

Mandates of the Special Rapporteur on the right to education; the Special Rapporteur on the situation of human rights in Eritrea; the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; the Special Rapporteur on contemporary forms of slavery, including its causes and consequences and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment

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Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the right to education; Special Rapporteur on the situation of human rights in Eritrea; Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; Special Rapporteur on contemporary forms of slavery, including its causes and consequences and Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, pursuant to Human Rights Council resolutions 44/3, 44/1, 42/16, 42/10 and 43/20.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning national service requirements obliging all secondary school students in the country to complete their final year at the Warsai Yekalo Secondary School, located in the Sawa military camp, and to undertake mandatory military training for approximately five months of that year, as well as regarding related practices and conditions that impact on the right to education, academic freedom and the right to not be discriminated against in the field of education.

According to the information received:

In 2003, your Excellency's Government introduced the requirement that all students in the country complete their final year of secondary school at the Warsai Yekalo Secondary School inside the Sawa military camp, the largest of a network of military training centres in the country. Some of these students are still under the age of 18 when they begin this final year.

Students spending their final academic year at Sawa are under military command and must conduct arduous military duties, even on school days, that often cut into their study and rest time. During the year, they receive only six months of academic training even though Grade 12 is when they will take the matricula exam to determine whether they will enter military service directly, continue on to higher education, or go to a vocational school. It is reported that approximately 60 to 65 per cent of students at Sawa do not obtain the results needed for further studies and are either conscripted directly into military service or sent to vocational training programmes.

It is alleged that military officials in Sawa subject students to ill-treatment and harsh punishments, including corporal punishment, even for minor infractions such as oversleeping or being late at the duties, and that students undertake forced labour, such as carrying heavy stones to build homes for military

commanders or carrying out agricultural labour on the government owned Molober farm.

It is further alleged that corporal punishment may be the cause of death for some students, such as when students are punished by being tied up tightly together to the point that they become severely injured or die. There have also been reports of torture, sexual violence and sexual harassment.

Moreover, military officers are reported to exercise sexual and gender-based violence against female cadets and students. Whether as disciplinary punishment or as the use of the hierarchy of the officials, women and girls are assigned traditional gendered tasks such as cleaning or cooking and subject to sexual violence such as exploitation, rape, harassment or abuse.

Due to the difficult conditions in Sawa military camp, many students try to avoid their last year of school by intentionally dropping out or failing previous school years. Moreover, dropout rates of girls are higher throughout the education system in Eritrea. They often marry due to a lack of alternative choice, have children or are forced to migrate outside Eritrea in order to avoid being sent to Sawa.

Students of secondary school level do not receive an education of quality due to a high level of teacher absenteeism. According to information received, this absenteeism is the result of graduates being conscripted into the teaching profession, given no choice regarding their assignment as a teacher, nor the location of their deployment or the subject they teach –resulting in unwilling and demotivated teachers, many of which flee the country. Those who remain have to take on the classes of their absentee colleagues, resulting in overexertion. All of the above culminates in low teacher morale and a lack of commitment to teaching, which creates a learning environment that is not conducive to adequate preparation of students for the matricula.

Despite strict movement restrictions and school closures implemented by the Government due to the COVID-19 pandemic, students are still being bussed into Sawa camp. There are no indications of preventive measures against COVID-19 for the students or teachers either in the busses or in the crowded dormitories of the camp.

While we do not wish to prejudge the accuracy of these allegations, we express our grave concern regarding the mandatory last year of secondary school at Sawa military camp and how it affects the right to education of Eritreans, academic freedoms, the rights of women, the right to be free from torture or to cruel, inhuman or degrading treatment or punishment, the right to be free from slavery, the worst forms of child labour or other forms of exploitation and children's right to survival, dignity, well-being, health and development. We are concerned at the long-term consequences of the experiences of violence at Sawa on children's physical, mental, moral and social development.

In connection with the above alleged facts and concerns, please refer to the **Annex on Reference to international human rights law** attached to this letter which cites international human rights instruments and standards relevant to these allegations.

As it is our responsibility, under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention, we would be grateful for your observations on the following matters:

1. Please provide any additional information and/or comment(s) you may have on the above-mentioned allegations.
2. Please provide details, and where available results, of any investigation, and judicial or other inquiries carried out in relation to consistent allegations of serious human rights violations in Sawa military camp. If no investigations have been initiated, please explain why and how this is compatible with the international human rights obligations of Eritrea.
3. Please describe how students who do not register for military service are recruited. Please also indicate what measures your Excellency's Government is taking to ensure that, in line with article 3 of the CRC-OP-AC, persons under the age of 18 are not forcibly recruited.
4. Please indicate how your Excellency's Government reconciles the requirement that all students complete their final year of secondary school at Warsai Yekalo Secondary School inside the Sawa military camp with the right to an education that is accessible, available, acceptable, and adaptable.
5. Please indicate what measures and incentives your Excellency's Government is putting in place in order to reduce teacher absenteeism and to ensure the presence in adequate numbers of fully trained teachers in schools across the country. Please describe efforts in this regard applied specifically to increase the percentage of female teachers at primary and secondary education levels. Please also provide information on measures and policies in place to guarantee that graduates who become teachers are doing so on a voluntary basis.
6. Please provide information on policies your Excellency's Government has with respect to the use of corporal punishment and forced/child labour at Sawa and within the school system in general.
7. Please provide information on any policies and regulations your Excellency's Government has put in place to ensure gender equity/non-discrimination in the full realisation of the right to education and the right to health.
8. Please describe the type of work and the purpose of the work students may be required to perform on government farms (including Molober farm), or the properties of military officials. Kindly explain the type of work they are expected to perform by age. Please provide further

clarifications as to how the Government ensures that any such work does not negatively impact the right to education and the right to health of the students and how such work can be reconciled with the obligation to protect against child labour and forced labour.

9. Please indicate if a system is in place to report and address any complaints of cruel, inhuman or degrading treatment, including sexual abuse or violence at Sawa and other schools or military camps. If no system exists, please explain why and how this is compliant with the obligation to prohibit and prevent torture and ill-treatment.
10. Please indicate if any government officials, including military officers, have been investigated and/or prosecuted at Sawa military camp for ordering or assisting in a) torture or cruel and degrading treatment of students, detainees, and other national service conscripts; b) subjecting children to child labour and adults to forced labour.
11. Please provide detailed information on the measures taken to safeguard the health of the students in Sawa during the pandemic of COVID-19.
12. Please provide information on measures allowing substitute service for conscientious objectors to military service and others situations in which students may be exempted from performing military service under the law.

We would appreciate receiving a response within 60 days. Passed this delay, this communication and any response received from your Excellency's Government will be made public via the communications reporting [website](#). They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

While awaiting a reply, we urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person(s) responsible for the alleged violations.

Please accept, Excellency, the assurances of our highest consideration.

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Tomoya Obokata

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Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment

Annex

Reference to international human rights law

Right to education

We would like to draw your attention to article 13 of the International Covenant on Economic, Social and Cultural Rights, acceded by Eritrea on 17 April 2001, recognizing the right of everyone to education. The Committee in its general comment 13, points out that States parties agree that all education, whether public or private, formal or non-formal, shall be directed towards the aims and objectives identified in article 13 (1). Education shall be directed to the human personality's "sense of dignity", it shall "enable all persons to participate effectively in a free society", and it shall promote understanding among all "ethnic" groups, as well as nations and racial and religious groups (par. 4).

Secondary education includes the elements of availability, accessibility, acceptability and adaptability, which are common to education in all its forms and at all levels (par. 11). Available means in sufficient quantity with sufficient safeguards to function, such as sanitation facilities for both sexes, safe drinking water, trained teachers receiving domestically competitive salaries, teaching materials, and so on; while some will also require facilities such as a library, computer facilities and information technology. Whereas accessible means that everyone has to enjoy it, especially the most vulnerable groups, in law and fact, without discrimination on any of the prohibited grounds (par 6).

We would like to recall that the right to education can only be enjoyed if accompanied by the academic freedom of staff and students. Accordingly, even though the issue is not explicitly mentioned in article 13, staff and students throughout the education sector are entitled to academic freedom. Members of the academic community, individually or collectively, are free to pursue, develop and transmit knowledge and ideas, through research, teaching, study, discussion, documentation, production, creation or writing. Academic freedom includes the liberty of individuals to express freely opinions about the institution or system in which they work, to fulfil their functions without discrimination or fear of repression by the State or any other actor, to participate in professional or representative academic bodies, and to enjoy all the internationally recognized human rights applicable to other individuals in the same jurisdiction (para 38 and 39).

Corporal punishment is inconsistent with the dignity of the individual. Other aspects of school discipline may also be inconsistent with human dignity, such as public humiliation. Nor should any form of discipline breach other rights under the Covenant, such as the right to food. A State party is required to take measures to ensure that discipline which is inconsistent with the Covenant does not occur in any public or private educational institution within its jurisdiction (par 41).

Right to health.

Also, the right to health is protected by article 12 of the International Covenant on Economic, Social and Cultural Rights. Accordingly, States have the obligation to

protect the right to health by preventing third parties from infringing this right through coercing or exercising violence towards groups in vulnerable situation such as children. The right to health is also protected by article 24 of the Convention on the Rights of the Child, ratified by Eritrea on 3 August 1994. This right extends not only to timely and appropriate prevention, health promotion, curative, rehabilitative and palliative services for children, but also to their right to grow and develop to their full potential and live in conditions that enable them to attain the highest standard of health. A number of determinants need to be considered for the realization of children's right to health, including individual factors such as age, sex, educational attainment, socioeconomic status; determinants in the immediate environment of families, peers, teachers and service providers, notably the violence that threatens the life and survival of children as part of their immediate environment (CRC General Comment 15). Moreover, article 12 (2) (c) commands that States shall do the necessary steps for the prevention, treatment and control of epidemic, endemic, occupational and other diseases.

