after Italy lost the colony in 1941 and continued thereafter until Eritrea became sovereign in 1991; and the policies the incoming government followed after independence.

1.1 Historical Background

Eritrea formally became an Italian colony in 1890, and soon thereafter a significant societal transformation began to take place. Its then disparate peoples came under a common Italian political rule and this eroded the political power of indigenous feudal

⁵ Eritrean Cabinet of Ministers Concludes Meeting, *Shabait*, 9 April 2006, http://www.shabait.com/staging/publish/article_004812.html [accessed June 2006]

⁶ Mengisteab and Yohannes, pp. 271-2

rulers. Its economy began to change from being totally peasant-agriculture based into one with some small-scale industries and a few examples of large-scale modern agriculture. As a result, many urban centres came into being and this brought Eritreans in close contact with each other, and further away from the ties that bound highland Tigrigna-speaking Eritreans to the Tigrigna-speaking Ethiopians in neighbouring Tigray. With the 1900, 1902 and 1908 border agreements between Italy and Ethiopia, the present borders of Eritrea came into existence and the idea of an Eritrea, territorially well-defined, politically separate, and economically well off took shape.⁷

Italian rule ended after British forces occupied Eritrea in 1941. Great Britain administered Eritrea as a UN protectorate for ten years, after which Eritreans were to exercise their right to a full measure of self-determination. During this time, the Eritrean economy, which was in part built to support the Italian invasion of Ethiopia, declined precipitously. However, important political developments took place. For the first time, large numbers of schools were set up in towns and villages, under a British-led programme, which eventually generated the small intelligentsia that led the debate about the future of Eritrea.⁸ Indeed, Eritreans organized political parties, trade unions, and assembled freely to decide the future course of the country. While Italian rule may be remembered as the golden age for the economic well-being of many Eritreans, British rule represented the golden age for an open and an uninhibited political expression in Eritrea never seen before and after. This further cemented the Eritrean identity of the people and their distinction from Ethiopians. Indeed, the stark difference between the open and more or less democratic political system in Eritrea and the closed, autocratic system in Ethiopia was bound to make any unity, and indeed any federal arrangement, unsustainable.

While this contention does not deny the various historical, linguistic, religious, and blood ties between segments of the Eritrean and Ethiopian populations, the different trajectories Eritrea and Ethiopia took after 1890 were such that the majority of Eritreans demanded independence when the issue was brought before the UN in the late 1940s. Ethiopia, on the other hand opposed Eritrea's independence on the basis of historical and economic ties, although access to the sea was also a primary concern. The latter coincided with the US (and Israeli) strategic need to prevent the Red Sea from becoming an "Arab Lake", as Eritrea was seen as Muslim and Arab, and Ethiopia as Christian and non-Arab, clearly expressed by then US Secretary of State, John Foster Dulles, in his 1952 address to the Security Council of the United Nations: "From the point of justice, the opinion of the Eritrean people must receive consideration. Nevertheless, the strategic interest of the United States in the Red Sea basin and considerations of security and world peace make it necessary that the country has to be linked with our ally, Ethiopia."⁹ This statement has frequently been used by Eritreans as proof of the destructive role played by the United States in relation to the future of Eritrea, and can be traced even behind contemporary

⁷ *Idem*, pp. 231-3

⁸ Habte Selassie, B., *Conflict and Intervention in the Horn of Africa*, New York: Monthly Review Press, 1980, p. 55

⁹ Quoted in Habte Selassie, *Conflict and Intervention*, p. 58

expressions of Eritrean distrust of the US and by extension the UN, such as for instance President Isaias Afwerki's recent accusations of US support for Ethiopian intransigence over the border.¹⁰

It is important to observe that the future of Libya and of Italian Somaliland, both Italian colonies, did not present similar difficulties for the UN, as no country made serious claims on them. However, Eritrea's future was a different issue because of Ethiopia's claim and the geo-strategic interests of the major powers, and also because a significant portion of Eritreans demanded union with Ethiopia. As a compromise the UN General Assembly decided in December 1950 that Eritrea would be federated with Ethiopia "under the Ethiopian Crown" for a ten-year period to begin in 1952.¹¹ The federal arrangement did not work well for Eritrea, however, as Ethiopia immediately began to dismantle the federal structures and instead prepare for a complete union of Eritrea with Ethiopia. This led, in 1961, to the war of Eritrean independence. A year later, the federal arrangement was dissolved and Eritrea became a province of Ethiopia.

For obvious reasons the determination of the exact boundaries between Eritrea and Ethiopia lost its urgency after the union of Eritrea with Ethiopia. However, the long independence war kept the idea of a territorially well-defined Eritrea alive, and this became an important issue that eventually, in 1998, led to the border war between Ethiopia and the now independent Eritrea. The flight of close to 90,000 Eritrean refugees to Sudan, the internal displacement of over one million, and the expulsion of about 70,000 Eritreans and Ethiopians of Eritrean ancestry from Ethiopia are direct consequences of this war.¹² The increased government control of the mass media and the open-ended national conscription, both of which are associated with recent streams of new refugees to Sudan, Ethiopia, and elsewhere, and the continued presence in Sudan of hundreds of thousands of pre-independence refugees may be seen as indirect consequences of the war. The departure to Ethiopia of tens of thousands of "Ethiopians", who had resided in Eritrea for generations may also be seen as an indirect consequence of the war.

In the last analysis, therefore, it would be fair to say that the colonial intrusion into Eritrea towards the end of the nineteenth century, which created a territorially well-defined entity and brought about a socio-economic transformation unlike that in Ethiopia, constitutes the long-term variable in the political, economic, and security landscape of contemporary Eritrea.

¹⁰ Agence France Presse, Eritrean President Blasts US for Ethiopia Border Tensions, 24 May 2006

¹¹ United Nations, General Assembly, Fifth Session, 1950, Eritrea: Report of the United Nations Commission for Eritrea; Report of the Interim Committee of the United Nations General Assembly on the Report of the United Nations Commission for Eritrea, No 390 (V: A), 2 December 1950

¹² Bariagaber, A., *Eritrea: Conflict and Involuntary Population Displacements*, Writenet for UNHCR, 2000, *UNHCR RefWorld 2005*, Issue 14, CD 4

1.2 Socio-political Background

The way the war of independence in Eritrea evolved also helps explain why some Eritreans opted to remain outside the country after independence. Back in 1961, the Eritrean Liberation Front (ELF) started the war of independence in the western lowlands of Eritrea. Initially its rank and file were mostly, but not exclusively, Muslim. Perhaps because of this, outside support mostly came from Arab countries. In the mid-1960s, many Christians joined the ELF but were unable to remain within what they considered was a Muslim-dominated and Arab-oriented sectarian liberation movement. Towards the end of the 1960s, a small group of Christian and Muslim combatants accused the leadership of the ELF of irremediable sectarianism and in the early 1970s went on to found what became the Eritrean People's Liberation Front (EPLF).

