
Advance Unedited VersionDistr.: General
11 June 2018

Original: English

Human Rights Council**Thirty-eighth session**

18 June–6 July 2018

Agenda item 4

Human rights situations that require the Council's attention**Report of the Special Rapporteur on the situation of human rights in Eritrea, Sheila B. Keetharuth****Summary*

In her fifth and final report to the Human Rights Council pursuant to resolution 35/35, the Special Rapporteur on the situation of human rights in Eritrea highlights key human rights developments in Eritrea since June 2017. Her overall assessment of the human rights situation on the ground remains grim, with no meaningful progress to address specific human rights violations to report. The Special Rapporteur concludes with a list of recommendations to the Government of Eritrea and other actors aimed at improving the enjoyment and protection of human rights for all Eritreans.

* The present report was submitted after the deadline in order to reflect the most recent developments.

Contents

	<i>Page</i>
I. Introduction	3
A. Lack of access	3
B. Methods of work	4
C. Activities since July 2017	4
D. International and regional developments	5
E. Cooperation and engagement with the international community	6
II. Updates on the human rights situation	6
A. Civil and political rights	7
B. Enjoyment of economic, social and cultural rights	12
III. The plight of Eritrean asylum-seekers and refugees	14
IV. Accountability and justice	16
V. Reflections and conclusions	16
VI. Recommendations	17

I. Introduction

1. In her fifth report to the Human Rights Council pursuant to resolution 35/35, the Special Rapporteur on the situation of human rights in Eritrea highlights key developments relating to human rights in Eritrea since June 2017. In this last report to the Council by the current mandate holder, she also reflects on the six years during which she served in this capacity.

2. The Special Rapporteur further considers the implementation of the recommendations of the Commission of Inquiry on human rights in Eritrea that found in 2016 in its final report to the Human Rights Council that there were reasonable grounds to believe Eritrean authorities have committed and continue to commit crimes against humanity in the country. Yet, to date, there has been no accountability for continuing and past human rights violations and crimes against humanity.

3. The Special Rapporteur would like to thank the Human Rights Council for the trust and confidence placed in her by appointing her in 2012 as the first mandate holder on the situation of human rights in Eritrea. She also thanks those Member States that invited her to engage with members of the Eritrean diaspora in their respective countries, as well as other stakeholders. While giving her access, they showed their commitment to finding durable solutions regarding the situation of human rights in Eritrea. She remains indebted to the Office of the High Commissioner for Human Rights for the unfailing support provided during her tenure.

4. The Special Rapporteur sincerely thanks survivors of human rights violations, family members, relatives and witnesses, who entrusted her with their life stories, dreams and hopes, confident that she would use these with utmost care and respect for their right to inherent dignity to alert the international community about the plight of Eritreans who have suffered human rights violations and to amplify their calls for justice. Since the beginning of her tenure, as indicated in her first report to the Human Rights Council (A/HRC/23/53), the Special Rapporteur has striven to give a voice to Eritreans who have experienced human rights violations.

5. Last, but not least, she thanks civil society for the invaluable support throughout her tenure. Their responsiveness, analysis and advocacy have been helpful. The side-events civil society organised on specific issues in the margins of the session of the Human Rights Council and the United Nations General Assembly have contributed to wider distribution of information within the international community, including Member States.

A. Lack of access

6. The Special Rapporteur endeavoured to implement her mandate in a constructive, independent and impartial manner. She kept open channels of communication at all times with all stakeholders, most importantly with the Government of Eritrea. It is regrettable that the Eritrean Government did not avail itself of these overtures and other opportunities for meaningful dialogue.

7. For the sixth year in a row, the Government of Eritrea did not cooperate with the mandate of the Special Rapporteur and did not provide her access to conduct in-country visits. However, the Special Rapporteur would like to reassure Member States that the denial of access has not hindered her work, even though she would have preferred to obtain information directly from those living in Eritrea and who were otherwise unable to interact with her. Member States are called upon to provide access in accordance with the terms of reference for agreed country visits¹ and with no pre-conditions attached.

8. The Special Rapporteur is less inclined to believe that she would have been able to gather the type of information she has, had she been invited. For example, permission to travel further than a 25-kilometre radius out of the capital city is still required. Few researchers get access to the country. Independent observers with a human rights brief

¹ See E/CN.4/1998/45.

continue to be denied access. In such circumstances, claims made by the Government regarding its adherence to human rights norms cannot be reliably verified.

9. The refusal of the Eritrean authorities to address human rights issues with the Special Rapporteur and their selective engagement with the international community on these are symptomatic of a broader context of denial and rejection, suggesting that the situation of human rights in the country remains critical.

B. Methods of work

10. The Special Rapporteur has adopted a victim-centred approach and relied on information provided by victims, their families and witnesses during confidential interviews in the diaspora, including in Africa, Europe, and North America. Other interlocutors have come from all walks of life, including academics, diplomats and other stakeholders such as civil society organisations, journalists, lawyers and health care professionals. Information obtained from various sources has been cross-checked independently and findings corroborated.

11. Over the years, the Special Rapporteur has established a broad network of sources with diverse backgrounds and in various locations providing her with information on human rights issues. The ‘do no harm’ principle and concerns for the protection of victims, witnesses and family members have guided her when deciding what is safe to be put out in the public domain. By far not all details shared with her have met this threshold defined by the need to protect her sources.

12. The Special Rapporteur has also used other sources of information, such as publicly available reports, including those from the Government of Eritrea and pronouncements made by government officials through the media. Furthermore, she relied on reports and publicly available information through the UN system.

C. Activities since July 2017

13. On 19 October 2017, the Special Rapporteur addressed a meeting organised by civil society to examine the situation of Eritrean refugees and asylum seekers. The meeting took place in Brussels, Belgium, and delved into the root causes generating the constantly high number of Eritreans fleeing their country, including children, crossing international borders.

14. On 26 October 2017, the Special Rapporteur briefed the Third Committee at the 72nd session of the General Assembly. The Special Rapporteur updated the Third Committee on the situation of human rights in Eritrea which remained alarming, focusing on deaths in custody; mass arrests and detention used to punish, intimidate, and create an atmosphere of fear; violations in the context of the indefinite national service; lack of freedom of expression and religious freedom; and the continuing exodus of Eritrean refugees. She highlighted the need for refugee-receiving countries to close protection gaps in their policies. She also appealed to the international community to heed the calls by the Commission of Inquiry on human rights in Eritrea to ensure accountability for past and ongoing human rights violations and crimes against humanity.

15. From 27 February to 5 March 2018, the Special Rapporteur undertook a mission to the United States of America, where she met with representatives of the Government, including the State Department. She also met with recently arrived Eritrean refugees, Eritreans in the diaspora, as well as civil society organisations. From 6 to 9 March 2018, the Special Rapporteur visited Canada to hold discussions with representatives of different governmental departments, including Global Affairs and the Ministry of Justice. She also met with Eritreans in the diaspora. On 7 March 2018, she participated in a panel discussion at the University of Ottawa. The Special Rapporteur undertook a mission to Greece from 16 to 20 April 2018 to meet with Government officials, civil society organisations, Eritreans and other stakeholders.

