



ACHPR
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Human and Peoples' Rights

Human Rights our
Collective Responsibility

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**Consideration of reports submitted by States Parties under Article 62 of
the African Charter on Human and Peoples' Rights**

**Concluding Observations on the Combined 2nd and 3rd Periodic Report of
the State of Eritrea under the African Charter on Human and Peoples
Rights (2017-2020)**

Banjul 8 March 2024

Introduction:

1. The State of Eritrea (Eritrea) has been a State Party to the African Charter on Human and Peoples' Rights (the African Charter or the Charter), since 14 January 1999.
2. In 2017, Eritrea submitted its Initial National Report on the implementation of the African Charter covering the period 1999-2016. The Report was reviewed during the 62nd Ordinary Session of the African Commission on Human and Peoples Rights (The Commission), held in Nouakchott (Islamic Republic of Mauritania) from 25 April to 9 May 2018.
3. The related Concluding Observations were adopted at the 63rd Ordinary Session of the African Commission, held in Banjul (The Gambia) from 24 October to 13 November 2018.
4. The Commission takes note with appreciation of the participatory and inclusive process that led to the preparation of this Periodic Report (2017-2020), led by the National Coordinating Body (NCB) and the Ministry of Foreign Affairs, involving ministries, departments and agencies of the Government.
5. The Commission notes that Eritrea has not ratified the Protocol to the African Charter on the Rights of Women in Africa (The Maputo Protocol)¹, nor the African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (The Kampala Convention).²
6. The present Report was reviewed on 29 October 2023, in the framework of the ACHPR 77th Ordinary Session, held in Arusha (The United Republic of Tanzania), from 20 October to 9 November 2023.
7. A Delegation from Eritrea, including Mr. Biniam Berhe, Chargé d'Affaires, and Mr. Sherif Omer, First-Secretary, at the Embassy of the State of Eritrea to the Federal Republic of Ethiopia and Permanent Mission to the African Union and the United Nations Economic Commission for Africa, attended the review³.
8. The Commission expresses its appreciations for the presentation of the Report by the Delegation of Eritrea, followed by a constructive dialogue.
9. The Eritrean Delegation informed that all the replies to the questions raised during the review will be sent in a written contribution.

¹ Signed on 25 April 2012

² *Ibid.*,

³ The Delegation of Eritrea had requested the ACHPR to present the report virtually but according to the technical arrangements provided by the Session's host party, the hybrid / virtual form was not applicable.

10. Accordingly, on 4 December 2023, the Commission received a written contribution from the Embassy of Eritrea in Addis Ababa. The Commission wishes to note that the written replies of the Eritrean Government did not cover the general and specific questions under the Articles: 8, 10, 11, 12, 13, 14, 15, 17, 21, 22, and 26. The Commission wishes to express its deep concern about the lack of interaction and feedback from the Eritrean Delegation, regarding the questions raised during the review. The Commission wishes to recall rule 80-2 of its 2020 Rules of Procedure, which states: “*Representatives of States Parties shall respond to the questions prepared by the Commission, as well as to questions from the members of the Commission and provide, when necessary, any other information requested before, during or after the session*”. In this regard, the Commission welcomes the Delegation to address the gaps noted in the report.

11. The Periodic Report under review highlights developments achieved by Eritrea in the promotion and protection of human and peoples' rights, as well as legislative and administrative measures taken in the framework of the implementation of the African Charter provisions, for the period 2017-2020.

12. At the normative level, the Commission takes note of the national codes adopted in 2015, even if their entry into force does not yet appear to be effective. The Delegation informed the 77th Public Session that efforts are made to incorporate human rights obligations in the new legislative texts currently in the final review stage.

13. The Commission also welcomes the ratification by Eritrea of the African Youth Charter (2009), as well as ILO Worst Forms of Child Labour Convention (2011), and commends the Government for this positive developments.

14. At the institutional level, the Commission takes note of the Inter-Ministerial Committee on Human Rights, which acts as a *de facto* National Mechanism for Reporting and follow-up in Eritrea. However, the Commission notes with concern that Eritrea doesn't have any National Human Rights Institution accredited by the Global Alliance of National Human Rights Institutions.

15. Eritrea acknowledges the existence of challenges relating to human rights promotion, *inter alia*, the Covid-19 pandemic and limited human and financial resources.

16. The present Concluding Observations provide an account of the positive aspects and the factors restricting the enjoyment of human rights in Eritrea. It also highlights areas of concern identified in the Report, and from additional information provided during the review.

17. Finally, the Commission makes recommendations to Eritrea on measures needed to strengthen the enjoyment of human rights, as guaranteed by the African Charter, as well as other relevant regional and international human rights instruments.