The reasons for the split, as described in *Nihnan Elamanan*, a Tigrigna political document widely believed to have been authored by President Isaias Afwerki, was the ELF leaders' suspicion, discrimination, and physical elimination of Christians, and their inability to transform the ELF into a secular organization. Many Eritreans, especially the relatively educated, saw the EPLF as secular, disciplined, and more progressive compared to the ELF, and joined the new organization in large numbers. By the mid-1970s it became powerful enough to challenge the ELF militarily. Numerous attempts to form a single organization out of the two did not succeed. As a consequence, open conflict between the two ensued in the early 1980s. This ended with the defeat of the ELF, many of whose combatants and civilian supporters sought refuge in Sudan. Although the conflict between the two resulted in the end of ELF's military relevance, it did not bring about its total demise. Instead, it splintered into many groups, each of which continued their political activities outside of Eritrea, especially among refugees in Sudan. Hence, its political influence did not suffer to the same degree as its military hegemony. Indeed, many of the estimated 110,927 Eritrean refugees in Sudan at the end of 2005 were,¹³ in one form or another, associated with the ELF and splinter groups, and are reluctant to return to an EPLF-led Eritrea, continuing instead the Eritrean refugee presence in Sudan. It is unlikely that many of this group will return to Eritrea within the foreseeable future.

At this point it should be noted that both the ELF and the EPLF saw the boundaries of Eritrea as those of Colonial Eritrea, a territory more expansive than the Eritrea the victorious EPLF inherited. Indeed, the political discourse during the struggle for independence made it clear that the future independent Eritrea would constitute what was Colonial Eritrea. This included the Hanish Islands in the Red Sea, a strip of land in Djibouti, Badme and other areas in Ethiopia, and perhaps some land in eastern Sudan. This inevitably created friction between independent Eritrea and its neighbours. The most notable were the military clashes between Eritrea and Yemen over the Hanish Islands in

¹³ United Nations High Commissioner for Refugees, *Statistical Yearbook for 2005*

the Red Sea in 1995 and between Eritrea and Ethiopia over Badme and its environs during the “border war” of 1998-2000. The former was resolved largely in favour Yemen after both countries agreed to a “final and binding” arbitration by an international court. Although Eritrea continues to see the ruling as mistaken, it has accepted the outcome and the issue has been resolved and is unlikely to arise again. In any case, the conflict never generated any refugees. The Badme issue, however, has not yet been resolved despite an international court ruling in April 2002 that Badme was Eritrean. Ethiopia has been reluctant to accept the ruling and cooperate with border demarcation, despite a prior agreement to accept the “final and binding” nature of any settlement.¹⁴

From the foregoing it should be clear that Eritrea’s difficult relationship with its neighbours has its source in the colonial occupation of the country in the late nineteenth century. When the EPLF assumed power, it set out to reconstitute the borders of Colonial Eritrea, because Ethiopia, as the inheritor, had failed to do so for fear of conflict with Yemen and other neighbouring countries. This made the EPLF government look aggressive in the eyes of the world. Therefore, the liberation struggle that kept the idea of an Eritrea indivisible and territorially identical to what was Colonial Eritrea, is directly linked to the ongoing conflict with Ethiopia. That is, the long and medium term variables identified above have had a direct effect on contemporary Eritrea, including its political and economic situation, its national security concerns, and the forced displacement of sections of its people in the last few years.

2 Contemporary Eritrea and Forced Population Displacement

2.1 The Formative Years of the State, 1991-1998

After the EPLF neutralized the ELF as a fighting force in Eritrea in the early 1980s, it single-handedly continued the liberation struggle, and emerged as a credible force, especially after it successfully resisted the Red Star military campaign Ethiopia initiated in 1982. By the late 1980s, the prospect of Eritrean military victory became imminent after the EPLF captured Massawa, the main port in the Red Sea. With the setbacks the Ethiopian army suffered in neighbouring Tigray and the general instability in other parts of Ethiopia, where scores of liberation movements operated, the regime of Mengistu Haile Mariam collapsed and the EPLF triumphantly entered Asmara, the Eritrean capital. After 30 years of bitter war, in the course of which about 60,000 Eritrean combatants died and many more were seriously wounded, the EPLF began the task of state and nation building.

The liberation of Eritrea put to test the democratic credentials of the EPLF. The new government banned all political parties except the EPLF, although individuals, regardless of their previous political affiliation, were allowed to return and take part in national reconstruction. A few did return, but the majority insisted on a plural political system that recognized the legality of other political organizations and never returned. The exclusion of other political parties became the first indicator of the continuation after independence

¹⁴ Negash, T. and Tronvoll, K., *Brothers at War: Making Sense of the Eritrean-Ethiopian War*, Oxford: James Currey, 2000

of the “corporatist political structure” the EPLF maintained during the days of struggle for liberation.¹⁵ This structure was seen as necessary for the “cohesion, efficiency, and success” of independent Eritrea.¹⁶ Indeed, the chances of an immediate multi-party democracy were destroyed in February 1994 when the Third Congress of the EPLF convened and formally transformed the EPLF into the PFDJ, the sole legal political party, and adopted the National Charter to serve as a guide until a permanent constitution was in place. The long awaited constitution was finally ratified in 1997.¹⁷ Although it included provisions for a multi-party system, the government was slow in its implementation and Eritrea remained a single-party state, where the government controlled all political processes and outcomes until the eruption of the border war with Ethiopia in May 1998.

In terms of the economy, the Charter made it clear that the government would play an important role in economic management. One only needs to look at Proclamation No. 58/1994, which made urban as well as rural land state property and stipulated that individuals could only have usufructory rights over land.¹⁸ With an overwhelming majority of Eritreans dependent on land for their livelihood, the potential impact of this is far-reaching, especially in pastoral communities, where individuals and families do not have a particular attachment to cultivable land. More importantly, the proclamation gave the government complete control of land in urban areas, where it imposed hefty fees on Diaspora Eritreans who needed plots of land to build residential units. Equally important for government control of the economy is Proclamation No. 59/1994 on finance and investment.¹⁹ This proclamation did not envision the state playing a prominent role in the economy. However, PFDJ’s very considerable economic assets, which were built up during the days of the liberation struggle, competed against the war-decimated indigenous private capital in agriculture, housing, currency exchange, and so forth. This made the environment unprofitable for private investment.²⁰

In other words, the new PFDJ-led government maintained strict control of the political and economic landscape of Eritrea similar to the control it had in the territories it controlled before Eritrea became independent. Although the EPLF has never been well known for any form of Marxism – be it the Leninist, Maoist, or the Albanian type – it nonetheless carried a Marxist baggage with it during the days of the struggle for liberation. After independence, it successfully removed this baggage; however, it remained well to the left of a typical European social democratic party, and maintained strict control of the political and economic direction the country took. Nevertheless, the strict and often suffocating policies the PFDJ-led government followed did not result in population outflows from the country. However, the propensity to control everything,

¹⁵ Mengisteab and Yohannes, p. 47

¹⁶ *Idem*

¹⁷ Eritrea, *Constitution*, Asmara, 23 May 1997, *UNHCR RefWorld 2005*, Issue 14, CD 2

¹⁸ Eritrea, *Proclamation to Reform the System of Land Tenure in Eritrea*, Proclamation No. 58/1994, Asmara, 1994

¹⁹ Eritrea, *Investment Proclamation*, Proclamation No. 59/1994, Asmara, 1994

²⁰ Mengisteab and Yohannes, pp. 98-9

including the implementation of refugee return programmes, did not serve the repatriation process as well as hoped. For example, the government refused to enter into a tripartite agreement with Sudan and UNHCR on repatriation and instead chose to work with UNHCR under an unusual bipartite agreement.²¹ Consequently, Sudan closed the border and the repatriation endeavour was on hold for several years. Also, the Eritrean government's request that prospective Eritrean returnees from Sudan be screened to ascertain their willingness to repatriate had soured the government-UNHCR relationship and negatively affected repatriation outcomes.²²