16. Issues discussed during these missions ranged from the situation of human rights in Eritrea and protection for refugees in-country and while on the move. During her meetings with different stakeholders, the Special Rapporteur further explored possible avenues for accountability, stressing that impunity should not be allowed to prevail; there was a need to move ahead with measures to address victims' call for justice for human rights violations and crimes against humanity.

17. On 12 March 2018, the Special Rapporteur participated in the enhanced interactive dialogue on Eritrea held during the 37th session of the Human Rights Council. She briefed the international community about the continuing human rights violations in Eritrea, focusing on events in October 2017 and March 2018 with mass arrests and arbitrary detention during protests and the death in custody of the respected elder and former freedom fighter Haji Musa Mohammed Nur.

18. The Eritrean Government did not participate in the Enhanced Interactive Dialogue. And yet it hosted a side-event with the participation of a representative of Nevsun Resources Ltd., a Canadian company operating a mine in Eritrea, as well as a representative of Danakali Ltd., an Australian company that operates a potash mine in the country in a fifty-fifty joint venture with the Government of Eritrea during the same 37th session of the Human Rights Council.²

D. International and regional developments

19. During its 62nd Ordinary Session held from 25 April to 9 May 2018 in Nouakchott, Islamic Republic of Mauritania, the African Commission on Human and Peoples' Rights considered the report of Eritrea, in accordance with Article 62 of the Charter and Article 26 of the Maputo Protocol on the Rights of Women in Africa. Eritrea's first ever report covered the period 1999 to 2016.

20. In January 2018, the Government of the Netherlands declared the Eritrean Chargé d'Affaires persona non grata and requested him to leave the country. This measure was taken after the Dutch Parliament had expressed concern about reports indicating that Eritrea continued to solicit a mandatory and coercive "recovery and rehabilitation tax" representing a two-percent levy on the income of Eritreans in the diaspora and Eritrean refugees in the Netherlands. Those who refused to pay were subjected to threats, harassment and intimidation.

21. After declaring a six-month state of emergency in North Kordofan and Kassala, the Government of Sudan closed its eastern border with Eritrea on 5 January 2018, indicating it was for security reason. The border remains closed to date.

22. On 14 November 2017, the Security Council renewed the arms embargo on Eritrea until 15 November 2018. The mandate of the Somalia and Eritrea Monitoring Group (SEMG) was renewed until 15 December 2018. While acknowledging the efforts made by Eritrea to engage with the international community, the Security Council reiterated its expectation that the 'Government of Eritrea will facilitate the entry of the SEMG to Eritrea to allow it to discharge fully its mandate'.³

23. Eritrea continues to host the Gulf coalition at the port city of Assab, strategically located to provide easy access to Yemen. In its 2017 report, the SEMG claims that the setting up and the continuing expansion of a United Arab Emirates military base near Assab 'which involves the transfer of military material to and exchange of military assistance with Eritrea' represents a violation of the arms embargo.⁴

24. In November 2017, a Canadian court confirmed that a lawsuit against Nevsun Resources Ltd. could proceed in British Columbia, Canada. The lawsuit has been filed by Eritreans plaintiffs claiming that they had been forced to work at the Bisha mine as

² Demystifying Eritrea: The Ground Reality, Mining and Human Rights', 8 March 2018, at the Palais des Nations, Geneva.

³ S/Res/2385 (2017) para 35.

⁴ S/2017/925 of 6 November 2017 at page 3.

conscripts.⁵ In January 2018, Nevsun appealed to Canada's Supreme Court against the ruling of November 2017. The case is currently pending.⁶

E. Cooperation and engagement with the international community

25. There has been some encouraging progress concerning Eritrea's external relations. Envoys, diplomats and parliamentarians from different countries, as well as high level UN officials have visited Asmara. Several governments have held bilateral dialogues on human rights with the Government of Eritrea. A number of journalists have also been allowed into the country. The Special Rapporteur welcomes these developments suggesting that Eritrea is disposed to normalise relations with the international community.

26. In particular, the Government of Eritrea invited the Office of the High Commissioner for Human Rights to visit and to organise a workshop on human rights and the administration of justice. While the Special Rapporteur welcomes these positive steps, she stresses that for it to be meaningful and substantive, palpable progress in the selected areas would need to be measured and communicated regularly. A critical criterion for measuring such progress needs to articulate what tangible impact can be attributed to such cooperation in the daily enjoyment of human rights by Eritreans.

II. Updates on the human rights situation

27. The current situation in Eritrea perpetuates the patterns of human rights violations identified by both her mandate and that of the Commission of Inquiry on human rights in Eritrea, namely arbitrary arrests and detentions and over-crowding in congested places of detention, death in custody, violations of freedom of expression, association and peaceful gathering, and religious persecution. Human rights violations in the context of the national/military service persist, with adverse impacts on fundamental rights, as do restrictions on freedom of movement, violations of the right to adequate and affordable housing, the right to property and destroyed livelihoods.

28. The Special Rapporteur has noted little material changes with the potential to positively impact the situation of human rights in Eritrea and regrets to inform the Human Rights Council that there is still no Constitution, no parliament where laws could be discussed, enacted, and where questions of national importance debated. The rule of law is not supreme; the Government and its agents are not subjected to the law, thus perpetuating long-entrenched impunity for widespread human rights violations.

29. No independent human rights organisations are allowed to operate in the country. International non-governmental organisations are limited only to those which the Government invites to provide services according to strict agreements.

30. It has been the Special Rapporteur's considered opinion since 2012 that widespread violations of human rights, some of which amount to crimes against humanity, including those experienced in the context of forced conscription, remain the primary cause of peoples' fateful decisions to cross international borders and become refugees. They brave the ominous dangers along escape routes because their tolerance levels in the face of human rights violations have peaked. The clear majority leave in response to severe breaches of their human rights.

31. As recent events depict, the population continues to live in fear of arbitrary arrests and detention and the Government still controls the daily lives of its citizens, making the enjoyment of all human rights, civil, political, economic, social and cultural by all Eritreans a daily struggle.

⁵ Araya v. Nevsun Resources Ltd., 2017 BCCA 401.

⁶ SCC, Case number 37919, Nevsun Resources LTD v. Gize Yebeyo Araya, et al.

A. Civil and political rights

1. Arbitrary arrests and detentions and over-incarceration

32. The Special Rapporteur examined at length human rights violations during over-incarceration in her second report⁷. She highlighted deplorable detention conditions, which negatively impacted on the inherent dignity of detainees, the fact that it was impossible to obtain any statistics pertaining to the prison population and the accurate number of detention facilities, official and unofficial, commenting that such failures spoke volumes about the respect for transparency that should be integral in any system of incarceration based on the rule of law. The Commission of Inquiry on human rights in Eritrea also documented arbitrary arrests and detentions, as well as prison conditions extensively⁸.