I. General Recommendations

- Article 62 : Reporting obligations

18. The Commission takes note with appreciation of the Eritrean Government commitment towards its reporting obligations under the African Charter.

Recommendation: Eritrea should continue its commitment to the submission of periodic reports and strengthen its compliance with the relevant Commission's guidelines in this regard.

- Ratifications

19. The Delegation of Eritrea informed the Commission that the Government takes note of the concerns raised relating to ratification and will update the Commission on further developments in due time.

20. While commending the ratification by Eritrea of the African Youth Charter (2009), the Commission remains concerned that many African and other relevant international human rights instruments are yet to be ratified by the State Party. For instance, Eritrea has not ratified so far any of the five Protocols to the African Charter.

21. The same concern relating to the ratifications of African and other international human rights' instruments had already been raised in 2018, during the review of Eritrea's Initial Report.

Recommendations:

- The Commission reiterates its recommendation to Eritrea to ratify the following instruments:
 - In the African Union's framework:
 - (i) The OAU Convention Governing the Specific Aspects of Refugee Problems in Africa (1969) ;
 - (ii) The Protocol to the African Charter on Human and Peoples' Rights on the Establishment of an African Court on Human and Peoples' Rights (the Court Protocol) (1998) ;
 - (iii) The Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (the Maputo Protocol) (2003) ;
 - (iv) The African Union Convention on Preventing and Combating Corruption (2003) ;
 - (v) The African Charter on Democracy, Elections and Governance (2007) ;

- (vi) The African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (the Kampala Convention) (2009) ;
 - (vii) The Protocol to the African Charter on Human and Peoples' Rights on the Rights of Older Persons in Africa (2016);
 - (viii) The Protocol to the African Charter on Human and Peoples' Rights on the Rights of Persons with Disabilities in Africa (2018);
 - (ix) African Charter on the Values and Principles of Public Service and Administration (2011);
 - (x) Protocol on the Statute of the African Court of Justice and Human Rights (2008);
 - (xi) Protocol to the OAU Convention on the Prevention and Combating of Terrorism (1999).
- In the United Nations' framework:
 - (i) The Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty (1989) ;
 - (ii) The International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (1990) ;
 - (iii) The Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (2002) ;
 - (iv) The International Convention for the Protection of all Persons from Enforced Disappearance (2006);
 - (v) The Convention on the Rights of Persons with Disabilities (2006) ;
 - (vi) The Optional Protocol to the Convention on the Rights of Persons with Disabilities (2006) ; and:
 - (vii) The Optional Protocol to the International Covenant on Economic, Social and Cultural Rights (2008).

- **Article 1** : legislative and other measures on the domestication of the Charter's provisions

22. The report states that the national codes adopted in 2015 are still in the sensitisation and refinement stage before they can be promulgated to take functional and legal roles (Paragraph 7). The drafting of a new Constitution was also initiated in May 2015. The Eritrean Delegation also informed that other national codes are currently in the final review stage.

23. While commending the adoption of any legislative instrument aiming at strengthening the protection and the promotion of human rights in the country, the delay observed in the process (since 2015) is a source of concern for the Commission.

Recommendations: Eritrea should:

- Fast-track the adoption and the promulgation of the new national codes and ensure that human rights guarantees are incorporated therein.
- Develop a National Action Plan on Human Rights, and provide adequate resources for its implementation.
- Take specific actions to disseminate and popularise the African Charter.

- **Article 2: Non-discrimination**

24. The Commission takes note of the concrete examples provided by the Delegation of anti-discrimination provisions in national codes and legislation.

25. However, the Eritrean Delegation recognises the absence of a separate legislation on the prohibition of discrimination.

Recommendations: Eritrea should:

- Consider the adoption of comprehensive legislation prohibiting discrimination, in all spheres, based on sex, ethnic affiliation, religion, disability, albinism, socio-economic status, HIV/AIDS status, political opinions or other status.
- Adopt specific measures to combat or discourage discriminatory practices under any customary law.

- **Article 8: Right to Freedom of Conscience**

26. The Commission notes that the Delegation of Eritrea did not provide any written reply on the issues raised under Article 8, dealing with the right to freedom of conscience.

27. Therefore, the Commission remains concerned about allegations (..or indicate the sources) that some people suffered from discrimination, have been arrested or even lost their citizenship because of their spiritual believes.

29. The Commission regrets that the Government of Eritrea did not implement its Provisional Measures in Communication 716/19 - Three Jehovah's Witnesses (represented by Lawyers Associated for Human Rights in Africa) v State of Eritrea.

30. In 2018, the Commission already recommended to the State Party to ensure that followers of the Jehovah Witness faith retain their citizenship rights in accordance with

the Citizenship Proclamation No. 21/1992, which provides that "Eritrean citizenship can be acquired by birth, by naturalisation, by adoption and by marriage, without discrimination".