This and other factors led to a rupture in government-UNHCR relations, and in 1997, the government expelled all UNHCR expatriate employees from the country.²³ UNHCR interpreted the Eritrean government's behaviour with respect to refugees as if it did not want repatriation of its citizens, notwithstanding the fact that the Eritrean government actually brought out a national plan in 1992 to "repatriate about 250,000" by 1993.²⁴ However, this did not succeed because of the sharp disagreement between UNHCR and the Eritrean government regarding the costs of the endeavour. Therefore, many factors contributed to the difficulties the repatriation endeavour went through. As a consequence, on the eve of the border war with Ethiopia in 1998, there remained about 320,000 Eritrean refugees in Sudan, seven years after Eritrean independence.²⁵

In any case, there was no serious challenge to the policies of the government up until the border war with Ethiopia, and involuntary population outflows did not occur for several reasons. First, the public appreciated the efforts the EPLF made and the sacrifices it paid to bring about independence. Second, the people were under no illusion that the task of national reconstruction after 30 years of devastation was going to be anything other than daunting and time consuming. Third, there was no manifestly visible government interference in such matters as the affairs of the press. This might have been because the private press did not raise serious national issues as it later did in 2000. Similarly, there was not much interference in religion, except in the case of Jehovah's Witnesses, who lost citizenship rights in 1994, because they were not willing to take part in the national conscription and carry arms. Also, they had refused to take part in the referendum for independence in 1993. Finally, Eritrea had registered remarkable economic progress in the first seven years after independence. For example, "the economy's average annual real growth rate for the period between 1991 and 1996 was a respectable 4% and in 1997 the rate of growth jumped to 7%".²⁶ Therefore, the political, economic, and social policies the government followed did not generate refugee flows or other forced

²¹ United Nations High Commissioner for Refugees, *Memlas: The UNHCR in Eritrea*, May 1996, p. 2

²² United States Committee for Refugees, *World Refugee Survey 1998: Eritrea*, Washington, 1998

²³ *Ibid.*

²⁴ Habte Selassie, *Homecoming in Eritrea*, p. 47

²⁵ United States Committee for Refugees, *World Refugee Survey 1999: Eritrea*, Washington, 1999

²⁶ Mengisteab and Yohannes, p. 98; International Monetary Fund, *Eritrea: Selected Issues*, IMF Staff Country Reports, No. 98/91, Washington, October 1998

displacement, though such policies significantly contributed to the non-return of a sizeable number of pre-independence Eritrean refugees in Sudan.

However, the government's control of the political, economic, and social landscape in Eritrea dramatically increased after the border war. The unexpected but successful Ethiopian occupation of the disputed areas, and its penetration and occupation of indisputably Eritrean territory shook the system. A group of dissidents from the PFDJ leadership, commonly known as the Group of 15 (G-15), criticized the way the war was conducted, the non-implementation of the constitution, the concentration of power in the Office of the President, and the reluctance of the President to convene the National Assembly to discuss outstanding issues. The President responded that the time was not right to convene the Assembly and accused the G-15 of compromising national security. The private press seized on this and published articles critical of the government. In response, the government put the G-15 and many journalists under detention, and closed all private newspapers. As will be discussed below, right after the end of hostilities with Ethiopia on 17 June 2000 and through the stalemate that continues up to the present, Eritrea is virtually in a state of emergency.

2.2 The Ethio-Eritrean Border Stalemate, 1998 to Present

Much has been written on the Ethiopian-Eritrean border war of 1998,²⁷ and the refugees and displaced persons this has caused. Suffice to say that the war created about 85,000 Eritrean refugees in Sudan, made over one million Eritreans internally displaced, and resulted in the deportation of about 70,000 Eritreans and Ethiopians of Eritrean ancestry from Ethiopia.²⁸ Almost all of the refugees have returned following the 2000 Algiers Peace Agreement between the two countries, and most of the internally displaced persons have now returned to their villages. However, as of January 2006, there still remained about 50,000 internally displaced persons who find themselves in refugee-like situations because they were unable to return to their villages inside the Temporary Security Zone (TSZ), a buffer zone created by the UN as part of the Algiers Agreement.²⁹ More importantly, however, Eritrea finds itself in a war-like situation because of the continued stalemate.

The prevailing view in Eritrea regarding the conflict is that Ethiopia is intent on reversing Eritrean independence altogether, or pushing for an outlet to the sea, or at the very least, facilitating the overthrow of the existing government in favour of a new, compliant government. There is some truth in this. Indeed, the most influential opposition groups in Ethiopia, many of which have now formed the Coalition for Unity and Democracy (CUD), have always opposed Eritrean independence, and demarcation would make it harder for their envisioned union of Eritrea with Ethiopia in the future.³⁰ Similarly, in the

²⁷ Prunier, G., *The Ethio-Eritrean Conflict: An Essay in Interpretation*, Writenet for UNHCR, 1998 *UNHCR RefWorld* 2005, Issue 14, CD 4; Negash and Tronvoll, pp. 53-101

²⁸ Bariagaber

²⁹ War Displaced Eritreans Go Back 8 Years after Ethiopia War, *Haddas Ertra* [Asmara], 4 April 2006

³⁰ Mengisteab and Yohannes, p. 239

aftermath of the Ethiopian push into Eritrea in 2000, some influential members of the Tigray People's Liberation Front (TPLF), the most powerful member of the governing Ethiopian People's Democratic Revolutionary Front (EPRDF), had advanced the idea of pushing into the coast of the Red Sea to claim a sea outlet.³¹ Hence, the Eritrean government is determined to accomplish a single goal: to demarcate the entire border and establish Eritrean sovereignty over all areas the Boundary Commission ruled were Eritrean. According to the Eritrean government, the domestic economic, political, and other pressing issues, including the implementation of the constitution, will have to be placed on the back burner until this has been accomplished.³²

Therefore, Eritrea finds itself under emergency conditions, accompanied by higher expenditure on defence, an open-ended national conscription programme, the banning of independent newspapers, expulsions of various NGOs, various measures against UNMEE, and of course, the imprisonment of dissident members of PFDJ and journalists. In short, as indicated earlier, Eritrea has remained under de-facto emergency conditions for eight years.

3 Current Developments in Human Rights Practices in Eritrea

3.1 Overview

Governments typically assume emergency powers to help avert national security threats. In almost all cases, they are temporary legislative acts and are suspended after the alleged threats are averted. In a few cases, they are not legislated, especially in countries that have yet to establish stable democratic institutions. The net result is, however, increased powers of government and suspension of the rights the constitution grants its citizens. Eritrea fits the latter case because no formal legislation has been adopted that would enable people to know exactly where their rights begin and end, and for the government to justify some of the measures it has recently taken. As a consequence, a great deal of highly critical attention has been given by the international community to the human rights situation in Eritrea.

The most detailed and comprehensive reports are found in the annual publications of Amnesty International, Human Rights Watch, and the US Department of State. Each has consistently accused the Eritrean government of gross violations of the rights of the individual. Almost all depict the human rights credentials of the government as poor and have made repeated appeals to the government to respect the rights the constitution guarantees. They indicate that the Eritrean government has, in fact, progressively curtailed many rights guaranteed by the constitution since the end of the border war in mid-2000. For example, Amnesty International saw a further deterioration in human rights practices by the government, including the rights to worship and the escalation of the religious persecution of "minority" Christian faiths and the "entrenchment of the ill-

³¹ *Idem*, p. 244

³² *Idem*, pp. 282-3

treatment” of political prisoners.³³ Similarly, a 2005 Human Rights Watch report stated that the “government’s tyranny became more ruthless in 2005”.³⁴ These concerns were echoed in a recent US Department of State report which stated that “the government’s human rights record worsened, and it continued to commit numerous serious abuses”.³⁵ This should be contrasted with the February 2001 report by the same body, which stated that the “governments’ record was poor, and serious problems remain; however, there were improvements in a few areas”.³⁶ Therefore, it seems clear that the last few years have seen increased violations of human rights.