33. For a decision to arrest someone to be lawful, there needs to be a legal basis. Any arrest or detention should be conducted in accordance with procedures respectful of national laws, as well as international human rights norms. Consequently, substantive grounds of arrest or detention need to be established by national law. This also implies that states are under the obligation to precisely define each ground for arrest to avoid excessively broad or arbitrary interpretation and application. National laws should be aligned with international human rights standards. It ensues that arrests and deprivation of liberty should not be unjust, unreasonable and unnecessary, or lack predictability; briefly put, arrests should follow due process. Furthermore, the specific manner of arrest must not be discriminatory and should be deemed to be appropriate and proportional given the specific circumstances of the case.

34. Arrests and detention used as a form of punishment for the legitimate and peaceful exercise of fundamental rights, including freedom of expression and opinion, freedom of assembly and association, freedom of religion, are deemed arbitrary.

35. The specific cases of arrest and detention that the Special Rapporteur has documented over the past one and a half years show that the Government of Eritrea implemented its notorious and repeatedly documented *modus operandi*: mass arrests to instil fear; those in custody are not allowed to exercise their rights to due process to challenge the legality of their detention; arrested people, including children, are kept incommunicado; family members have not received any formal notification of arrests and detention. While some family members have been able to discover the whereabouts of their loved ones through informal channels to deliver food and clothing, others are reluctant to enquire because they fear being arrested and detained too. Below is a selected number of illustrative cases.

36. Actual or perceived critics of state policies and practices and exercise of freedom of expression and information:

- Arrest and detention of late Haji Musa Mohammed Nur, former director, and other committee members of the Al Dia School in the Akhria neighbourhood of Asmara, after they declined to apply Government directives in contradiction with long-established practices at the school at the end of October 2017;
- The arrests and detention of two journalists following the funeral of Haji Musa Mohammed Nur in March 2018;
- Arrest and detention of the owner of an internet café in 2016, presumably for his suspected involvement in sharing of information with people outside of Eritrea, showing scenes from daily life in Asmara which the Government considers negative, such as pictures of people queuing for basic commodities.

37. Exercise of freedom of association and peaceful protests:

- Arrest and detention of participants in peaceful demonstrations on 31 October 2017, protesting the arrest and detention of late Haji Musa Mohammed Nur and other committee members of the Al Dia School. Many were Al Dia school students and their parents. Scores were indiscriminately arrested in the following days from the streets, during night house raids mainly in Akhria without search or arrest warrants, while others were arrested

⁷ A/HRC/26/45.

⁸ A/HRC/29/CRP.1.

on their way to work. Women and children were also arrested and detained; reportedly, a number of children (aged under 18) were released a few days later. People from Asmara were taken in lorries outside of the city, away from their families. Most of those arrested were Muslims, some of them community leaders in Akhria.

- Security forces effected mass arrests after Haji Musa's funeral on 3 March 2018, with numbers running into hundreds. There was a heavy military presence and the arrests started after the burial ceremony. The elderly and children were also arrested and detained.

38. Exercise of freedom of religion or belief:

- Approximately 45 people were arrested in Adi Quala during the second half of 2017 and taken to prison, where one of them died as a result of exposure to the harsh climatic environment and the exacting prison conditions. It is unclear whether they have been released or were still in custody.
- Arrest and detention of Muslim tutorial teachers at the end of 2017, presumably because of their religious teachings.
- Arrest and detention of religious figures at a Catholic institution during the second half of 2017.

39. Attempting to cross the border: Arrest and detention of a man who attempted to cross the border at the beginning of 2018. Detained incommunicado, his family is able deliver food once a week.

40. 'Guilt by association' – detained in lieu of a spouse/parent/sibling having left the country:

- Arrest of two siblings after their brother fled the country in 2016.
- Arrest and detention of a wife and mother of three young children in November 2017, after her husband had left.

41. These recent incidents add up to reinforce the significance and continuing patterns of human rights violations, which have been identified and amply documented by the Special Rapporteur, the Commission of Inquiry on Eritrea and other human rights organisations.

42. In Eritrea, over-incarceration has serious repercussions on the health of inmates and its impact on families and society runs deep. Over-incarceration resulting in congested detention centres remains a long-standing systemic problem. Even short periods of detention in over-crowded spaces can cause detainees to suffer recurrent physical, mental health and social problems upon release.

43. Arrests and detention in degrading conditions as a tool for control and punishment, as well as a propensity to use remand and imprisonment rather than non-custodial options, persist. Thus, the presence of pre-trial detainees inflates numbers further. This state of affairs is compounded by a lack of legal representation, as the majority of lawyers are employed within the national service and the numbers in private practice are low.

44. Over-crowding is a consequence of inadequacies at all stages of the criminal justice process: an under-resourced judicial system which is slow and ineffective, resulting in long delays and the denial of judicial guarantees such as the right to be brought promptly before a duly-constituted court of law and to be tried within a reasonable time.

45. Children, the elderly and women are at high risk of being adversely impacted due to ill-treatment, absence of legal protection, poor hygiene and inadequate nutrition and water supply in congested detention centres.

46. It is arbitrary and unlawful to arrest and detain children accompanying adults during a funeral ceremony. The Special Rapporteur spoke to the parents of an adolescent boy who has been arrested after the funeral ceremony of Haji Musa on 3 March 2018. He was with other children below eighteen, who were rounded up just after the ceremony and taken away in several vehicles. They are all students from schools in the Akhria neighbourhood, including Al Dia school. The child has been in incommunicado detention since then. While

some of the children have been released, an unknown number is still in detention following these events. These parents are worried, not only for their son, but for all the children still in incommunicado detention. They are concerned about the psychological trauma and other possible inhumane treatment the children may be subjected to.

47. Detained children are particularly vulnerable in any detention system and are therefore in need of enhanced protection and care, as stipulated in the Convention on the Rights and Welfare of the Child. The detention of children is a highly abnormal situation and begs the question: while children should not be detained, save in exceptional circumstances, what measures exist in Eritrean criminal justice system detention centres to ensure that children are protected from abuse during arbitrary detention?

48. The challenging environment in Eritrea's detention centres is particularly harsh for elderly people, as they are ill-equipped to meet the sometimes-complex needs of elderly detainees. Appropriate health care remains the most important specific need of elderly people in detention. Timely response to illnesses prevalent among an elderly prison population is deficient in the harsh environment of Eritrean prisons. As the Commission of Inquiry on human rights in Eritrea had found, 'detainees on the brink of death' were often handed into the care of their families or placed under house arrests in the expectation that their death is highly likely to occur quickly, and possibly as a way to avoid being blamed for it'.⁹

49. Women's experience of the criminal justice system, including imprisonment, is substantially different from men's and therefore, the arrangements under which they are held should cater for their specific needs, while ensuring that bias is eliminated at every level. Additionally, although they represent a minority among the prison population in Eritrea, they should have equal access to all available services and facilities, including health care.