Recommendations: Eritrea should:

- Guarantee the freedom of conscience regardless recognition (or not) of the specific religion by the authorities.
- Ensure full respect of the legislative guarantees and effective remedies in judicial and administrative proceedings, regarding freedom of conscience and the related discrimination.
- Strengthen the role and the resources of the Interfaith Joint Forum of Religious Leaders in a way to promote dialogue and mutual understanding.
- Prevent all kinds of discrimination against Jehovah's Witnesses and guarantee their right to freedom of conscience.

- **Article 13: Right to Participate in Public Affairs / Government**

31. The Delegation of Eritrea did not provide any written reply to the issues raised under Article 13, dealing with the right to participate in Public Affairs / Government.

32. In fact, the Delegation did not provide any updates on the legal framework of elections in Eritrea under the 1997 Constitution, nor on elections already organised or expected in Eritrea for the forthcoming years.

33. Reports state that Eritrean national elections were set for 1997, then postponed to 2001, but did not take place finally.

34. Also, the Commission is concerned by the capacity of a one party regime to guarantee the right to all citizens, including those who may not agree with the Government's policies, to participate in public affairs.

35. In 2018, the Commission recommended to the State Party to urgently consider holding national presidential and legislative elections.

Recommendations: Eritrea should:

- Ratify the African Charter on Democracy, Elections and Governance.
- Consider adopting multipartyism to boost and enhance political participation.
- Urgently take concrete measures to hold the National Elections, in order to give a concrete expression to the right of Eritreans to participate in public affairs.
- Provide in its next Report an update on the legal framework of elections

- **Article 26:** NHRI and other institutions

36. Eritrea doesn't have any National Human Rights Institution (NHRI) accredited by the GANHRI. In 2018, The Commission already recommended to the State Party to establish an independent mechanism, such as a National Human Rights Institution, with functions specifically dedicated to the promotion and protection of human rights, in compliance with the Principles relating to the Status of NHRI (the Paris Principles).

37. The Commission notes that the Delegation of Eritrea did not provide any written reply to the issues raised under Article 26, dealing with the institutions involved in the promotion and the protection of human rights.

Recommendations: Eritrea should:

- Establish a Human Right institution with adequate human and financial resources in accordance with the Paris Principles to independently monitor the human rights situation in the State Party.
- Support the role of the National Mechanism for Reporting and follow-up, namely the Inter-Ministerial Committee on Human Rights, in assessing the compliance of the State Party with its international obligations under the promotion and the protection of human rights.

II. Civil and Political Rights

Mandate of the Working Group on the Death Penalty and Extrajudicial, Summary or Arbitrary killings and Enforced Disappearances in Africa

- Article 4: Right to Life

38. The Delegation informed that the Transitional Penal Code of Eritrea (TPCE) envisages the death penalty as a mode of criminal punishment to be imposed on criminals convicted of serious offences. However, Eritrea is considered Abolitionist in Practice. The Delegation informed that since independence, only four (4) convicted criminals have been sentenced to be punished by death and the last execution took place in 1999.

39. The Commission takes note of the legislative framework for the death penalty in Eritrea, in particular the general principles, the treatment of prisoners awaiting execution, and the prohibition, suspension and commutation of the death sentence (TPCE Articles 116 to 118).

40. In 2018, the Commission recommended that Eritrea abolish the death penalty in law, and commute all prisoners sentenced to capital punishment to life imprisonment, as well as to enact legislation which specifically criminalises extrajudicial killings.

Recommendations: Eritrea should:

- Consider moving from the “*de facto*” moratorium to the “*de jure*” death penalty abolition.
- Consider acceding to the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty and supporting the ongoing efforts towards the adoption of a Protocol to the African Charter on Human and Peoples’ Rights on the abolition of the death penalty.
- Strive to commute death sentences to life imprisonment.
- Ensure appropriate investigations, prosecutions or convictions with regards to allegations of unlawful and arbitrary killings.
- Ratify the International Convention for the Protection of All Persons from Enforced Disappearance and adopt a comprehensive law on enforced disappearances.
- Disseminate and implement the Commission’s Guidelines for the Protection of All Persons from Enforced Disappearance in Africa.⁴

⁴ <https://achpr.au.int/fr/documents/2022-10-25/lignes-directrices-protection-personnes-disparitions-forcees-afrique>

Mandate of the Committee for the Prevention of Torture in Africa

- **Article 5:** Prohibition of Torture and Cruel, Inhuman and Degrading Treatment

41. The Delegation of Eritrea did not provide any written reply to the issues raised under Article 5, dealing with the Prohibition of Torture and Cruel, Inhuman and Degrading Treatment.

