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## **The Deportation of Eritreans from Ethiopia: Human Rights Violations Tolerated by the International Community**

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# The Deportation of Eritreans from Ethiopia: Human Rights Violations Tolerated by the International Community

## Cover Page Footnote

International Law; Commercial Law; Law

## COMMENT

### **The Deportation of "Eritreans" from Ethiopia: Human Rights Violations Tolerated by the International Community**

#### **I. Introduction**

After Eritrea's independence from Ethiopia in 1993, the two countries publicly enjoyed a peaceful and supportive relationship.<sup>1</sup> On May 6, 1998, however, fighting began between the two nations in a conflict over their common border.<sup>2</sup> They engaged in six weeks of hostilities, including air attacks, that resulted in the loss of hundreds of lives.<sup>3</sup> Fighting at the border was minimal for eight months following the initial attacks.<sup>4</sup> However, on February 6, 1999 fighting began once again.<sup>5</sup> Both countries have reported heavy casualties.<sup>6</sup> Although Eritrea agreed to a peace agreement proposed by the Organization of African Unity on February 28, 1999, reports indicate that the fighting has not ceased.<sup>7</sup>

Of particular interest to the international community are

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<sup>1</sup> See *Ethiopian Head in Peace Talks*, AFRICA NEWS, July 20, 1998, available in LEXIS, World Library, Afrnws File; *Ethiopia Says Border Crisis Worsening*, AAP NEWSFEED, June 17, 1997, available in LEXIS, World Library, Allnws File.

<sup>2</sup> See Guebray Berhane, *Ethiopia Eritrea Town*, AGENCE FRANCE PRESSE, Nov. 6, 1998, available in LEXIS, World Library, Allnws File.

<sup>3</sup> See *Ethiopia Says Border Crisis Worsening*, AAP NEWSFEED, June 17, 1997, available in LEXIS, World Library, Allnws File.

<sup>4</sup> See *Ethiopia Says Chances of Peace with Eritrea Slim*, REUTERS (Oct. 15, 1998) (visited Oct. 23, 1998) <[http://www.geocities.com/~dagmawi/News/News\\_Oct15\\_Seyoum.html](http://www.geocities.com/~dagmawi/News/News_Oct15_Seyoum.html)>.

<sup>5</sup> See *Ethiopian, Eritrean Forces Said to Battle; Tensions Mount in Border Conflict*, WASH. POST, Feb. 6, 1999, available in LEXIS, World Library, Allnws File.

<sup>6</sup> See Ian Fisher, *New Fighting Along Border of Ethiopia and Eritrea*, N.Y. TIMES, Feb. 7, 1999, available in LEXIS, World Library, Allnws File.

<sup>7</sup> See Ian Fisher, *Ethiopia is Celebrating, But Perhaps Too Soon*, N.Y. TIMES, Mar. 3, 1999, available in LEXIS, World Library, Allnws File. These reports indicate that Ethiopia has not yet responded that it will end the hostilities. See *id.*

reports of mass expulsions of Eritreans and Ethiopians residing in the neighboring country at the outbreak of the war.<sup>8</sup> Both countries continue to allege that the other is deporting individuals based on national origin and that the deportees are being subjected to cruel and inhumane treatment.<sup>9</sup>

The government of Eritrea invited international organizations to investigate the human rights violations alleged by Ethiopia.<sup>10</sup> A team from the United Nations (UN) and a team convened by researcher Natalie Klein visited Eritrea in July and August 1998.<sup>11</sup> The teams interviewed deportees arriving from Ethiopia and Ethiopians living in Eritrea.<sup>12</sup> Both teams confirmed the reports that Ethiopia is expelling individuals of Eritrean origin in mass numbers.<sup>13</sup> However, neither team was able to confirm the alleged mass expulsion of Ethiopians by the government of Eritrea.<sup>14</sup>

In September, Klein reported that Ethiopia had deported "more than twenty thousand individuals of Eritrean origin."<sup>15</sup> News reports now estimate that the number of deportees has risen to 42,000.<sup>16</sup> The international community seems to be particularly concerned about the deportations because the majority of the deportees are Ethiopian citizens.<sup>17</sup> Many of the deportees were

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<sup>8</sup> See *Brothers and Enemies*, AFRICA NEWS, Aug. 11, 1998, available in LEXIS, World Library, Afrnws File; *infra* notes 113-26, 145-65.