50. International law requires that all persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person. Further, pre-trial detention should represent a measure of last resort, to be employed only under certain well-defined conditions. For example, it is used when there is a risk that a suspect would fail to appear for trial or would interfere with witnesses, tamper with evidence or any other trial-related processes or commit further offences and there is no other way that the risk can be addressed, save for detention.

2. Death in custody

51. The deplorable conditions in the congested detention centres of Eritrea exacerbate the vulnerability of detainees and have proved to be death traps for many. When somebody is taken into custody, he/she is in the care of the state, which means that the state has a duty of care towards him/her. Therefore, when death happens as a tragic consequence of being incarcerated, the state has failed in its duty of care. The number of Eritreans who have died in custody over the years is unknown. No explanation is provided to family members and no inquest carried out into the circumstances of death in custody. At times, family members are not informed about the death of their loved ones while in custody and find out through informal channels.

52. Habtemichael Mekonen was 77 years when he died at Mai Serwa prison, on the outskirts of Asmara on 6 March 2018. A Jehovah's Witness for more than 55 years, he was imprisoned in July 2008 because of his religious beliefs. He refused to renounce his faith for almost ten years and the suspected cause of his death is kidney failure.

53. Jehovah's Witnesses have been persecuted since 1993 because of their political neutrality and conscientious objection to military service. President Afwerki revoked their Eritrean citizenship in October 1994.

54. On 3 March 2018, the family of the late Haji Musa Mohammed Nur, aged 93 years, were informed that the respected elder had died while in custody. He had been arbitrarily arrested and detained for almost four months. Haji Musa was not charged or tried before any court of law. Reportedly, Haji Musa died on 1 March when his body was taken to a

⁹ A/HRC/29/CRP.1, p. 233.

government hospital in Asmara. The family was requested to collect the body only two days later, without any explanation provided regarding the cause and circumstances of his death.

55. In February 2008, Taha Mohammed Nur, younger brother of Haji Musa Mohammed Nur and a co-founder of the Eritrean Liberation Front, died in custody. He was detained since November 2005. Government authorities provided no explanation regarding the cause and circumstances of his death. Taha Mohammed Nur was neither charged nor brought to a court of law for trial.

56. Haile Woldetensae, ex-Minister of Foreign Affairs of Eritrea and one of the ‘G-15’, reportedly died while in custody in January 2018. His remains are believed to have been buried by four prison guards. He has been held incommunicado and in solitary confinement since September 2001, without charge or trial. There had been no official confirmation of his death and family members in exile have appealed to the Eritrean authorities to confirm his death. The ‘G-15’ were a group of prominent politicians arrested in September 2001 and held incommunicado since then. Several are believed to have died while in custody.

57. Habtemichael Tesfamariam, aged 76, died in Mai Serwa prison, on the outskirts of Asmara on 3 January 2018. A Jehovah’s Witness for 48 years, he was arrested in 2008 for his religious beliefs and endured the punitive prison conditions for nearly ten years, refusing to recant his faith. He is believed to have died after suffering a stroke.

58. Solomon Habtom, former freedom fighter, died on 18 August 2017 at Karshale prison. Arrested on 10 July 2003, he is believed to have been in his late sixties. He was imprisoned for 14 years without being charged or taken to a court of law for trial. The authorities did not provide any information regarding the cause and circumstances of his death.

59. An Evangelical Christian from an unrecognised church died in August 2017 while in prison. The person was arrested during a house-to-house raid in the dead of night at home without any search or arrest warrant. During detention the person’s health deteriorated rapidly while in custody and reportedly the detainee died on the way to the hospital. Though the real cause of death is not known, the impact of exposure to the harsh climatic environment and the exacting prison conditions took their toll.

60. While the above are the deaths in custody which were brought to the attention of the Special Rapporteur, supporting the already well-documented pattern of deaths in custody in Eritrea, there are more which have not been documented. All deaths in custody must be investigated promptly. Investigations need to be in-depth, transparent and impartial. Bereaved families have the right to obtain answers whereas those who are responsible should be criminally sanctioned. Families whose loved ones died in custody should also obtain reparations.

3. Extrajudicial killing at the border – ‘shoot to kill’ practice

61. Instances of extrajudicial killings at the border continue. In July 2017, a young man was shot dead as he tried to cross the border near a frontier town. While there was no official communication about his death to his family, his relatives got to know through informal channels about his fate, though no information about the location of his remains were passed on. No further details were shared due to fear of reprisals. Family members have the right to know if one of theirs is extrajudicially executed at the border and bodies should be remitted to bereaved families for burial. Above all, they need justice.

4. Freedom of expression, association and assembly

62. The Government of Eritrea, through its Minister of Information, at first tried to dismiss the protests that took place in Akhria in October 2017 as a ‘small demonstration by one school in Asmara’ which had been dispersed.¹⁰ While the Government has not provided any official data in connection with the subsequent arrests and detention both during the October 2017 and March 2018 events, or the number of people injured and/or requiring

¹⁰ Tweet by Mr. Yemane Gebremeskel on 31 October 2017 available at <https://twitter.com/hawelti/status/925451372581015552>.

treatment because of the excessive use of force by the security apparatus, the figures run into hundreds.

63. After the protests in Akhria in October 2017, communication channels were jammed. Internet access in certain cities, was cut. So was the telephone system.

64. Fear to share anything that could be perceived by the Government as criticism, such as details about the arrest and detention of a relative, remains high.

65. Indiscriminate mass arrests were carried out to instil fear, quell any kind of dissent, protest or resistance in the face of human rights violations, as well as prevent demonstrators from assembling. The military/security forces fired gunshots and used excessive force during arrests in October 2017. Participation in the funeral of Haji Musa on 3 March was also severely punished when the Government arrested hundreds who had dared to attend.

66. There is still no free and independent reporting on the situation by Eritreans from within the country. In Eritrea, information considered to be sensitive such as the Akhria events and those which happened during Haji Musa's funeral is repressed.

67. International human rights standards to which Eritrea has adhered, including the International Covenant on Civil and Political Rights and the African Charter on Human and Peoples' Rights, stipulate that Eritrean authorities should respect freedom of expression and the right of people to assemble peacefully. Eritrean authorities should release unconditionally and with immediate effect those arbitrarily arrested for expressing their views and demonstrating peacefully.

5. Religious persecution

68. Followers of both recognised¹¹ and unrecognised religions¹² continue to be targeted for their religious beliefs; persecution persists. Arrests and detention on religious grounds continued throughout the year under review. While arrests and detention of those practicing an unrecognised religion were higher, followers of recognised religions were also arrested.