42. Furthermore, the Report under review doesn't provide any information on the legal background or the prohibition of torture in Eritrea. Even the Initial Report referred to, does not include any substantial information on this topic.

43. In 2018, the Commission recommended to the Government of Eritrea to enact specific legislation which prohibits torture.

Recommendations: Eritrea should

- The Commission reiterates its recommendation to Eritrea to enact specific legislation which defines, prohibits and criminalises torture, in accordance with international standards.
- Lift the reservation on Article 20 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and ratify the Optional Protocol to the same Convention.
- Establish an independent mechanism to which all persons can report allegations of torture, as recommended by the Commission in 2018.
- Adopt standards for providing free legal aid and redress, including compensation and rehabilitation, to victims of torture.

Mandate of the Special Rapporteur on Prisons, Conditions of Detention and Policing in Africa

- **Article 3:** Right to Equality before the Law and Equal Protection of the Law
- **Article 6:** Right to Personal Liberty and Protection from Arbitrary Arrest
- **Article 7:** Right to Fair Trial

44. The Commission takes note of the Ministry of Justice's strategy to improve the quality of the justice system, through the introduction of legal aid, the promotion and institutionalisation of out-of-court dispute resolution mechanisms through community courts (arbitration, mediation, reconciliation mechanisms), enhancing the ongoing public awareness-raising efforts and access to information, introducing uniform standard procedural forms and improving the working conditions of judges.

45. However, the Delegation of Eritrea did not provide any written reply to the issues raised under Articles 3, 6 and 7, dealing with the Mandate of the Special Rapporteur on Prisons, Conditions of Detention and Policing in Africa.

Recommendations: Eritrea should:

- Provide in its next Report disaggregated and updated statistics on the prison population, as well as prison carrying capacity and mean time spent in prison in the country.
- Establish an independent organ entrusted with the mandate to access to prisons, investigate cases of violence against prisoners, conduct regular monitoring of detention centres, and assess the conditions under which the detainees are kept.
- Provide, in the next Report, additional information on the composition and the mandate of the National Police. Provide, in the next Report, information on the religious freedom of Eritrean prisoners professing "Jehovah's Witnesses" religion in prisons and places of detention, exercised in accordance with Article 8, vis-à-vis prisoners of other faiths, as referred to in the Periodic Report (Paragraph 40).
- Disseminate the ACHPR relevant instruments, such as the Luanda Guidelines, and the Mandela Rules, and integrate them into the initial and ongoing training programs of law enforcement officials;
- As a result of the training carried out with prisoners, provide data on cases brought against officials and their accountability (criminal and disciplinary) for misconduct, due to prisoners becoming aware of their rights;
- Strengthen the use of non-judicial, alternative or non-custodial sentences, for minor infractions, where deprivation of liberty may be a measure of last resort.
- Provide information on measures taken to improve issuance of bonds and bail, in order to reduce the number of remanded persons in detention facilities and to face overcrowding in prisons.
- Pay particular attention to the situation of minors in conflict with the law, bearing in mind the minimum penal age in force.
- Provide information on the age limit at which a child can remain in prison with their mother; and
- Strengthen the presence of women in the police forces (19.2% currently) and prison service.

Mandate of the Special Rapporteur on Freedom of Expression and Access to Information

- **Article 9:** Right to Receive Information and Free Expression

46. The Commission takes note of the information provided by the Delegation, stating that despite the absence of a specific law on the right to information, as recommended in 2018, the Government's policy precepts fully embrace this approach.

47. Article 14 of the Transitional Civil Code of Eritrea (TCCE) guarantees the right to express own ideas, which may only be restricted by the respect for the right of others". The Delegation informed that no effort has been registered to amend the provisions of the Penal Code which criminalise defamation, as every right has its own limitations and also carries a corresponding duty towards others.

Recommendations: Eritrea should:

- The Commission reiterate its recommendation to Eritrea to ensure enactment of a law which provides for the right to access information, in view of the importance of this fundamental right, and in accordance with international standards and as elaborated in the Commission's Model Law on Access to Information in Africa.
- The Commission reiterates its recommendation to Eritrea to amend the provisions of the Penal Code which criminalise defamation, in accordance with the Commission's Resolution on Repealing Criminal Defamation Laws in Africa and **Principles 21 to 23 of the Declaration of Principles on Freedom of Expression and Access to Information in Africa.**
- Ensure that all restrictions on freedom of expression and access to information, take into account the principle of reasonable and justifiable limitations, as elaborated in **Principle 9** of the Declaration.
- Provide in its next periodic report details on the national media landscape.
- Strengthen the diversity of the media landscape by encouraging the private sector to open up audiovisual media outlets.
- Ensure a better protection for journalists against harassment and intimidation, as elaborated in the Commission's Resolution on the Safety of Journalists and Media Practitioners in Africa and Principles 19 and 20 of the Declaration.
- Strengthen citizens' equitable access to the Internet, access to information and freedom of expression on the Internet, , as elaborated in **Principle 37** of the Declaration.
- In the next Periodic Report provide information on implementation of the Commission's recommendations in **Communication 275/03: Article 19 v. Eritrea** which, *inter alia*, urged the government of Eritrea to release or to bring to a speedy and fair trial the 18 journalists detained since September 2001, and to lift the ban on the press.