<sup>9</sup> See *id.*; Berhane, *supra* note 2.

<sup>10</sup> See *Eritrea Responds to Amnesty Charges*, AFRICA NEWS, July 28, 1998, available in LEXIS, World Library, Afrnws File.

<sup>11</sup> See Natalie Klein, *Mass Expulsion from Ethiopia*, at 2 (visited Nov. 30, 1998) <<http://www.primenet.com/~ephrem2/newscom2/Klein.html>>; Marytn Ngwenya, *United Nations Development Programme*, at 1 (visited Nov. 30, 1998) <<http://www.primenet.com/~ephrem2/newscom2/UNDP.html>>. See also *infra* notes 147-65 and accompanying text (identifying researchers, research teams, and the methods employed).

<sup>12</sup> See Klein, *supra* note 11, at 2; Ngwenya, *supra* note 11, at 2.

<sup>13</sup> See Klein, *supra* note 11, at 9; Ngwenya, *supra* note 11, at 8.

<sup>14</sup> See Klein, *supra* note 11, at 22-23; Ngwenya, *supra* note 11, at 6-7.

<sup>15</sup> Klein, *supra* note 11, at 2.

<sup>16</sup> See Alex Last & Chris Pecketon, *Shiploads of Deportees From Ethiopia Arrive in Massawa* (BBC Focus on Africa on Real Audio, Dec. 12, 1998) (transcribed from audio, transcript on file with author) <<http://www.bbc.uk/worldservice/focusonafrica>>.

<sup>17</sup> The remainder of the deportees are Eritrean citizens who were temporarily and legally in Ethiopia. See Klein, *supra* note 11, at 2.

born in Ethiopia and lived their entire lives there.<sup>18</sup>

The data collected by the UN and Klein teams reveal that the deportees include men, women, and children of all ages.<sup>19</sup> Some have never lived in Eritrea and do not speak any Eritrean languages.<sup>20</sup> Some had served in the Ethiopian armed forces.<sup>21</sup> Others are retired Ethiopian government workers who are living on pensions.<sup>22</sup> Ultimately, the common denominator among the deportees is their Eritrean national origin.<sup>23</sup>

The UN report indicates that Ethiopia is expelling people because of Eritrean citizenship, membership in Eritrean communities in Ethiopia, participation in the Eritrean independence referendum, and monetary contribution to Eritrean development programs.<sup>24</sup> Ethiopia has claimed that the deportations were justified because of national security concerns related to the border conflict with Eritrea.<sup>25</sup> However, statements by the Prime Minister of Ethiopia characterizing all individuals of Eritrean descent as "foreigners" portray a broader governmental policy towards deportation.<sup>26</sup> He stated, "[i]f we say 'Go because we do not like the colour of your eyes,' they have to leave."<sup>27</sup> The majority of deportations appear to have been governed by the latter

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<sup>18</sup> See *id.* at 9.

<sup>19</sup> See Ngwenya, *supra* note 11, at 4; Klein, *supra* note 11, at 4.

<sup>20</sup> See Ngwenya, *supra* note 11, at 4.

<sup>21</sup> See Klein, *supra* note 11, at 10.

<sup>22</sup> See *id.* at 15.

<sup>23</sup> See *id.* at 9. There are a few reports of the expulsion of individuals who are not of Eritrean descent. See *id.* at 11.

<sup>24</sup> See Ngwenya, *supra* note 11, at 8-9.

<sup>25</sup> See Bertrand Rosenthal, *All Quiet on Ethiopian Front, But Build-Up Continues*, AGENCE FRANCE PRESSE, June 15, 1998, available in LEXIS, World Library, Allnws File. The Klein report labels this justification as pretext because the activities cited were supported by the Ethiopian government prior to the war. See Klein, *supra* note 11, at 8.