69. The Patriarch of the Eritrean Orthodox Church, Abune Antonios, remains under house arrest since January 2007. On 16 July 2017, Abune Antonios was brought to St Mary's Cathedral in Asmara, during a liturgical service. It was his first public appearance since he was put under house arrest in 2007. Allegedly, he was surrounded by security guards and did not participate in the service, nor interact with anyone. According to the information received, he was subsequently escorted to premises different from where he was previously being held.

70. During his visit to St Mary's Cathedral, a letter was read out, apparently in an effort to suggest that a reconciliation agreement had been reached between the Patriarch and the Government. Abune Antonios was ordered to step down, so that a new person could be appointed as patriarch instead. He refused and remains under house arrest, being monitored by a minder all day, who controls access to him. Abune Antonios, who is over 90 years old, suffers from severe diabetes and high blood pressure and there are concerns about his access to health care.

71. Additionally, the Orthodox school at Enda Mariam Cathedral has been closed and students ordered to report to state-run schools. Reportedly, priests were also arrested though it is not clear currently whether they have been released.

72. The activities of the Catholic Church in Eritrea have also been disrupted. The Government closed the minor Seminary in the city of Asmara in October 2017. A Catholic nun and a priest were arrested and detained for a couple of months in the process of the institution's closure. Other acts of persecution include prohibiting seminarians, nuns, priests and other religious figures from going abroad for further education. Additionally, Church religious superiors do not get visas to travel to the country for meetings or to visit affiliate congregations or orders.

¹¹ Eritrean Orthodox Church, Catholic Church, Lutheran Evangelical Church and Sunni Islam.

¹² Baptist, Evangelical and Pentecostal Churches, Jehovah's Witnesses, among others.

73. The authorities have also closed five clinics run by the Catholic Church in different cities, such as Dekemhare, Mendefera and Tsorona, justifying their act by saying that these duplicated the state-run ones. Allegedly, the explanation for such actions is that the Catholic Church does not allow its seminarians, young priests and nuns to be enlisted in the forced national service.

74. The Special Rapporteur has also received information that at least two pastors from an unrecognised church have been released earlier this year due to ill-health.

75. With regard to freedom of religion, the Commission of Inquiry on human rights in Eritrea concluded that different attacks on freedom of religion were not random acts of religious persecution but rather part of a diligently planned policy of the Government of Eritrea to eliminate unrecognised religions. The Special Rapporteur would like to add to this by saying that recent acts of persecution are aimed at further controlling those already recognised.

B. Enjoyment of economic, social and cultural rights

76. The economic conditions in Eritrea further deteriorated over the past year, with serious implications for the humanitarian situation and the enjoyment of economic, social and cultural rights by all Eritreans. Concerns about acute malnutrition and hunger were raised repeatedly with the Special Rapporteur. These individual accounts are supported by information that is publicly available, including from UN agencies.

77. Generally, it appears difficult even for major organisations, including UN agencies with a presence in the country, to monitor the humanitarian situation given the lack of reliable data and statistics. UNICEF noted that the lack of new data remained a major challenge for accurate assessments of the situation of children and women in Eritrea.¹³ The organisation's 2018 appeal 'Humanitarian Action for Children' is illustrative: Eritrea is the only one among the 32 countries on whose behalf UNICEF launched an individual appeal in 2018 where the agency is unable to provide figures relating to the total number of people, including children in need.¹⁴

78. The Special Rapporteur's interlocutors have highlighted their concerns about malnutrition and hunger among their family members in Eritrea. These concerns are corroborated by FAO's Global Information and Early Warning System (GIEWS) updated for Eritrea in April 2018, according to which cereal production in 2017 was estimated at below average levels due to a prolonged dry spell between mid-July and early August 2017, impacting negatively on vegetation conditions and crop development.¹⁵ FAO cites drought as the main cause for the low crop production. For example, in Mensura and Mogolo sub-zobas where about 13,500 and 9,900 hectares were planted with cereals, the drought caused a total crop failure, with serious consequences in terms of food security and seed availability for the 2018 season. In these areas, dry conditions also affected livestock rearing activities as pasture and water deficits resulted in poor livestock body conditions. Regarding the coastal Northern Red Sea Region, FAO notes that drought conditions resulted in the total failure of barley, wheat and millet crops and in up to 80 percent losses of sorghum crops.

79. Accordingly, data about Eritrea on FAO's list of 29 African countries in crisis requiring external assistance for food noted that Eritrea's crisis appears to be related to widespread lack of access to food, without providing any figures.¹⁶

80. UNICEF, in its 2018 appeal 'Humanitarian Action for Children', also raised concerns about the impact of recurrent drought, which particularly affects the rural population, with fewer than 50 per cent of households able to access safe drinking water, and only 28 per cent accessing improved sanitation. With reference to data from the Nutrition Sentinel Site Surveillance system, UNICEF raises concern about an increase in malnutrition rates over the

¹³ UNICEF, Humanitarian Situation Report on Eritrea, December 2017.

¹⁴ The appeal is available on <https://www.unicef.org/appeals/eritrea.html>.

¹⁵ FAO, GIEWS Country Brief Eritrea, 6 April 2018.

¹⁶ Available at <http://www.fao.org/giews/country-analysis/map/en/?action=360238->

past few years in four out of six regions of the country, estimating that 23,000 children under 5 years will need treatment for severe acute malnutrition in 2018.

81. The African Development Bank (ADB) also highlighted concerns about drought-related impacts in its African Economic Outlook for 2018.¹⁷ The ADB further noted that in 2017, Eritrea's economy slowed more sharply than expected due to dwindling economic activities and poor weather conditions that adversely affected agricultural productivity.

82. During the reporting period, limitations regarding the amount people were allowed to withdraw from their bank accounts on a monthly basis remained in place, restricted to 5000 Nakfa. These limitations were first introduced in the context of the Nakfa currency exchange programme in November 2015 when the Government decided to exchange old Nakfa currency notes for new ones. The restrictions continued to hinder economic activity and further contributed to a negative business environment. The World Bank's 2018 Doing Business report highlights the country's unattractive business environment, ranking Eritrea at 189 out of 190 economies assessed.¹⁸

83. The Special Rapporteur received information that numerous small businesses were closed during the reporting period, essentially depriving all those concerned of their livelihoods, namely the owners of various coffee shops, restaurants, hotels, cinemas, pharmacies, photo studios, workshops and clothes stores, as well as their employees and their families. Reportedly, in Asmara and other cities, such as Keren, ca. 300 businesses have been closed since November 2017. While many of the affected business owners were not formally informed of the reasons for closure, they found that their small enterprises have been sealed off overnight with a so-called 'taashigu', a note from the Ministry of Interior glued on the door.