Mandate of the Special Rapporteur on Human Rights Defenders and Focal Point on Reprisals in Africa

- **Article 10:** Right to Freedom of Association
- **Article 11:** Right to Freedom of Assembly

48. In Eritrea, freedom of association and assembly are provided for by law, and the Legal Notice No. 5 of 1992 on “Registration of nongovernment national organisations and associations” sets the right conditions for the establishment and operation of associations.

49. The Delegation of Eritrea did not provide any written reply on the issues raised under Articles 10 and 11, dealing with the Mandate of the Special Rapporteur on Human Rights Defenders and Focal Point on Reprisals in Africa.

50. In 2018, the Commission addressed to Eritrea, among other recommendations, to ensure that the provisions of the regulatory framework for the registration of nongovernmental organisations (Legal Notice No 5 of 1992), are in accordance with international standards on freedom of association, including the Commission’s Guidelines on Freedom of Association and Assembly.

Recommendations: Eritrea should:

- Enact a legislative and regulatory framework to govern the right to assemble, in accordance with international standards, including the Commission’s Guidelines on Freedom of Association and Assembly in Africa.
- Provide in its next Report information on the existence and total number of independent civil society organisations (CSOs) operating in the country.
- Consider switching to a declaratory system, with regards to the establishment of associations and the notification regime for public gatherings.
- Ensure the dissemination and the implementation of the Commission’s Guidelines for the Policing of Assemblies by Law Enforcement Officials in Africa⁵.
- Adopt a law on the protection of human rights defenders.
- Conduct awareness raising and training to the police force and other stakeholders on national provisions and international human rights standards related to the right to peaceful assembly and the freedom of association.

⁵ https://www.veritaszim.net/sites/veritas_d/files/achpr_guidelines_on_policing_assemblies_eng.pdf

III. Economic, Social and Cultural Rights

Mandate of the Working Group on Economic, Social and Cultural Rights

51. The Commission is concerned that several questions on the implementation of economic, social and cultural rights have not been addressed by the Eritrean Delegation, including in its written replies.

Recommendations: Eritrea should:

- Ratify the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights.
 - Observe the Commission's Guidelines on State reporting on economic, social and cultural rights while drafting its next Periodic Report.
- **Article 14:** Right to Property / Right to housing

52. The Commission notes that, neither the Report nor the written replies did address the rights to property and to adequate housing or governmental efforts or policies in this regard.

Recommendations: Eritrea should:

- Address discriminatory practices inspired by customary laws, relating to the right to property and access to land, especially for women.
 - Allocate sufficient budgetary resources to implementing the right to adequate housing.
- **Article 15:** Right to Work under equitable conditions

53. In 2018, the Commission recommended that Eritrea revise the provisions of the Labour Proclamation No. 118/2001 to restrict children aged 14 years from entering into a contract of employment.

Recommendations: Eritrea should:

- Provide in its next Periodic Report statistics on employment and unemployment rates.
- Fast-track the processes of revising the labor Proclamation No. 118/2001 and adopting the private employment agencies regulation.
- Continue its efforts to combat child labor and forced labor.

- **Article 16:** Right to the enjoyment of the highest attainable standard of physical and mental health

54. Eritrea made commendable achievements in the implementation of the right to health, reflected, *inter alia*, through the improvement of access to health care within 10 km radius (from 46 % in 1991 to 80 % in 2020) and the increasing of life expectancy at birth (from 48 years in 1991 to 66 years in 2018).

55. The Commission takes note of the National Health Policy 2020 and the third Health Sector Strategic Development Plan (HSSDP 2022-2026), aligned with the 2030 Agenda and the SDGs.

56. The Report also informs that access to health care within 10 km radius, increased from 46 % in 1991 to 80 % in 2020 (Paragraph 115), and life expectancy at birth increased significantly from 48 years in 1991 to 66 years in 2018.

57. Eritrea also made commendable progress in reducing mortality between 1990 and 2021 (75% for children under 5; 69% for infant mortality; and 51% reduction in neonatal mortality).

58. However, with regard to human resources allocated for the health sector, the Delegation recognises that the staffing norms are not yet met, especially for specialists at hospital level, including surgeons, radiologists, internists, etc. The Health Workforce to Population Ratio in Eritrea stands at 1.9/1000, which is below international standards (WHO 2,3/1000, as a minimum).