<sup>26</sup> Klein, *supra* note 11, at 9. This pronouncement was without regard to the individuals' citizenship status in Ethiopia. See *id.*

<sup>27</sup> Interview by Radio Ethiopia with Prime Minister Meles Zenawi (July 9, 1998), available in *Statement by the Delegation of the State of Eritrea to the United Nations Human Rights Commission, Concerning Human Rights Violations Against Eritreans in Ethiopia*, Annex III, Geneva (August 4, 1998) (on file with the *North Carolina Journal of International Law and Commercial Regulation*) [hereinafter Interview with Prime Minister Zenawi].

policy.<sup>28</sup>

This policy supports the arbitrary arrest, detention, and expulsion of individuals of Eritrean descent.<sup>29</sup> It supports the classification and mistreatment of people merely because of their national origin, and it restricts an individual's right to freedom of movement.<sup>30</sup> This policy also renders a number of Ethiopian citizens stateless, by classifying them as foreigners.<sup>31</sup> All of these infractions violate international law and the Ethiopian Constitution.<sup>32</sup>

The UN and Klein reports indicate that the methods of deportation are inhumane.<sup>33</sup> Klein asserts that they "clearly violate standards of international human rights law," and that deportees are arrested arbitrarily.<sup>34</sup> Most have not been allowed to say goodbye to family or to take their belongings with them.<sup>35</sup> Individuals are being separated from their spouses and children despite pleas to keep families intact.<sup>36</sup> The conditions of the detention and transportation are reportedly poor.<sup>37</sup> Most deportees must walk long distances in order to reach the Eritrean border.<sup>38</sup> Additionally, the Ethiopian government has not allowed deportees to secure their assets before forcing them from the country.<sup>39</sup> The Klein report indicates that deportees have been forced to forfeit property and assets worth hundreds of millions of dollars to the Ethiopian government.<sup>40</sup> This arbitrary deprivation of property

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<sup>28</sup> See *id.*

<sup>29</sup> See *id.*

<sup>30</sup> See *id.*

<sup>31</sup> See *id.*

<sup>32</sup> See *id.* at 5-6; *infra* notes 272-348 and accompanying text.

<sup>33</sup> See Klein, *supra* note 11, at 4; Ngwenya, *supra* note 11, at 5-6.

<sup>34</sup> Klein, *supra* note 11, at 4.

<sup>35</sup> See Ngwenya, *supra* note 11, at 8.

<sup>36</sup> See *id.* at 10; Klein, *supra* note 11, at 13. Reports show that Ethiopia is now attempting to deport entire families and to unify those families that had been separated. See *infra* note 320.

<sup>37</sup> See Ngwenya, *supra* note 11, at 5; Klein, *supra* note 11, at 17-19.

<sup>38</sup> See Ngwenya, *supra* note 11, at 6; Klein, *supra* note 11, at 20.

<sup>39</sup> See Klein, *supra* note 11, at 15.

<sup>40</sup> See *id.* at 14.

violates the Universal Declaration of Human Rights.<sup>41</sup>

Despite confirmation of these actions by international sources, the government of Ethiopia continues to deny any violation of international laws or treaties.<sup>42</sup> It maintains that it has the right to deport "foreign" citizens for any reason.<sup>43</sup> It denies inhumane treatment of the deportees and states that deportations occur under the supervision of the International Committee of the Red Cross (ICRC).<sup>44</sup> Furthermore, Ethiopia alleges that Eritrea is violating international law by the mass expulsion, torture, and beatings of Ethiopians.<sup>45</sup>

It appears that Eritrea has maintained a peaceful response to the human rights violations by the Ethiopian government.<sup>46</sup> No international sources have reported Eritrean violations of this policy.<sup>47</sup> Eritrea has allowed Ethiopians who wish to return to Ethiopia to do so under the supervision of the ICRC.<sup>48</sup>

Although it is clear that Ethiopia's conduct violates international law, the response from the international community has been minimal. The United States and the UN High Commissioner for Human Rights have issued statements urging the government of Ethiopia to respect international human rights laws.<sup>49</sup> International attention has primarily focused on the

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<sup>41</sup> See *infra* notes 312-19 and accompanying text.

<sup>42</sup> See *370 Eritreans Leave Ethiopia for Home*, XINHUA NEWS AGENCY, Sept. 5, 1998, available in LEXIS, World Library, Xinhua File.

<sup>43</sup> Interview with Prime Minister Zenawi, *supra* note 27.

<sup>44</sup> See *id.*

<sup>45</sup> See *Nearly 25,000 Ethiopians Returned From Eritrea*, AFRICA NEWS, Sept. 25, 1998, at 1, available in LEXIS, World Library, Afrnws File.

<sup>46</sup> See *Eritrea Responds to Amnesty Charges*, *supra* note 10.

<sup>47</sup> See Last & Pecketon, *supra* note 16.