3.2 Political Freedoms

Until recently the greater part of accusations of human rights violations directed at the Eritrean government by international observers focused on violations of political rights. These included the continued imprisonment of PFDJ dissident leaders, the banning of all political organizations except for the PFDJ, and the closure of independent newspapers and the detention of some journalists. The Eritrean government has never denied any of these and has instead responded to such accusations by justifying its actions. For example, in response to the African Commission of Human Rights, which found Eritrea in violation of the human rights of the dissidents, the government said that they were detained “for colluding with hostile foreign powers with a view to compromising the sovereignty of the country...”.³⁷ However, it should be pointed out that these dissidents have never been brought before a court of law and remain under detention. Similarly, the government did not deny accusations of the differential treatment and suspension of the civil rights of Jehovah’s Witnesses. Instead it stated that “the Jehovah’s Witnesses lost their right to citizenship because they refused to accept the government of Eritrea and the laws”,³⁸ as evidenced by their refusal to serve in the national service and carry arms.

3.3 Freedom of Religion

Recently, international human rights organizations have documented a higher frequency of serious violations of religious rights. For example, in December 2005 Amnesty International documented 46 “cases of arrests of religious prisoners of conscience” between 2003 and 2005, of which 5 occurred in 2003, 18 in 2004, and 23 in 2005.³⁹

³³ Amnesty International, *Eritrea: Government Resists Scrutiny on Human Rights and Calls to End Torture and Arbitrary Detention*, London, 19 May 2004 (press statement), <http://web.amnesty.org/library/Index/ENGAFR640042004?open&of=ENG-ERI> [accessed June 2006]

³⁴ Human Rights Watch, *World Report 2006: Eritrea*, New York, 18 January 2006, <http://hrw.org/english/docs/2006/01/18/eritre12307.htm> [accessed June 2006]

³⁵ United States, Department of State, *Country Reports on Human Rights Practices 2005: Eritrea*, Washington, 8 March 2006, <http://www.state.gov/g/drl/rls/hrrpt/2005/61568.htm> [accessed June 2006]

³⁶ United States, Department of State, *Country Reports on Human Rights Practices 2000: Eritrea*, Washington, 21 February 2001, <http://www.state.gov/g/drl/rls/hrrpt/2000/af/782.htm> [accessed June 2006]

³⁷ Eritrean Govt Rejects Human Rights Ruling, *Afrol News*, 29 March 2005, <http://www.afrol.com/articles/12007> [accessed June 2006]

³⁸ Amnesty International, *Eritrea: Religious Persecution*, London, 7 December 2005, Section 3, <http://web.amnesty.org/library/Index/ENGAFR640132005?open&of=ENG-ERI> [accessed June 2006]

³⁹ *Idem*, Section 5

Other international organizations with a more specific religious orientation, such as Christian Solidarity Worldwide, have joined the general human rights organizations in criticizing the Eritrean government for escalating its “repressive” practices against the “minority churches”, such as the Rema Charismatic Church and Kale Hiwot Church. The complaints extend to the treatment of members of the Eritrean Orthodox Church, which is one of the four officially recognized faiths, along with Islam, Roman Catholicism, and the Evangelical Church of Eritrea. Of these four, Islam and Orthodox Christianity account for about 40 to 50 per cent of the population each, while Catholic and Protestant Christians, and followers of traditional religions, together have perhaps 10 per cent, and the new “minority churches” are insignificant in numerical proportion.⁴⁰ According to Christian Solidarity Worldwide there has been increasing persecution of followers of minority churches, which included large-scale arrests of their members and the establishment of a task force to eradicate Pentecostal and Evangelical Christianity from Eritrea by the end of 2005.⁴¹ It has even been reported that the Government of Eritrea was putting pressure on Christians to convert to Islam.⁴² Although the latter is far from credible, because of the intensely secular credentials of the Eritrean government, the issue of religious persecution in Eritrea has galvanized international opinion against the government.

The alleged government interference in the affairs of the Eritrean Orthodox Church and the persecution of some of its followers is altogether another matter because of its recent origin, and also because the Church has been seen either as neutral or a supporter of the government. Indeed, as indicated earlier, the Eritrean Orthodox Church is one of the officially sanctioned faiths and had actually been accused of collusion with the government in the repression of the non officially sanctioned minority churches.⁴³ Lately, however, the focus has turned on the Orthodox Church after the imprisonment of some of its members and the removal of the Patriarch, His Holiness Abune Antonios, by the Holy Synod. There are allegations that the removal of the Patriarch was orchestrated by the authorities because he was too critical of the government and had complained about government interference in Church activities.⁴⁴ The government has strongly denied this and emphasized that Eritrea is a secular country and that the government had nothing to do with the decision of the Holy Synod to remove the Patriarch.⁴⁵

⁴⁰ Reuters Alertnet, Country Profile: Eritrea, 2006

⁴¹ Christian Solidarity Worldwide, Eritrean Task Force Aims to Purge Country of Christians, 18 February 2005 (press statement), <http://www.cswusa.com/Reports%20Pages/Reports-Eritrea.htm> [accessed June 2006]

⁴² Eritrea Pressuring Christians to Convert, *The Church of England Newspaper*, 7 April 2006

⁴³ Christian Solidarity Worldwide, Protesters for Religious Freedom outside Eritrean Embassy in London, 20 August 2003 (press statement), <http://www.cswusa.com/Reports Pages/Reports-Eritrea.htm> [accessed June 2006]

⁴⁴ Orthodox Patriarch of Eritrea Sacked, *Middle East Times*, 1 February 2006, <http://www.metimes.com/articles/normal.php?StoryID=20060201-033933-4818r> [accessed June 2006]

⁴⁵ *Ibid*

There was also a report on the arrest of 25 Roman Catholics in Asmara. This (and the arrest of members of the Eritrean Orthodox Church) marks a significant deviation in the pattern of arrests since May 2002, since previously members of an officially recognized faith have never been targeted.⁴⁶

There is at present a robust campaign by religious groups in the West against what they see as the Eritrean government's persecution of Christians. As a consequence, the American government has designated Eritrea a "country of particular concern" as regards religious freedom and religious persecution and has imposed sanctions.⁴⁷ However, it must be stated that these concerns do not seem to be matched by reports of large numbers of Christians leaving the country to seek refuge elsewhere.

3.4 Draft Evaders and Army Deserters

The question of the rights of national service/draft evaders and deserters has also received increased international attention recently. National Service in Eritrea is obligatory for those between the ages of 18 and 40 years and was originally intended to last for 18 months (consisting of 6 months of military service and an additional 12 months of development and military-related services). However, it has become open-ended and, of those who reported for the Service during the 1998-2000 border war, many still find themselves under the requirements of the Service, some seven years after they reported for duty. It is also important to note that there are no other service options for conscientious objectors, including members of Jehovah's Witnesses who made themselves available for National Service on condition that they were not required to carry arms. As a result, they still find themselves in jail some ten years later.