59. With regard to health financing, the Commission takes note with appreciation of the increase in the health national budget, growing from 39,220,000 USD in 2020 to 50,048,593 USD in 2023. However, the Delegation did not inform about the percentage of the health budget in the total annual budget of the State Party.

Recommendations: Eritrea should:

- Strengthen the human resources of the health sector by increasing the number of doctors and specialists in hospitals and health facilities.
- Pursue its efforts towards the progressive attainment of Universal Health Coverage.
- Ensure that the financial resources allocated to the health sector in Eritrea meet the Abuja Declaration (objective: a minimum of 15% of the total annual budget).
- Pursue efforts to strengthen the population's access to health facilities and increase the level of use of health services, in line with international standards.

- **Article 17: Right to Education**

60. The Periodic Report recognises that despite all efforts, about 17% of primary school age children are still out of school, which is a source of concern for the Commission.

61. The written replies provided by the Delegation did not address the specific questions raised under the right to Education (Article 17).

62. Similarly, the implementation of some recommendations received by the State Party during the last cycle was not addressed. For instance, in 2018, the Commission addressed to Eritrea, among other recommendations, to revise the mandatory participation of all secondary students at the Sawa Education and Training Centre. Neither the Report nor the written replies did address this question.

Recommendations: Eritrea should:

- Take measures to ensure that primary education is compulsory, free and inclusive.
- Continue its efforts to ensure equal access to education for all, including the vulnerable categories, especially in remote and rural regions.
- Increase budgetary allocation to the education sector to strengthen the human resources and improve the infrastructural facilities allocated to education.

- **Article 22: Right to Economic, Social and Cultural Development**

63. The Commission notes that the written replies did not address the specific questions raised under the right to Economic, Social and Cultural Development (Article 22).

Recommendations: Eritrea should:

- Allocate sufficient resources for the implementation of the post-border war Warsay Yikealo Development Program.
- The Commission reiterates its recommendation to Eritrea to Ratify the Protocol to the African Charter on Human and Peoples' Rights on the Right of Citizens to Social Protection and Social Security.
- Strengthen its efforts to reduce poverty, foster socio-economic development and combat regional development disparities.

IV. Rights of the family and vulnerable groups

Mandate of the Special Rapporteur on Women Rights in Africa

64. Eritrea signed⁶ but did not ratify the Protocol to the African Charter on the Rights of Women in Africa (The Maputo Protocol).

65. In 2018, the Commission recommended that Eritrea enact additional legislation on the promotion and the protection of women's rights.

Recommendations: Eritrea should:

- Ratify the Protocol to the African Charter on the Rights of Women in Africa.
- The Commission reiterates its recommendation to Eritrea to enact additional legislation on the promotion and the protection of women's rights.
- Ensure effective involvement of the National Union of Eritrean Women (NUEW) in the promotion and protection of women's rights in Eritrea.

Equality and Non-Discrimination, Violence against Women, and elimination of harmful practices

66. The Commission takes note of the detailed information provided by the Government of Eritrea on combatting violence against women, Gender Based Violence and Female Genital Mutilation. The Delegation informed that the rate of physical and sexual violence from their male partner to women 15-49 years increased from 0.8% in 2017 to 1.4% in 2019, and again decreased to 0.7% in 2023.

67. The State Party undertook several campaigns to prevent and combat Female genital Mutilation and could reduce its prevalence from 95% in 1995 to 83% in 2010, according to the written contribution received by the Commission.

Recommendations: Eritrea should:

- Ensure the effective enjoyment of human rights by women without any discrimination, including digital rights.
- Pursue its efforts of combatting discrimination against women, including raising awareness on female ex-combatants and women in rural areas.
- Pursue its efforts to combat all forms of violence against women, in particular FGM.
- Provide adequate funding for victim support units to investigate violations and offer support and rehabilitation to victims.

⁶ On 25 April 2012.

Marriage, Divorce, Separation and Annulment

68. Articles 329 and 581 of the Transitional Civil Code of Eritrea mention marriageability age as being 18 years for both sexes. The Government declared in 1991 that any contract of marriage made between persons (spouses) below 18 years of age is null and void (GoSE Proclamation No. 1/1991).

69. However, the Report states that the percentage of married adolescents within the age range 15-19 was 1.2% for males and 16.9% for females in 2018.

Recommendations: Eritrea should:

- Pursue its efforts to combat underage marriage.
- Ensure that the judicial and non-judicial procedure that determines, in practice, the division of matrimonial property at the dissolution of marriage is not discriminatory against women.