1. Access to affordable and adequate housing

84. During an interview with ERI TV on 10 May 2018, the Minister of Land, Water and Environment, Mr. Tesfay Ghebresellasi, provided details regarding the number of houses demolished by the Eritrean authorities, arguing they had been built 'illegally' and/or were 'sold illegally'¹⁹. In total 2,398 houses were pulled down in four regions: Maekel Region – 1,490; Debub Region – 444; Gash Barka Region 403 and Anseba Region – 61. Both the Special Rapporteur and the Commission of Inquiry documented demolitions that had taken place in different cities in 2015 and 2016. It is unclear whether the Government intends to continue with demolitions.

85. Assuming that each house was inhabited on average by six persons, the total number of people made homeless would be 14,388, a figure which would include children, women and the elderly. Those affected by the demolitions are exposed to an array of additional violations of their fundamental economic, social and cultural rights, including education, health services, water and sanitation.

86. The human cost of these demolitions has been immense, compounding an already acute shortage of adequate housing in urban areas, especially in Asmara. It includes the following: (i) disruption of family life; (ii) interruption of children's education and in certain circumstances, children dropped out of schools; (iii) further impoverishment of and devastation of a whole lifetime's investment; and (iv) displacement.

87. The Special Rapporteur has information about housing projects in Halibet and in Sembel where the prices for apartments range between roughly USD 20,000 to 75,000 and for houses between USD 80,000 to 130,000, which is beyond the means of the majority of Eritreans. Reportedly, the entry level salary of a military/national service conscript is 450 Nakfa per month, i.e. approximately USD 30. There is no information about projects to provide affordable housing for the majority of Eritreans.

88. People whose houses were destroyed have no opportunity to challenge these demolitions in the courts of law and no recourse to any other complaint mechanism. According to the Minister, they had access to a task force, but as he noted himself 'the task

¹⁷ African Development Bank, African Economic Outlook, Eritrea, 2018, p.143.

¹⁸ World Bank's 2018 Doing Business report, available at <http://www.doingbusiness.org/data/exploreeconomies/eritrea>.

¹⁹ See <https://www.youtube.com/watch?v=N-8PaQNcLW4>.

force decided to take the only measures [the people] can understand, and those were demolitions’.

89. According to international law demolitions should be carried out only after adequate safeguards are provided and alternatives to the demolitions explored following genuine consultations. Those affected have the right to participate in decision-making at the national as well as community level.²⁰ The right to adequate housing implies that a government should take steps which are concrete, deliberate and targeted to fulfil this right. Eritrea, as a party to the International Covenant on Economic, Social and Cultural Rights, should guarantee at least minimum essential levels of this right by, for example, ensuring that significant numbers are not deprived of basic shelter and housing²¹. 14,388 is a significant number when considering that the population of Eritrea is 3,5 million. Additionally, should a state adopt any measure whose effect would make people worse off, one that weakens the protection of the right to adequate housing, the state would need to demonstrate that it weighed all the available options carefully. It should also show it considered the overall impact on all human rights of that said measure and fully used all its available resources in handling these.

2. Land grabs and destroyed livelihoods

90. The Commission of Inquiry on human rights in Eritrea documented forcible evictions of the Afar, a pastoralist ethnic minority who depend on their traditional lands for their livelihoods. According to reports reaching the Special Rapporteur, the Eritrean Government continues to actively pursue a land policy which has legitimized forcible displacement and dispossession of indigenous populations and minorities. Its land policy has led to arbitrary and uncompensated evictions. The Special Rapporteur was informed that forced evictions continue in particular in the area around Assab, the port city in the Southern Red Sea Region, an area traditionally belonging to or used by the Afar.

91. In its latest report of November 2017, the Monitoring Group on Somalia and Eritrea described the further expansion of the military base of the United Arab Emirates in Assab, noting the continuing constructions of a permanent infrastructure and facilities around the airport and a port facility adjacent to the airport. It also referred to the continuing presence of tanks and artillery of the United Arab Emirates on a site between the airport and the port facilities.²²

92. According to information received, the Afar people’s efforts to seek compensation for dispossession of their traditional lands during the construction of the military base in Assab were stifled. When the leaders of the Afar complained about the loss of access to their traditional lands, salt mines, and fishing grounds, they were warned to refrain from further complaints. Up to today, the complaints filed by the Afar community with the local administration remain without a response and no compensations were awarded. Many members of the ca. 2000 families concerned have fled to neighbouring countries.

93. Furthermore, the Special Rapporteur received accounts of displacement of the Kunama ethnic minority. The Commission of Inquiry reported that the Government was resettling people in areas traditionally used by ethnic minorities, a policy that appears to continue to be applied with the resettlement of other people in areas traditionally populated by the Kunama. The Special Rapporteur is concerned that as a result of a lack of rule of law and an independent judiciary, affected communities are not able to oppose decisions on forcible evictions or access adequate compensations in a court of law.

III. The plight of Eritrean asylum-seekers and refugees

94. According to UNHCR, as of December 2017, close to 300,000 refugees from Eritrea are hosted by Ethiopia and Sudan. This includes more than 112,000 Eritrean refugees in

²⁰ UN Habitat, The right to adequate housing, Factsheet No 21 (Rev1), p. 3, available at http://www.ohchr.org/Documents/Publications/FS21_rev_1_Housing_en.pdf.

²¹ UN Habitat, The right to adequate housing, Factsheet No 21 (Rev1), p. 31.

²² SEMG report 2017, S/2017/925, para. 54-55.

Sudan, and 164,668 Eritrean refugees in Ethiopia, with hundreds of asylum-seekers continuing to cross monthly.

95. In 2017, EU+ countries recorded 706,913 asylum applications; Eritrea figured among the top ten countries of origin. In total, Eritrean nationals lodged 28,049 applications for asylum - 11,000 fewer than in 2016. A slightly higher number of applications was lodged in the summer months, with a peak of 3,183 in September. Almost 7 % of all Eritrean applicants were unaccompanied children, and Eritreans represented the third largest citizenship in this category of vulnerable applicants.²³

96. The Special Rapporteur has learnt that Eritrean authorities do not give exit visas to children above five, which then forces families to take alternative measures for children to move across borders. This is an unfortunate measure which further fuels irregular movement of children.

97. For the period between January and April 2018, Eritreans constituted the 5th most common nationality of Mediterranean Sea arrivals, with 1,810 arrivals.²⁴ In Italy, Eritreans were the primary nationality that arrived by sea in March 2018, with 23% of the overall arrival numbers.²⁵

98. Regarding the situation of unaccompanied children, in 2017 over 30,000 refugee and migrant children arrived in Europe via the three Mediterranean routes; over 17,000 were unaccompanied, mostly from four African countries, including Eritrea. As children travelled to Europe, many experienced physical violence and kidnapping for ransom or detention by armed groups and other dangers.²⁶

99. Throughout her tenure, the Special Rapporteur has raised concerns regarding protection of Eritrean refugees and continued to follow the developments in a number of host countries during the reporting period.