National defence is a top priority for the Eritrean government at present, but the harsh measures taken against individuals have caused consternation around the world. For example, the most recent US Department of State report on human rights practices in Eritrea stated that "the government continued to authorize deadly force against anyone resisting or attempting to flee during military searches for deserters and draft evaders ...".⁴⁸ It further reported that "security forces [detained] parents of individuals who had evaded national service duties or fled the country".⁴⁹ The government has denied that parents have ever been detained because of the possible flight of their children, but the most recent Human Rights Watch annual report on Eritrea also made accusations similar to those of the US Department of State,⁵⁰ and it is difficult to disregard these.

In fact there is little doubt of the severity of punishment for draft evasion and desertion in Eritrea, especially during the last two years. Although there is still virtual unanimity in

⁴⁶ Christian Solidarity Worldwide, Fresh Arrests in Eritrea, 23 February 2005, <http://www.cswusa.com/Reports%20Pages/Reports-Eritrea.htm> [accessed June 2006]

⁴⁷ Human Rights Watch, *World Report 2006: Eritrea*

⁴⁸ United States, Department of State, *Country Reports on Human Rights Practices 2005: Eritrea*

⁴⁹ *Ibid.*

⁵⁰ Human Rights Watch, *World Report 2006: Eritrea*

the country on the need for National Service, it has now been repeatedly extended to a degree that has become intolerable for many. This has contributed to the increasing rates of evasion and desertion and it is possible that the entire defence endeavour is now under threat. This, moreover, has come about at a time when the government has raised the stakes high to break the border impasse. Therefore, the government is hard pressed to control such behaviour, and has inflicted punishment for evasion and desertion more severe than those imposed on dissident journalists and religious dissidents such as members of Jehovah's Witnesses.

The result has been that some individuals who fled Eritrea have been given asylum in other countries, based on the argument that "national service [was] used as a measure of political repression and that anyone forcibly returned to Eritrea [was] likely to be tortured".⁵¹ The number of those fleeing because of their unwillingness to serve in the defence forces has been much higher than those who are alleged to have fled because of religious persecution, and this will remain the case as long as the military and political stalemate between Eritrea and Ethiopia over the border demarcation continues.

3.5 Returning or Visiting Diaspora Eritreans

Many Eritreans now residing in other countries are afraid to go back for fear of imprisonment. This is a genuine danger for the still active members of the ELF and its splinter groups, and others who have recently become politically active members of newly-established groups, including the Eritrean Democratic Party, Eritrean People's Movement, Eritrean National Salvation Front, and so forth. However, it is clear that many other diaspora Eritreans, including those between 18 and 40 years of age and some with dual citizenship, have visited and continue to visit Eritrea. This also includes those who left for economic reasons and those who left for higher education and did not return upon completion of their studies. It would therefore appear that the mere fact of residence abroad does not in itself constitute a cause for persecution. In short, those who fear persecution if they were to return home are those who are in active opposition to the Government of Eritrea, or who fall into other categories of persons vulnerable to human rights violations in Eritrea, such as independent journalists or adherents of minority religious faiths.⁵²

4 Citizenship, Statelessness, and Residence Rights

The most serious implication of the border war has been the seemingly enduring deterioration in the relationship between the Eritrean and Ethiopian peoples, especially the relationship between the Tigrigna-speaking peoples of the two countries. Even during the 30-year war of independence, the ELF and the EPLF went to great lengths to inform

⁵¹ *Ibid.*

⁵² See, Amnesty International, Eritrea: Independence Day Call for a Year of Urgent Human Rights Improvements, London, May 2006 (press statement), <http://web.amnesty.org/library/Index/ENGAFR640042006?open&of=ENG-ERI> [accessed June 2006]; Amnesty International, Eritrea: Human Rights Appeal for 10th Independence Anniversary, London, May 2003 (press statement), <http://web.amnesty.org/library/index/eng afr640022003> [accessed June 2006]

and help the Eritrean people discern between the Ethiopian regime, which was the enemy because of its opposition to Eritrean independence, and the Ethiopian people, which was not. In fact, both liberation movements had published various documents that depicted the Ethiopian people as victims of their government. Also, many individuals of Ethiopian, especially Tigrayan, ancestry belonged to families who had lived in Eritrea for generations, and had joined the liberation struggle because they regarded themselves as Eritrean. Perhaps because of this, there was little or no bitterness and no revenge attacks when the victorious EPLF forces entered Asmara in 1991.

4.1 Citizenship Legislation

Immediately after the war of independence, the Provisional Government of Eritrea issued Proclamation No. 21/1992 governing citizenship, which reflected the civic-nationalist vision of the EPLF, under which ethnic identity was not the sole criterion for citizenship, but residence and allegiance were also counted.⁵³ Accordingly, automatic citizenship was given to all, independent of ethnicity, who were resident in Eritrea in 1933 (Article 1), while those who had entered Eritrea between 1934 and 1951 were entitled to citizenship provided they had not committed “anti-people” acts during the liberation struggle (Article 3). Therefore, many persons of Ethiopian ancestry through both parents, but who were born in Eritrea, or were born elsewhere but whose ancestors had lived in Eritrea for generations became eligible for citizenship if they so chose. This also applied to those non-Eritreans who had taken part in the liberation struggle.⁵⁴ Because of this, many Eritreans of Ethiopian ancestry took part in the 1993 referendum on whether or not Eritrea should become independent.⁵⁵ Taking into account that 99.8 per cent of Eritreans voted “yes” for independence, and assuming voter turnout of about 98 per cent for this group (the overall voter turnout was 98.5 per cent), it is not unrealistic to conclude that most of the Eritreans of Ethiopian or mixed Eritrean-Ethiopian ancestry had voted “yes”.⁵⁶

Therefore, when Eritrea became independent, the idea of the state was one that would preside over the successful development of a “civic” nation,⁵⁷ where ancestral lineage was more or less irrelevant as far as official attitudes went. Indeed, the possible Ethiopian ancestry of some of the present as well as past leaders of the Eritrean independence struggle, including that of the fiercely Eritrean nationalist with possible Tigrayan ancestry, Woldeab Woldemariam, was seldom an issue. And when the Constitution was ratified in 1997, Article 3 and other laws governing citizenship reflected the civic-

⁵³ Eritrea, *Eritrean Nationality Proclamation*, Proclamation No 21/1992, Asmara, 1992, *UNHCR RefWorld 2005*, Issue 14, CD 2

⁵⁴ Personal interview with individual now residing in the US but resident in Eritrea in 1992-1993, October 2006

⁵⁵ Fessehazion, T., The Eritrean Referendum of 1993, *Eritrean Studies Review*, Vol. 1, No. 1, 1996, pp. 168-75

⁵⁶ Tronvoll, K., The Eritrean Referendum: Peasant Voices, *Eritrean Studies Review*, Vol. 1, No. 1, 1996, 23-67

⁵⁷ Ignatieff, M., *Blood and Belonging: Journeys into the New Nationalism*, New York: Farrar, Straus and Giroux, 1999, pp. 5-9

nationalist character of the future Eritrea in the same way that the Nationality Proclamation did in 1992 and the Federal Constitution had done in the 1950s.⁵⁸

4.2 Effect of the Border War on Citizenship Attitudes

Once the border war started and the Ethiopian government took the decision to expel Eritreans and Ethiopians of Eritrean ancestry, however, there was a rapid deterioration in the relationship between the peoples of the two countries. Some Ethiopians were interned by the Eritrean government and others deported, while a few were killed by rogue individuals. Most of those who were interned have since left for Ethiopia and others continue to leave Eritrea with assistance from the International Committee of the Red Cross (ICRC). In fact, as recently as April 2006, the ICRC assisted in the voluntary departure of 164 Ethiopians.⁵⁹ However, no changes were made in the official government citizenship policies, although one may suspect that there would be more questions asked at lower bureaucratic levels in the process of acquisition of citizenship.