Participation in Political and Decision-Making Process

70. The Commission notes that Article 10(2) of Proclamation No. 86/1996 stipulates that 30% of the seats in the National Assemblies are reserved for women. The Delegation did not provide figures of the current representation of women at the decision-making level, in both elected and appointed positions and in the private sector.

71. In 2018, the Commission recommended that Eritrea ensure the allocation of positions to Ministers takes into account the need for representation by women, and ensure representation of women in decision-making positions, at all levels of Government.

Recommendations: Eritrea should:

- Promote women's representation at the decision-making level, including through an effective implementation of Article 10(2) of Proclamation No. 86/1996.
- Take concrete measures to protect women against political violence or harassment.
- Submit a gender diversity chart on women in decision making during the reporting period.

Economic, Social and Cultural Rights

Recommendations: Eritrea should:

- Continue its efforts to strengthen the rights to education for girls in secondary and higher education, particularly in specific contexts and areas.
- Strengthen its measure to address the high prevalence of HIV for women compared to men.

Recommendations: Eritrea should:

- Adopt measures to adequately protect the rights of widows, especially those married under customary law.
- Strengthen its measures to promote and protect the rights of older women and women with disabilities in the country.

- Mandate of the Working Group on Rights of Older Persons and People with Disabilities

72. In Eritrea, persons with disability account 7% (225,156) of the total population, out of which 13% are children with disabilities in the age group of 0-17.

73. The Delegation informed that older age in Eritrea is 65 and above, and that the older population is 400,829 which is 6.74% of the total population.

74. The Commission takes note of the Eritrean Delegation written replies on the rights of people with disabilities, which look generic and address partially the specific questions raised in this regard.

75. The Commission wishes to recall at this stage that Eritrea did not ratify the Protocols to the African Charter on the rights of older persons and people with disabilities.

Recommendations: Eritrea should:

- Provide in its next Periodic Report disaggregated statistics on people with disabilities in the country.
- Align its national legislation with international standards considering an older person any individuals age 60 and above.
- Replace the needs-based approach employed for persons with disabilities with a rights-based approach.
- Ensure the full and effective implementation of policies dealing with the rights of older persons and persons with disabilities, including their dignity, wellbeing, safety and security, and protecting them from any kind of abuses.
- Pursue its efforts to combat discrimination against peoples with disabilities and the age-related discrimination.
- Ratify the Protocols to the African Charter, relating to the rights of older persons and people with disabilities.
- Ensure effective participation of older persons and people with disabilities in all initiatives, programmes and projects meant for their benefits and their rights.

- **Mandate of the Special Rapporteur on Refugees, Asylum Seekers, Internally Displaced Persons and Migrant in Africa**

76. The Periodic Report under review does not contain any substantial information on issues relating to the rights of refugees, migrants, IDPs and stateless persons in Eritrea.

77. Moreover, the Eritrean Delegation did not address in its written replies the specific questions under the mandate of the Special Rapporteur for Refugees, Asylum Seekers, Internally Displaced Persons, Migrants and stateless in Africa.

78. Eritrea did not ratify the African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (Kampala Convention), nor the OAU Convention Governing the Specific Aspects of Refugee Problems in Africa.

79. In 2018, the Commission expressed concerns and made recommendations about allegations of severe restrictions on the movement of citizens, inside and out of the country, contrary to Article 12(1) of the Charter.

Recommendations: Eritrea should:

- The Commission reiterates its recommendation to the State Party to Ratify the African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (Kampala Convention), the OAU Convention Governing the Specific Aspects of Refugee Problems in Africa, the UN Convention relating to the Status of Refugees (1951), and the UN Convention on the Reduction of Statelessness (1961).
- Ratify the United Nations International Convention for the Protection of the Rights of all Migrant workers and Members of Their Families
- Ratify the Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime.
- Provide in its next Periodic Report disaggregated data on refugees, asylum seekers, migrants, stateless persons and IDPs in the country.
- Provide information on the legal and institutional backgrounds dealing with refugees, asylum seekers, migrants, stateless persons and IDPs in the country.

Mandate of the Committee on the Protection of the Rights of People Living with HIV (PLHIV) and those at Risk, Vulnerable to and Affected by HIV

80. The Commission takes note of the Sixth Eritrean National HIV/AIDS/STI Strategic Plan: 2021 - 2026 and its detailed objectives.

81. The Commission recognises the fact that, despite its limited resources, the GoE has embarked on a program to mitigate the effects of HIV by making available medication to prevent opportunistic infections for people infected with HIV.

82. The Report under review informs that the estimated overall HIV prevalence in adults has declined from a peak of 1.6% in 1996 to 0.60% at the end of 2019. HIV prevalence among the adult population decreased from 0.72% in 2017 to 0.6% in 2019.

