



DEFEND DEFENDERS

East and Horn of Africa Human Rights Defenders Project

Background paper:

Ensuring meaningful follow-up on Eritrea at HRC41

May 2019

The July 2018 Eritrea-Ethiopia summit, which materialised the diplomatic *rapprochement* observed in the Horn of Africa since the appointment of Dr. Abiy Ahmed as Prime Minister of Ethiopia (2 April 2018), was welcomed by all regional and international stakeholders. It opened a new chapter for peoples and governments of the region. However, since the signing of the peace agreement between Eritrea and Ethiopia, the improvement of relations with Djibouti and Somalia, and the lifting of the Eritrea arms embargo by the UN Security Council, no progress in Eritrea's domestic human rights situation has been reported.

1. Eritrea's human rights situation

On 11 March 2019, during the enhanced interactive dialogue at the 40th session of the UN Human Rights Council's (the Council), Deputy UN High Commissioner for Human Rights Kate Gilmore stressed: "IAs far as OHCHR is aware, the actual human rights situation for the people of Eritrea has not improved in the past year."

She mentioned the ongoing failure to enforce the Constitution, impunity for past and ongoing human rights violations, arbitrary and incommunicado detentions, violations of the right to a fair trial, lack of information on the fate of disappeared persons, lack of access to justice, the imposition of severe restrictions to the enjoyment of human rights, including in relation to human rights defenders (HRDs) and civil society, and the continued use of indefinite national service. She also said that the reopening of the border with Ethiopia "prompted a new exodus of Eritreans" and that "in the absence of promising signs of tangible progress, the flow of asylum-seekers [was] not expected to drop." She once again called on the Eritrean government to meaningfully cooperate with the UN human rights system, despite the missed opportunity that was the Universal Periodic Review (UPR) of the country on 28 January 2019.¹

2. Need for continued HRC monitoring and reporting

Ahead of the Council's 41st session (HRC41, to be held from 24 June-12 July 2019), several considerations need to be taken into account with regard to scrutiny of Eritrea's situation.

Firstly, the human rights situation in Eritrea calls for a high level of monitoring and public reporting. Since 2012, Eritrea has been the object of successive Council resolutions, adopted under agenda item 4, and investigative mechanisms, including a Special Rapporteur (SR) and a Com-

¹ On that occasion, although more than 30 states stressed the need for Eritrea to engage and cooperate with the UN and/or regional mechanisms, the Head of the Eritrean delegation rejected HRC mechanisms as "futile attempts to intimidate the Eritrean people" and to "tarnish the country's reputation" and offered a blanket denial to recommendations regarding forced labour and slavery, among other topics.)

mission of Inquiry (CoI). All have concluded that **grave human rights violations** have been, and continue to be, committed in Eritrea. The Council should formulate a meaningful, principled response to the situation on the ground, which remains one of the most serious on the African continent.

Secondly, beyond the case of Eritrea, the Council needs to preserve its **credibility and integrity** by making sure there is adequate follow-up to its own resolutions and mechanisms. In this regard, the last, streamlined Council resolution on Eritrea, HRC resolution [38/15](#),² invites the SR to "assess and report on the situation of human rights and the engagement and cooperation of the Government of Eritrea with the Human Rights Council and its mechanisms, as well as with the Office of the High Commissioner, and, where feasible, to develop benchmarks for progress in improving the situation of human rights and a time-bound plan of action for their implementation" (OP15).

The Council should adopt a holistic approach, which includes monitoring, reporting, the provision of advisory services, and strategic engagement on the basis of a road map for the country's human rights reforms, to push for domestic progress. Eritrea's membership in the Council (2019-2021) should be leveraged for both domestic change and cooperation with the Council and its mechanisms, in line with the membership criteria outlined in UNGA resolution [60/251](#).³ In this regard, the last statements made by the Eritrean Government, at the Council's 40th session and with regard to other UN human rights bodies, do not bode well. In the "comments" the Government sent after the publication of the UN Human Rights Committee's concluding observations, it denounced the latter as "factually incorrect," "one sided," and undermining the "cooperation spirit."⁴

Thirdly, like-minded states should strive to **create cross-regional support** for continued monitoring and reporting on the country. Traditional co-sponsors of Eritrea resolutions, past and potential new friends of initiatives on Eritrea, and regional actors should join efforts to convey a collective expectation of progress to the Eritrean government.

Progress should be measured by demonstrable progress on the ground, action on a time-bound plan of action for reforms, progress on the implementation of UN and regional recommendations, and cooperation and engagement.

3. Elements for a follow-up resolution

While the continuation of the current approach (which relies on a Special Rapporteur mandate) would formulate a principled response to Eritrea's lack of progress in improving its human rights record, several options are possible for the Council to ensure meaningful follow-up to its action to date. To ensure consistency and continuity of action, the Council should recall its previous resolutions and all reports on the situation of human rights in Eritrea, as well as relevant resolutions and decisions of the African Commission on Human and Peoples' Rights. The following minimum elements should be included in any resolution on Eritrea:

a. Human rights situation:

The Council should condemn, as it did in HRC resolution 38/15, the reported findings of systematic, widespread and gross human rights violations that have been and are being committed in a

² A/HRC/RES/38/15, "Situation of human rights in Eritrea," 6 July 2018, http://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/RES/38/15 (accessed 17 May 2019).

³ A/RES/60/251, "Human Rights Council," 15 March 2006, https://www2.ohchr.org/english/bodies/hrcouncil/docs/A.RES.60.251_En.pdf (accessed 17 May 2019).

⁴ See the documents on the page of the Committee's 125th session: https://tbinternet.ohchr.org/_layouts/treatybodyexternal/SessionDetails1.aspx?SessionID=1296&Lang=en.

climate of generalized impunity in Eritrea, and reiterate that all those responsible must be held accountable.

b. Monitoring:

The human rights situation in Eritrea should continue to be assessed and monitored through the documentation of, and investigation into, cases and patterns of violations, and monitoring of human rights developments in the country. Provisions to this effect should be included in any resolution on the country, notwithstanding the body or mechanism tasked with it.

c. Public reporting:

Eritrea's human rights situation has been discussed every year at the Council, including in enhanced interactive dialogues, since the establishment of the SR mandate in 2012. It should continue to be inscribed on the Council's agenda and regularly and publicly discussed in dedicated interactive dialogues, some of which should be enhanced with a view to bringing together a diversity of stakeholders.

d. Respect for membership standards:

As Eritrea became a member of the Council in January 2019, the Council should urge the Government to cooperate fully with the Office of the High Commissioner and the mechanisms of the Human Rights Council, including by granting them access to the country, in line with Council membership obligations. This would be in line with the Council's practice, which has systematically referenced membership standards in resolutions concerning sitting members.

e. Follow-up to previous resolutions:

The Council should ensure adequate follow-up to the recommendations made to Eritrea by UN human rights bodies and mechanisms. These recommendations include addressing systemic issues, including accountability for past and ongoing violations, and the "benchmarks" and "time-bound plan of action for their implementation" the Council requested the SR to develop. The Council should move towards outlining a road map for human rights reform in Eritrea.

While Eritrea's cooperation, pursuant to Council membership obligations, is desirable and would allow the UN human rights system to open a new chapter in its relationship with the country, the authorities' refusal to cooperate should not be an obstacle to Council action. At this critical juncture in the Horn of Africa, the Council should ensure both that avenues remain open for dialogue and cooperation with Eritrea – the onus being on the Government to change course and engage – and that scrutiny of the country's situation remains high.