It would also be difficult to imagine persons of Ethiopian ancestry applying for citizenship under present conditions, where a person's identity in terms of ancestral lineage has become very much more important. Indeed, issues of identity of this nature, including the possible Tigrayan lineage of some of the present leaders, are now openly discussed on some Eritrean websites.⁶⁰ Because of these, many Eritreans of Ethiopian ancestry through one or both parents may feel uneasy in their dealings with other Eritreans. They may not want to settle in Ethiopia, which is also alien to them. But if the situation permitted, they might leave for Sudan, or for Ethiopia on their way to a third country. These Eritreans, especially those with Ethiopian parentage on both the mother's and the father's side, but who cannot prove this to the satisfaction of the Ethiopian authorities because of their families' generations-long residence in Eritrea, represent potential stateless persons. Similarly, individuals with Eritrean roots but who are unable to easily identify themselves as Eritrean because they, their parents, and their grandparents had lived in Ethiopia for generations, constitute potential stateless persons. However, they can acquire Eritrean citizenship if they so wish, provided three Eritreans are able to make depositions or provide testimony as to their Eritrean roots.

Hence, no official changes to the generous citizenship acquisition requirements of Proclamation No. 21/1992 have been made and there is no reason to suspect a more restrictive requirement in the future. Despite this, the virulent anti-Ethiopian and anti-Eritrean statements in the Eritrean and Ethiopian media, respectively, have contributed to the salience of a person's ancestral identity in each.

⁵⁸ Eritrea, *Constitution*

⁵⁹ International Committee of the Red Cross, Eritrea/Ethiopia: 164 Ethiopian Civilians and 7 Eritrean Civilians Repatriated, 14 April 2006 (press statement), <http://www.icrc.org/Web/eng/siteeng0.nsf/iwpList74/9269798C82EAF0B3C1257154004BF86C> [accessed June 2006]

⁶⁰ See e.g. the *Deqebat* website, <http://www.deqebat.com/> [accessed June 2006]

Eritrea has also accepted and extended citizenship for Ethiopians of Eritrean ancestry expelled between 1998 and 2000. Like many Eritreans of Ethiopian ancestry who know little about Ethiopia, this group also knows little about Eritrea, and its members are likely to use Eritrea as an intermediate stop on their way to a third country. The potential claim for statelessness by such individuals is real, especially if they find themselves outside of Eritrea for educational or other purposes. One such example is the case of Eritrean students sent to study in the Republic of South Africa. After completing their studies, a few returned but most stayed. Of the latter, some found their way to other countries, including the US, and since they had no identification papers to present at the border crossings when they were apprehended, some were subsequently recognized as stateless persons. Nonetheless, although statelessness arising out of the long-time Ethiopian and Eritrean residency in Eritrea and Ethiopia, respectively, is real, it is not expected to be a major problem, as each country has extended their ethnic co-nationals a helping hand not necessarily because they were “authentically” Eritrean or Ethiopian but probably because of the potential political loss incurred in refusing to accept one’s own.

There are, however, many Ethiopian Tigrayans still in Eritrea who, unlike in the past, are now required to have residence permits, renewable every six months. The Eritrean government is reported to have arrested some because “they were unable to pay the necessary fees...”.⁶¹ They were also unable to leave because the government did not issue them exit visas.⁶² Given the dire economic situation in Eritrea and the resentment many Eritreans have of Tigrayans, it is likely that some may not find gainful employment to meet their financial obligations, particularly if they do not own businesses of their own. This group will find itself in refugee-like situations in Eritrea.

5 Ethnic and Minority Groups

It is generally assumed that because of the perceived greater threat from outside to one’s community, external wars cement national attachments at the expense of parochial communal attachments. This appears to have been the case in Eritrea during and after the border war, especially when viewed in terms of communal attachments to the nation. At present, there is strong support for border demarcation from communities in the border areas, with the possible exception of the Afar. Despite this, however, there are accusations that the Eritrean government has escalated its discrimination against some ethnic groups.

5.1 The Kunama

Some members of the Kunama ethnic group have been in prison for many years.⁶³ Their imprisonment, however, appears to have come in response to the war and the emergency situation in the country, and is similar to the imprisonment of individuals from other groups. Nonetheless, some attribute the presence of about 7,000 Kunama refugees in

⁶¹ United States, Department of State, *Country Reports on Human Rights Practices 2005: Eritrea*

⁶² *Ibid.*

⁶³ *Ibid.*

Ethiopia to the retaliatory acts of the government, which included the confiscation of Kunama lands for alleged Kunama collaboration with Ethiopian forces during the border war.

The Kunama ethnic group owns a “vast and fertile homeland” and has always had to contend against “continuous attempts of some other ethnic-groups [sic]... to infiltrate within its land and communities, increase their presence and domination ...”,⁶⁴ and this has created long-lasting friction with other groups. Land Proclamation 58/1994 did not help either, because it made land state property. As a consequence, members of other groups were given traditionally Kunama land because, as indicated earlier, it is vast and fertile compared to other areas or perhaps because the Kunama, as a pastoral community, have not used the land efficiently.⁶⁵ The proclamation may put the Kunama at a disadvantage and may even alter their “traditional egalitarian social system”, where land plays an important role.⁶⁶ In response, they have now formed their own ethnic-based political movement to press for their rights. However, the government land policy, as some have suggested, does not appear to have been a calculated ethnic-based policy designed to dispossess the Kunama and other ethnic minorities.⁶⁷ In fact, the Italians, the British, and the Ethiopians have always considered Kunama lands as state property, although they did not transfer the land to other individuals or groups within Eritrea.

5.2 Other Ethnic Groups

This does not mean that there are no communal grievances against the government. In fact, the Jeberty, a Muslim Tigrigna-speaking group, which claims unique historical-religious antecedents, has been calling for recognition of the group as an “ethnic” group, similar to the official recognition bestowed on the other nine groups, including the Kunama and Afar. Pursuant to this, they have established the Eritrean al-Nhada Party. The Afars have also formed their own ethnic-based party to press for their communal rights. Therefore, the government is under pressure from such groups to devolve power. Although it cannot be ruled out, the alleged systematic, ethnic-based discrimination perpetrated by an intensely civic-nationalist group of leaders is hard to believe. However, a glance at government statistics may reveal the over-representation of the Tigrigna group in the government and in the bureaucracy. This may partly be a function of the large size of the group and other variables that are hardly the making of the PFDJ-government. Therefore, a prudent land policy that will not unduly affect specific ethnic groups, particularly pastoral communities such as the Afar and Kunama, will likely minimize the appearance of ethnic discrimination. Absent of this, massive displacement of communal groups may result. The presence of thousands of ethnic Kunama refugees in Ethiopia may only be the beginning.