83. As in many other countries of the region, the proportion of women aged 15 to 49 living with HIV/AIDS in Eritrea is higher than that of men, which may accentuate their vulnerability.

Recommendations: Eritrea should:

- Redouble its efforts to implement the Sixth Eritrean National HIV/AIDS/STI Strategic Plan: 2021 – 2026.
- Ensure that combatting HIV is not just about defeating a virus, but also upholding human dignity and ensuring access to healthcare as a fundamental right.
- Pursue the existing efforts and adopt specific targeted measures for the most affected or vulnerable categories, such as women in the reproductive age (15 to 49 years).
- Continue to pay particular attention to people with HIV in special contexts, such as people in prison and correctional institutions.
- Strengthen public campaigns to raise awareness and promote comprehensive knowledge about HIV/AIDS, particularly among adolescents, young adults and other vulnerable groups.

V. Collective Rights / Peoples' Rights

- **Articles 21 and 24: Mandate of the Working Group on Extractive Industries, Environment and Human Rights Violations**

84. The Commission notes that neither the Report under review nor the written replies do provide substantial information on the extractive industries activities in Eritrea. With regard to Article 24, the Delegation informed that Article 5 of Proclamation 179/2017 stipulates that "every person in Eritrea has the right to a clean, healthy and scenic environment", and that the same Article also stipulates the principles of preventive and precautionary approach, polluter pays and public participation among others.

85. The Commission takes note with appreciation of the proclamation 179/2017 and the National Environmental Assessment Procedures and Guidelines (NEPAG 1999), which require for all development projects to have a compulsory environmental permit to commence their projects.

Recommendations: Eritrea should:

- For the next Periodic Report:
 - o Comply with the Commission's State Reporting Guidelines on Extractive Industries, Environment and Human Rights Violations.
 - o Provide detailed information on the types of natural resources that are exploited or available as well as the percentage that the extractive industries contribute to GDP in Eritrea.
 - o Clarify the role and responsibility of the Eritrean National Mining Corporation
- Strengthen the legal framework, by enshrining the principles of: State duty to protect human rights, corporate responsibility to respect human rights, and access to remedy for victims of corporate abuses.
- Strengthen the legal guarantees for local communities to fully participate in all stages of the launch of operations of extractive industries.
- Ensure the full protection of the rights of indigenous communities, women, children and other vulnerable groups in the context of business / extractive corporations' activities.
- Ensure effective implementation of the proclamation 179/2017 as well as the NEPAG, in a way to comply with the obligation to conduct Environmental Impact Assessments.
- Provide for judicial or non-judicial remedies to address environmental issues, as well as effective compensation for those affected by the despoliation of the environment.

- **Mandate of the Working Group on Indigenous Populations / Communities and Minorities in Africa**

86. The Commission underlines that neither the Report under review nor the written replies do provide substantial information or reply to the issues raised under the Mandate of the Working Group on Indigenous Populations / Communities and Minorities in Africa.

87. Although the exact number varies according to various reports, it is indicated that there are at least four groups of indigenous peoples in Eritrea, namely the Afar (between 4 and 12% of the total population), the Kunama (forming 2%), the Saho (forming 4%), and the Nara (who are at least 1% of the total population).

Recommendations: Eritrea should:

- Provide in its next Report statistics on Indigenous population and communities.
- Ratify the ILO Convention 169 on Indigenous and Tribal Peoples of 1989.
- Pursue its measures to ensure the effective participation of all communities in decision-making bodies, including through the introduction of quotas.
- Take targeted measures to protect ancestral lands, including through the issuance of a collective title deed that can stand up in court.
- Strengthen and improve access for all communities to essential services such as education and health.

Conclusion

88. The Periodic Reporting mechanism is an important component of the African Commission on Human and Peoples' Rights mandate.

89. In fact, State Parties' reports review constitute an effective tool for assessing the implementation on the ground of the human rights enshrined in the African Charter and the other relevant instruments.

90. The Commission wishes to congratulate the State of Eritrea for the submission and the review of its 2nd-3rd Combined Periodic Report on the implementation of the Charter.

91. The Commission remains concerned by the many unanswered questions and encourages the Delegation to revisit and attempt to respond to them in order to enrich the Report.

92. Eritrea is encouraged to continue its constructive cooperation and engagement with the African Commission.

93. The Commission hopes that the present recommendations will be taken into account and implemented by the Government of Eritrea.

94. The Commission is pleased to attest that Eritrea is now up to date with its obligations under Article 62 of the Charter.

95. In accordance with Resolution 517 on the method for calculating the time limit for the submission of periodic reports DACHP/Res.517 (LXX):

The Commission invites the State of Eritrea to submit its next Periodic Report (4th) on the implementation of the provisions of the African Charter **in March 2026**.

ACHPR, 8 March 2024