Women's right to education.

Furthermore, we want to recall the Convention on the Elimination of Discrimination against Women, acceded by Eritrea on 5 September 1995, recognizing the eradication of violence against women in the education system. Article 10 establishes that "States Parties shall take all appropriate measures to eliminate discrimination against women in order to ensure to them equal rights with men in the field of education and in particular to ensure, on a basis of equality of men and women: ... (c) The elimination of any stereotyped concept of the roles of men and women at all levels and in all forms of education by encouraging coeducation and other types of education which will help to achieve this aim and, in particular, by the revision of textbooks and school programmes and the adaptation of teaching methods... (f) The reduction of female student drop-out rates and the organization of programmes for girls and women who have left school prematurely..."

The Committee on the Elimination of Discrimination against Women points out in the general comment 36 that to achieve gender equality all aspects of the education system, laws and policies, educational content, pedagogies and learning environments should be gender sensitive, responsive to the needs of girls and women and transformative for all (par 3). As a result of violence, girls are kept out of school, drop out of school or do not fully participate in school (par 65).

Rights of the child.

We would like to refer to the Convention on the Rights of the Child article 19 that establishes the obligation to "take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse". In its general comment No. 13, the Committee on the Rights of the Child highlights that securing and promoting children's fundamental rights to respect for their human dignity and physical and psychological integrity, through the prevention of all forms of violence, is essential for promoting the full set of child rights in the Convention (par 13). It further stresses that authorities at all levels of the State responsible for the protection of children from all forms of violence may directly and

indirectly cause harm by lacking effective means of implementation of obligations under the Convention (par 32).

In addition, article 28 (1) establishes that States shall recognize the right to education. To accomplish it, States will encourage the development of different forms of secondary education, including general and vocational education, make them available and accessible to every child (art. 28 (1) (b)); take measures to encourage regular attendance at schools and the reduction of drop-out rates (art. 28 (1) (e)). Besides, States shall take all appropriate measures to ensure that school discipline is administered in a manner consistent with the child's human dignity (art. 28 (2)). Moreover, article 29 points out the values and aims of the right of education. The aims are: the holistic development of the full potential of the child (29 (1) (a)), including development of respect for human rights (29 (1) (b)), an enhanced sense of identity and affiliation (29 (1) (c)), and his or her socialization and interaction with others (29 (1) (d)) and with the environment (29 (1) (e)).

In addition, article 24 of the Convention on the Rights of the Child stipulates that State parties recognize the right of the child to the 'enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health'. State parties shall 'strive to ensure that no child is deprived of his or her right of access to such health care services'. This is further supported by article 24(2) that affirms the States obligation to 'pursue full implementation of this right, and in particular that States shall take appropriate measures' to 'ensure the provision of necessary medical assistance and health care to all children'.

Underage children in military forces.

We would like to recall the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, acceded by Eritrea on 5 February 2005. Article 2 establishes that States Parties shall ensure that persons who have not attained the age of 18 years are not compulsorily recruited into their armed forces.

Forced Labour

We would also like to draw the attention of Your Excellency's Government to Article 4 of the Universal Declaration of Human Rights, which states that no one shall be held in slavery or servitude. Along similar lines, article 8(3) of the International Covenant on Civil and Political Rights, acceded to by Eritrea on 22 January 2002, establishes that no one shall be required to perform forced or compulsory labour.

Forced or compulsory labour is defined in International Labour Organisation (ILO) Forced labour Convention 1930 (No.29), ratified by your Excellency's Government on 22 January 2000. As per article 2, paragraph 1 of the Convention, the term "forced or compulsory labour shall mean all work or service which is exacted from any person under the menace of any penalty and for work which the said person has not offered himself voluntarily." As per paragraph 2 of the same article, exemption for work or service exacted in virtue of compulsory military service laws only applies "for work of a *purely military character* [emphasis added]".

Furthermore, Eritrea ratified the Worst Forms of Child Labour Convention, 1999 (No. 182) on 3 June 2019. Ratification of Convention No. 182 represents a commitment by ratifying States to protect its children against the worst forms of child labour including slavery, forced labour and trafficking; the use of children in armed conflict; the use of a child for prostitution, pornography and in illicit activities and hazardous work.

Finally, we would like to remind Your Excellency's Government that the UN has declared 2021 as the International Year for the Elimination of Child Labour. The International Year is an opportunity to address the challenges posed by COVID-19 and to accelerate progress towards the goal set by SDG Target 8.7 to end child labour in all its forms by 2025.