100. In Switzerland, Eritreans continue to constitute the biggest group of asylum seekers and their situation has received considerable public attention. Following its decision of February 2017, the Federal Administrative Court adopted a second one in August 2017, holding that Eritreans who have served in the national service would not necessarily face the risk of being recalled back into service or punished.

101. In early 2018, the State Secretariat for Migration decided to reassess the temporary residence of 3000 Eritreans with the ultimate goal of return in the absence of a readmission agreement. The Special Rapporteur is fully aware of the considerable domestic pressure to curb the large number of Eritreans seeking asylum in Switzerland. However, these people, including many unaccompanied children, are fleeing from a dire human rights situation and a policy change regarding their access to protection would be difficult to justify without any significant changes on the ground.

102. In a joint urgent appeal to the Government of the United States of America in December 2017, mandate holders expressed serious concern over the risk of a return to Eritrea involving about 700 Eritrean nationals residing in the United States of America, in potential violation of the non-refoulement principle.²⁷ In September 2017, the US Department of Homeland Security had announced measures to expedite the deportation of Eritreans back to Eritrea. Mandate holders argued that given the situation in Eritrea, those forcibly returned were at high risk of being arrested and detained, as well as subjected to ill-treatment and torture. If forcibly returned, Eritreans considered by the Government as having left the country illegally would face a risk of prolonged detention without access to legal

²³ European Asylum Support Office, Early warning and Preparedness System, Latest Asylum Trends - Overview 2017, released on 1 February 2018, available at <https://www.easo.europa.eu/latest-asylum-trends-overview2017>.

²⁴ <https://data2.unhcr.org/en/situations/mediterranean>

²⁵ UNHCR, EUROPE MONTHLY REPORT March 2018, p.1, available at <https://data2.unhcr.org/en/documents/download/63240>.

²⁶ UNHCR, Desperate Journeys, January 2017 – March 2018, p. 15, available at <https://data2.unhcr.org/en/documents/download/63039>.

²⁷ Communications report of special procedures, A/HRC/38/54, see also reply by the United States of America of 7 March 2018.

representation and family members. The Special Rapporteur appreciates the substantive reply from the Government of the United States dated March 2018, as detailed in the communications report.

103. In a joint communication to the Government of Israel dated February 2018, mandate holders raised concerns about the risk of refoulement of Eritrean nationals residing in Israel through forced relocation to third countries on the African continent possibly not offering effective protection to those affected.²⁸

104. Mandate holders also expressed concern about Israel's extremely low recognition rate of asylum applications among Eritrean nationals, and the lack of recognition of Eritrean draft evaders and deserters as entitled to refugee status. The Special Rapporteur regrets that at the time of writing, no substantive reply to the joint communication has been received from the Government of Israel.

105. In early April, for a brief moment, it looked as if Israel had revised its non-voluntary relocation policy of Eritrean and other nationals to African countries, with the announcement of an agreement that about 16,000 Eritreans and Sudanese nationals would be resettled to third countries to be determined, while others would be receiving a suitable legal status in Israel.²⁹ However, shortly after the announcement, the Prime Minister of Israel cancelled the agreement and promised to pursue the deportation of all Eritreans and other nationals. Once again, the future of the Eritreans remains unclear.

IV. Accountability and justice

106. The call for justice remains one of the central recommendations of the Commission of Inquiry on human rights in Eritrea, which has guided the work of the Special Rapporteur during her final year. The Commission called for accountability for past and persistent human rights violations and crimes, including enslavement, imprisonment, enforced disappearance, torture and other inhumane acts, persecution, rape and murder.

107. In her 2017 report to the Human Rights Council, the Special Rapporteur laid out the different avenues at national, regional and international level that exist for victims of international crimes seeking justice. In particular, she had focused on options for accountability at the domestic level under the principle of universal jurisdiction. During the reporting period, she continued her efforts to raise awareness about accountability mechanisms at the domestic level, in particular regarding the important role of victims. The pursuit of justice and accountability is a long-term process that will require continued sustained advocacy efforts by all involved actors.

V. Reflections and conclusions

108. The Special Rapporteur would like to commend the Eritrean authorities for their efforts to engage on human rights at both the UN level and the regional level. However, it is unfortunate that such engagement has barely resulted in tangible progress in the enjoyment of human rights on the ground. Eritreans from all walks of life with whom the Special Rapporteur spoke have told her that if trust is to be rebuilt with the leadership of the country, they need to get assurances that their human rights will be respected in the short, medium and long-term.

109. In retrospect, the overall assessment of the Special Rapporteur regarding the situation on human rights in Eritrea remains grim:

- (a) Eritrea's human rights landscape remains complex, compounded by non-respect for the rule of law and weak institutions, including the judiciary,
- (b) The national/military service, identified by the Commission of Inquiry on human rights in Eritrea as enslavement of a whole population, a crime against humanity on

²⁸ Communications report of special procedures, A/HRC/38/54.

²⁹ See UNHCR Press Release 'UNHCR and Israel sign agreement to find solutions for Eritreans and Sudanese', 2 April 2018, available at <http://www.unhcr.org/news/press/2018/4/5ac261bd4/unhcr-israel-sign-agreement-find-solutions-eritreans-sudanese.html>.

reasonable grounds to believe, remains indefinite; except for a small increase in pay in 2015, no further reform has been communicated;

(c) Other crimes against humanity, including imprisonment, enforced disappearance, torture and other inhumane acts, persecution, rape and murder, continue;

(d) The national/military service and the people's militia detain people in a highly militarized society, making it impossible for them to enjoy a normal life. The Special Rapporteur notes with concern that the military holds a most prevalent role in the lives of Eritrean people and in the country's national institutions;

(e) The Eritrean Government's response to dissent is arbitrary arrests and detentions in over-crowded detention centres with no means to challenge the legality of the detentions before an impartial and independent court of law;

(f) Peaceful demonstrations and gatherings in compliance with international human rights standards are subjected to excessive use of force by the military and/or law enforcement apparatus; demonstrators are arbitrarily detained for expressing their views while they assemble;

(g) The government's actions aimed at controlling religious practice in Eritrea through interferences of different kinds do not enhance religious tolerance which has hitherto characterized harmonious relations among different religious communities in Eritrea;

(h) Detainees are especially vulnerable to violations, including torture, where legal procedures and safeguards, such as access to family, lawyers and doctors are denied;

(i) Pre-trial detention is the norm and not the exception;

(j) Independent institutions which ensure separation of powers, with checks and balances built in within the system, are either weak or absent;

(k) Impunity of perpetrators of crimes against humanity and human rights violations remains an unrelenting challenge to be addressed through effective measures. Repeatedly, the government has failed to prosecute these to ensure accountability;

(l) Essentially, Eritrea has shown that victims of crimes against humanity and human rights violations are not about to get adequate remedies. Thus, impunity has been strengthened and entrenched, with the prospect that human rights violations will continue to be committed while perpetrators are shielded.