⁶⁴ Democratic Movement for the Liberation of the Eritrean Kunama (DMLEK), *The Program of the Democratic Movement for the Liberation of the Eritrean Kunama (DMLEK)*, February 2005, http://www.baden-kunama.com/Dmleks_Progr..htm [accessed June 2006]

⁶⁵ United States, Department of State, *Country Reports on Human Rights Practices 2000: Eritrea*

⁶⁶ The Democratic Movement for the Liberation of the Eritrean Kunama (DMLEK)

⁶⁷ Gilkes, P., Violence and Identity along the Eritrean-Ethiopian Border, in D. Jacquin-Berdal and M. Plaut (eds.), *Unfinished Business: Ethiopia and Eritrea at War*, Trenton NJ: The Red Sea Press, 2005, p. 236

6 Conclusion: Key Issues, Trends, and Recommendations

6.1 The Nature of Eritrean Territorial Nationalism

Ever since the 1991 de-facto independence of Eritrea, the new PFDJ-led Eritrean state has behaved in a way similar to other new states: it exerted significant efforts and poured very considerable economic and financial resources into homogenizing Eritrea's culturally plural society. These include efforts to instill a shared loyalty to "Eritrea" through uniform education in schools, government-sanctioned information in the mass media, and government-sanctioned faiths at the expense of others. More importantly, the government instituted a system of national conscription not only to safeguard the independence and territorial integrity of the country but also to instill a shared sense of Eritrean-ness by bringing together the young from different ethnic and religious backgrounds to a common training camp at Sawa. In addition, as Tronvoll has suggested, the state may have gone to war against one or more of its neighbours not only because of its need to demarcate the physical borders of its territory but also because of its need to erect a psychological boundary between members of the same ethnic group residing across national borders.⁶⁸ Indeed, the recent border war has further cemented the differences between Tigrigna-speaking Eritreans and Tigrigna-speaking Ethiopians and perhaps between Afar-speaking Eritreans and their co-ethnics in Ethiopia.

Such behaviour is not unique to Eritrea. Indeed, in early modern Europe, "nation-formation entail[ed] efforts to develop a common culture within a country by reducing diversity", and this included the imposition of conformity by violent means, which in turn inevitably created religious and other types of refugees.⁶⁹ Similarly, modern states in Africa have attempted to instill national consciousness among their disparate populations through various means, including the banning of ethnic, regional, and religion-based parties and the imposition of a one-party political system, sometimes accompanied by, but often without, massive repression. As a result, politics in post-colonial African states has been characterized by "cautious authoritarianism",⁷⁰ similar to politics in Eritrea between 1991 and 1998.

What is different in Eritrea, however, is the rapid slide from "cautious authoritarianism" of the pre-1998 period into fully-fledged authoritarianism after that. This occurred because of the border war with Ethiopia, and particularly because of the stalemate that continued thereafter. Indeed, the reluctance or inability of the international community to persuade Ethiopia to fully accept the border ruling and proceed with the demarcation has raised serious doubts among the Eritrean leadership and the Eritrean people about UN and US commitment to the territorial integrity of Eritrea and indeed their commitment to Eritrean independence. Recently, a torrent of articles have appeared in the government-

⁶⁸ Tronvoll, K., *Borders of Violence – Boundaries of Identity: Demarcating the Eritrean Nation-State*, *Ethnic and Racial Studies*, Vol. 22, No. 6, 1999, pp. 1046-53

⁶⁹ Zolberg, A., Suhrke, A., and Aguayo, S., *International Factors in the Formation of Refugee Movements*, *International Migration Review*, Vol. 20, No. 2, 1986, p. 161

⁷⁰ Anthony, C., *Africa's Refugee Crisis: State Building in Historical Perspective*, *International Migration Review*, Vol. 25, No. 3, 1991, p. 575

owned Eritrean media accusing the UN and the US of sacrificing Eritrea when they forced upon it a federal arrangement with Ethiopia more than 50 years ago.⁷¹ Indeed, there were repeated attempts on the part of the media to draw parallels between then and now.

Given that the Eritrean leadership still believes, firstly, that the UN and major powers have always treated Ethiopia as the perennially favoured and Eritrea as the perennially victimized, secondly, that Eritrean independence came about because of the correct leadership of the EPLF, the perseverance of its combatants, and the iron-clad unity of the Eritrean people despite super-power support of Ethiopia, and, thirdly, that the self-reliance and organizational autonomy that guided the successful EPLF during the days of the struggle for independence must also guide independent Eritrea, its responses to the existing stalemate are perhaps not surprising. These included increased defence spending, the creation of a highly militarized society through what has now become an open-ended national conscription programme, absolute conformity and less tolerance of dissenting voices, and a reduction in Eritrea's relations with the world community to help bolster its autonomy of action. Such characteristics made the EPLF one of the most successful liberation movements in the world and an attempt is being made now to adopt the same characteristics to make a successful Eritrea.

6.2 The Nature of Eritrean Refugee Flows

Eritrea's state-building measures or responses have inevitably created small-sized but growing refugee outflows. Indeed, about "ten thousand fleeing Eritreans are in refugee camps in Ethiopia, two hundred of whom fled since January [2005], with two hundred to three hundred more arriving monthly".⁷² Eritrean refugees are also fleeing to Sudan, partly because of the "clampdown on government reformers, journalists and anyone allegedly threatening 'national security'...", and partly because of the open-ended national service. Most of these have settled in Khartoum and are now known as the "Kosovo group" because they are "well-dressed, well-fed, and disinterested in spending a single day in Sudan" and do not "fit [the] stereotypical image of a refugee".⁷³ This group of new refugees is unlikely to return to Eritrea.

The pre-independence refugees still in Sudan are likewise unlikely to return to Eritrea because of the "generalized fear of insecurity" that prevails in the country.⁷⁴ In fact, there still remained almost 116,000 refugees by the end of 2005, three years after UNHCR, in December 2002, invoked the "ceased circumstances" clause for Eritrean refugees in Sudan, other than those who could demonstrate a well-founded fear of persecution.⁷⁵

⁷¹ See, e.g., A Misguided Policy that is Undermining American Image, *Shabait*, 27 January 2006, http://www.shabait.com/staging/publish/article_004501.html [accessed June 2006]

⁷² Human Rights Watch, *World Report 2006: Eritrea*

⁷³ Kibreab, G., Urban Refugees in Sudan: Yearning for Home or the Diaspora?, *Eritrean Studies Review*, Vol. 4, No. 2, 2005, pp. 136-7

⁷⁴ *Ibid.*

⁷⁵ United Nations High Commissioner for Refugees, *Statistical Yearbook for 2005*

Following this, Eritreans could not seek protection based upon events related to the war of independence or the recent border war. However, Eritrean refugees were invited to come forward if they have other reasons for continued international protection.⁷⁶ As a result, about 100,000 have asked for continued protection.⁷⁷ By and large the invocation of the “ceased circumstances” has not had the effect of encouraging refugees to return home, either because of continuing fear of returning, or because of the activities of opposition groups that discourage repatriation, or both. In fact, one might argue that both the pre- and post-independence groups of refugees now constitute new “events-alienated” refugees, and as such are unlikely to return home.⁷⁸

It is also important to note that some Eritreans continue to trickle out of the country not only for political, security, or religious reasons but also for economic reasons. The continuing stalemate in the border situation and the efforts being exerted to defend the country have diverted resources away from economic development so much that there is now a shortage of basic commodities, including bread and fuel. And the prospects for rapid economic growth are not encouraging either. Like many African countries, Eritrea does not at present have natural resources where exploitation would be commercially feasible. Although there are some hopes for the economic exploitation of newly-discovered high quality gold and other minerals, the timeline is not at all clear. In terms of trade, most of Eritrea’s products were marketed to Ethiopia. Since the border war, however, this has come to a complete stop and Eritrea has not been successful at finding alternative markets.

The government has been aware of the economic problems brought about because of the war.⁷⁹ In fact, the ongoing Warsai-Yikeallo development campaign, which aims to involve national service conscripts in development work and was first introduced after the border war ended, was intended to rehabilitate the war-devastated economy.⁸⁰ It has itself become open-ended and this has generated discontent among the young. As a consequence, some have left.⁸¹ On a positive note, however, recent improvements in relations with Sudan and the expected cross-border trade may slightly relieve the border economy from its stresses. Its overall impact, however, may not be much. It is likely, therefore, that in the immediate future there will be increased numbers of economic migrants, who might seek to claim refugee status in their destinations.

⁷⁶ United Nations High Commissioner for Refugees, *Applicability of the “Ceased Circumstances” Cessation Clauses to Eritrean Refugees Who Fled Their Country as a Result of the War of Independence Which Ended in June 1991 or as a Result of the Border Conflict Between Ethiopia and Eritrea Which Ended in June 2000*, Geneva, 18 February 2002, <http://www.unhcr.org/cgi-bin/texis/vtx/country?iso=eri> [accessed May 2006], *UNHCR RefWorld 2005*, Issue 14, CD 3

⁷⁷ Kibreab, p. 135

⁷⁸ Kunz, E., Exile and Resettlement: Refugee Theory, *International Migration Review*, Vol. 15, No. 1, 1981, pp. 125-51

⁷⁹ Eritrean Cabinet

⁸⁰ Mengisteab and Yohannes, pp. 103-4

⁸¹ *Idem*, p. 107

6.3 The Border War and Prospects for Political Change

Domestic political issues in Eritrea, especially those pertaining to the relationship between the government and opposition parties, are inextricably linked to flows of refugees and other persons of concern to UNHCR. In particular, this relationship is immediately related to whether or not some of the estimated 116,000, refugees in Sudan at the end of 2005 will return.⁸² Although the EPLF/PFDJ has been reluctant to entertain the idea of a fully-fledged multi-party system in Eritrea, there were hopes that some arrangements may be reached between the government and opposition parties, especially after the constitution was ratified in 1997. After the border war, however, PFDJ's attitude has hardened because of an alleged conspiracy between the Ethiopian government and the Eritrean opposition against the government and the state of Eritrea. While the PFDJ had regarded the opposition parties as weak and with nothing to offer to the Eritrean people before the war, it now sees them as "traitors". Hence, even if the constitution is implemented and a multi-party system is adopted, there is some likelihood that the government may altogether make many of the opposition parties illegal because of their alleged conspiracy against Eritrea, or make it harder for them to operate freely. In either case, the opposition might resort to armed violence. Recent reports of such incidents may only be the beginning, and could then result in flows of refugees to neighbouring countries.⁸³

The variable most immediately associated with new outflows of refugees and other displaced persons is undoubtedly the border war and the impasse that still continues. The latter, in particular, has had a very significant impact on the current political, economic, and social landscape in Eritrea. This is the context in which the government's recent "high risk strategy" should be seen.⁸⁴ This included banning UNMEE helicopter flights; expelling UNMEE personnel of certain nationalities; increasing army and militia movements and incursions into the TSZ; expelling various aid agencies, including USAID, the Irish agency Concern, the British Agency for Co-operation and Research in Development (ACORD); and refusing to negotiate with Lloyd Axworthy, UN Secretary-General Kofi Annan's Special Envoy to the region, and Jean-Marie Guehenno, Under-Secretary-General for Peacekeeping Operations. These measures were taken out of frustration with the UN and the US and their "ingrained bias against Eritrea",⁸⁵ and also to underscore the need for a quick implementation of the "final and binding" ruling of the Boundary Commission.

Eritrea does not seem prepared to tolerate the situation any longer and will strive, independent of external partners such as the UN and the US if necessary, to regain the territories in respect of which the Boundary Commission ruled in its favour. Although

⁸² United Nations High Commissioner for Refugees, *Statistical Yearbook for 2005*

⁸³ Gedab News, Armed Clashes in Western Eritrea, 28 February 2006, http://www.awate.com/artman/publish/article_4404.shtml [accessed June 2006]

⁸⁴ Maddux, C., Eritrea Adopts High Risk Strategy on Border Stalemate, *VOA News*, 15 December 2005

⁸⁵ Statement of the Foreign Ministry on the Report of the Secretary General, *Shabait*, 9 January 2006, http://www.shabait.com/staging/publish/article_004426.html [accessed June 2006]

Eritrea may not be ready for all-out war with Ethiopia at this time, it undoubtedly possesses the capacity to destabilize the region. This includes guerrilla type incursions into Ethiopian positions, and open and active support of Ethiopian opposition groups to conduct operations from bases inside Eritrea. It remains to be seen to what extent this will be made more seriously destabilizing by the reduction in UNMEE forces from 3,300 to 2,300 in connection with the extension of its mandate to 30 September 2006.⁸⁶

Any escalation of the border conflict, even if minor, will certainly create more refugees and internally displaced persons. Indeed, many Eritreans living in areas adjacent to the border, especially in western Eritrea and in the environs of the contentious village of Badme have already been refugees in Sudan during the 1970s and 1980s, and again became refugees or internally displaced persons during the recent border war. Hence, “refugeehood” is not new to them and, unlike typical refugees, they will not wait very long to assess the further deterioration of the situation. That is, their previous experience as refugees is expected to reduce their aversion to dislocation. Also, increased instability will undoubtedly result in a more concerted effort by the government to enforce national service requirements and this, in turn, will likely increase the numbers of draft evaders, who will flee to urban areas in Sudan and to northern Ethiopia.

6.4 Recommendations

- The US-initiated demarcation talks, which both parties attended at the invitation of the Boundary Commission in March 2006, and which held a further, fruitless meeting in mid-May 2006, should nevertheless be supported in earnest and, as necessary, expanded into bilateral talks between the two parties. The international community also needs to provide robust economic incentives hard for both countries to refuse.
- UNMEE has played a crucial role in the stability of the border areas. However, the Security Council, in extending its mandate to the end of September 2006 also reduced its size by nearly one third, after an even greater reduction had been mooted. It is important that the Security Council stay the course because UNMEE withdrawal or further reduction will create enough uncertainty among the population, especially in the border areas, to want to leave.
- UNHCR will need to make contingency plans to accommodate Eritrean refugee influxes to Sudan (and possibly Ethiopia), especially in the light of the reduction of the UNMEE force, and the consequent risk of deterioration of the security situation along the border. There is a likelihood of the nature of the conflict changing into small-scale guerrilla operations. This will drastically increase movements of refugees and other persons of concern not only from Eritrea but also from Ethiopia.
- Given that tens of thousands of Eritrean refugees still in Sudan have indicated their desire to stay, UNHCR might reconsider its “ceased circumstances” clause and

⁸⁶ United Nations Mission in Ethiopia and Eritrea, *UNMEE Press Briefing Notes*, Asmara, 1 June 2006, <http://www.reliefweb.int/rw/RWB.NSF/db900SID/KHII-6QD9YR?OpenDocument&rc=1&cc=eri> [accessed June 2006]

provide assistance to those who wish to stay in Sudan, even if they cannot show a well-founded fear of persecution if they return to Eritrea, and explore ways with the Government of Sudan to integrate them into the host society. At the same time UNHCR should also provide robust assistance to those who wish to return and to the Government of Eritrea to help the returnees re-integrate.

- The normalization of Sudanese-Eritrean relationships is a positive development, though some refugees are worried that this may affect their stay in Sudan adversely. While UNHCR should encourage friendly relations between the two countries, it should, at the same time, impress upon the Government of Sudan that the refugee issue is humanitarian and should not be a casualty of the developing friendly relations between the two countries.
- UNHCR should do its utmost to persuade Eritrea and Ethiopia to restore full rights to “Ethiopians” and “Eritreans” in Eritrea and Ethiopia, respectively, including the right to leave if they so wish.

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