VI. Recommendations

The Special Rapporteur recommends that the Government of Eritrea:

110. **Put an immediate end to all human rights violations documented by the mandates of the Special Rapporteur and the Commission of Inquiry on human rights Eritrea, including the ongoing ones as highlighted in the present report;**

111. **Take into earnest consideration the recommendations expressed in the present report, her previous reports and those of the Commission of Inquiry on human rights in Eritrea and implement them by adopting an action plan which is specific, measurable, achievable, relevant and time-bound;**

112. **Release all prisoners of conscience, including G-15 and those incarcerated for their religious beliefs unconditionally;**

113. **Put an immediate stop to arbitrary arrests and detention and immediately release all those arbitrarily detained, more specifically children, the elderly and women;**

114. **Address the shortcomings regarding over-incarceration in congested detention centres and their negative impact, including death in custody by:**

- **Ensuring that those accused of a crime have the opportunity to present their case before action is taken against them as per basic principles of due process;**
- **Giving access to legal counsel to detainees;**
- **Using detention centres only for the purpose for which they are fit;**

- Developing and implementing alternatives to custodial measures, especially for children, the elderly and women and those whose health conditions are precarious;
115. Set up, with immediate effect, an independent oversight and complaints mechanism to review cases requiring urgent attention, including those in custody for prolonged durations without being charged or tried, cases of people whose health conditions are precarious, children, the elderly and women, including mothers with children;
116. Apply the Standard Minimum Rules for the Treatment of Prisoners, also known as the Nelson Mandela Rules with immediate effect;³⁰
117. Respect and promote the right to freedom of expression, peaceful assembly and association in line with its international human rights obligations, in particular by:
- Holding to account members of the security forces who used excessive force and caused injury during demonstrations;
 - Ensuring the immediate and unconditional release of all those who were arbitrarily arrested and detained during demonstrations; and
 - Reviewing relevant existing legislation and enact new ones to strengthen the protection of the rights to freedom of expression and freedom of assembly, bringing it in line with international and regional human rights instruments.
118. Provide avenues of redress and access to remedies for those whose houses have been demolished or land grabbed, in line with international human rights law, to be able to challenge demolitions or claim their rights to just compensation and guarantee they are not subjected to excessive use of force or detention.
119. Respect land rights in relation to traditional ownership for land and access to fishing grounds to protect the livelihoods of local communities and ensure that the land can be put to new uses only with their free, prior and informed consent.
120. Extend a standing invitation to special procedures mandate holders to visit Eritrea. In doing so, Eritrea will indicate both its preparedness to receive a country visit from special procedures mandate holders and its commitment to cooperate with special procedures, considered as a core pillar of the international system for the protection and promotion of human rights.³¹
121. Ensure unhindered access to all humanitarian organisations, including UN Agencies and faith-based ones, to assist following failed harvests, drought-related hardships and other humanitarian situations, including health care for isolated areas.

The Special Rapporteur urges Member States and international organisations to:

122. Take steps towards achieving accountability for those responsible for serious human rights violations in Eritrea, including through a referral by the Security Council to the International Criminal Court as per the recommendation of the Commission of Inquiry on human rights in Eritrea that there are reasonable grounds to believe that crimes against humanity have been committed;
123. Exercise jurisdiction over crimes against humanity by acting on the findings and recommendations of the Commission of Inquiry on human rights in Eritrea, and thus help to protect the population of Eritrea from any further such crimes;
124. Protect Eritreans who have sought refuge in, or transiting through a Member State's territory by abiding to the principle of non-refoulement and end bilateral and other arrangements that jeopardize the lives of those seeking asylum;
125. Urge the Government of Eritrea to adopt concrete benchmarks and deadlines to ensure consistent and tangible progress of the human rights situation, namely by:

³⁰ United Nations Standard Minimum Rules for the Treatment of Prisoner (The Nelson Mandela Rules), General Assembly Resolution 70/175.

³¹ For details on 'standing invitations' see http://spinternet.ohchr.org/_Layouts/SpecialProceduresInternet/StandingInvitations.aspx.

- Implementing the 1997 Constitution immediately or instituting constitutional reform, ensuring the participation of all, including minorities;
- Carrying out necessary reforms to hold free and fair elections; and
- Guaranteeing the protection of the right to life, liberty and security of all Eritreans.

126. Specifically, the Special Rapporteur requests international and bilateral cooperation agencies to include a human rights component in any programme agreed with Eritrea. For example, they could provide for the:

- Review of laws, including the civil and penal codes enacted in 2015/2016 to align them with international human rights instruments to which Eritrea has voluntarily adhered;
- Incorporation of a module on the interpretation of domestic laws in compliance with human rights law as a compulsory requirement in the training of judges and all personnel with an adjudicatory function;
- Specifically-tailored training programmes in human rights for prosecutors, lawyers, court and correctional services personnel and well as for law-enforcement agents and the military;
- Accelerated training programmes for judges, prosecutors, lawyers, as well as court and correctional services personnel to enhance their capacity to handle cases in a just, fair and speedy manner;
- Wide distribution and access to judicial and legal information through publications of legal texts, court decisions and jurisprudence.

The Special Rapporteur appeals to the Human Rights Council to:

127. Denounce the enduring systematic or widespread human rights violations in Eritrea, as per the findings of the Commission of Inquiry on Eritrea;

128. Maintain the intense scrutiny needed to improve the enjoyment and protection of human rights for all Eritreans;

129. Recommend to the Government of Eritrea to invite the following special procedures mandate holders to carry out visits to the country at the earliest possible opportunity, in accordance with the terms of reference for agreed country visits and with no pre-conditions attached:

- The Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression ³²
- The Special Rapporteur on the right to food ³³
- The Special Rapporteur on freedom of religion or belief ³⁴
- The Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment ³⁵
- The Special Rapporteur on extrajudicial, summary or arbitrary executions ³⁶
- The Special Rapporteur on the situation of human rights in Eritrea ³⁷
- The Working Group on arbitrary detention ³⁸

³² Request sent in 2003, latest reminder sent in 2015.

³³ Request sent in 2003.

³⁴ Request sent in 2004, latest reminder sent in 2005.

³⁵ Request sent in 2005, latest reminder sent in 2017.

³⁶ Request sent in 2010.

³⁷ Request sent in 2012, latest reminder sent in 2017.

³⁸ Request sent in 2018.

- **The Special Rapporteur on the rights to freedom of peaceful assembly and of association**³⁹

The Special Rapporteur enjoins the African Union to:

130. Set up an appropriate accountability mechanism under the aegis of the African Union to hold perpetrators of crimes against humanity in Eritrea accountable for such crimes.

The Special Rapporteur encourages civil society to:

131. Continue its important work of monitoring, documenting, reporting, analysing as well as raising awareness about the human rights situation in Eritrea to maintain a high-level of scrutiny and to pave the way for accountability.

³⁹ Request sent in 2018.