<sup>48</sup> See *id.* Initially, there were some claims that Eritrea was restricting the movement of Ethiopians back to Ethiopia because of the cost involved. See Klein, *supra* note 11, at 22. The government has since waived the exit visa requirement for Ethiopians who are unable to leave because of cost. See *id.*

<sup>49</sup> See *Ethiopia: Expulsions of Eritreans*, Fed. Dep't and Agency Documents, Aug. 6, 1998, available in LEXIS, News Library, Feddoc File; *UN Human Rights Chief "Deeply Concerned" Over Expulsion*, XINHUA NEWS AGENCY, July 1, 1998, available in LEXIS, World Library, Xinhua File.

resolution of the border conflict.<sup>50</sup> The United States, Rwanda, and the Organization of African Unity have participated in several mediations with the two countries in unsuccessful attempts to resolve this dispute.<sup>51</sup>

Until the international community takes steps to enforce international laws that have been enacted to protect the rights of human beings, Ethiopia will continue to disrupt the lives of thousands of its own citizens and the lives of Eritrean nationals residing within its borders. The enforcement mechanisms exist, but international human rights leaders must take action to employ them.

This Comment explores both governments' allegations, focusing primarily on the human rights violations that have been confirmed by neutral parties. Part II of this Comment provides an overview of the history of these two nations as it relates to the present situation.<sup>52</sup> The background of the current conflict is discussed in Part III.<sup>53</sup> Part IV considers the allegations of both countries and provides summaries of the findings of the UN and the Klein reports.<sup>54</sup> Violations of international law, treaties, and Ethiopia's Constitution are examined in Part V.<sup>55</sup> Part VI concludes by discussing the response of the international community to these violations.<sup>56</sup>

## II. History and Administration of Eritrea and Ethiopia

A brief review of the history of Ethiopia and Eritrea helps to illuminate the basis of the present conflict. Present-day Eritrea lies to the north of Ethiopia. Its territory was part of Ethiopia until

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<sup>50</sup> See *Ethiopia: Expulsions of Eritreans*, *supra* note 49; *UN Human Rights Chief "Deeply Concerned" Over Expulsion*, *supra* note 49.

<sup>51</sup> See *OAU Meeting at Ouagadougou*, AFRICA NEWS, Nov. 10, 1998, available in LEXIS, World Library, Afrnws File; *US Mediator's Talks End in Ethiopia*, BBC ONLINE NETWORK (Oct. 8, 1998) <[http://news.bbc.co.uk/hi/english/world/africa/newsid\\_188000/188781.stm](http://news.bbc.co.uk/hi/english/world/africa/newsid_188000/188781.stm)>.

<sup>52</sup> See *infra* notes 57-77 and accompanying text.

<sup>53</sup> See *infra* notes 78-111 and accompanying text.

<sup>54</sup> See *infra* notes 112-271 and accompanying text.

<sup>55</sup> See *infra* notes 272-348 and accompanying text.

<sup>56</sup> See *infra* notes 349-413 and accompanying text.



1889 when it was conveyed to Italy in the Treaty of Wetchale.<sup>57</sup> The territory includes the ports of Massawa and Assab on the Red Sea.<sup>58</sup>

At the beginning of World War II, Mussolini's troops invaded and conquered parts of Ethiopia using Eritrea as its strategic base.<sup>59</sup> Ethiopia was joined administratively with both Eritrea and Somalia and was occupied by Italy until 1941.<sup>60</sup> Following the war, Ethiopia was returned to Ethiopian rule.<sup>61</sup> Eritrea, however, was administered by Britain until 1952 when the UN General Assembly issued a resolution that Eritrea should be federated with Ethiopia.<sup>62</sup> In 1962, Eritrea's General Assembly voted that Eritrea should become a part of Ethiopia.<sup>63</sup> The United Nation's resolution and the subsequent vote of the Eritrean Assembly was contrary to the wishes of many Eritreans.<sup>64</sup> A thirty-year war ensued to regain Eritrean independence.<sup>65</sup>

Despite the displeasure of many Eritreans, the establishment of Eritrea as a region of Ethiopia led to widespread integration of the two cultures. Eritreans became citizens of Ethiopia.<sup>66</sup> The relocation of families from Eritrea to other parts of Ethiopia, and from Ethiopia to Eritrea, occurred frequently.<sup>67</sup> Inter-marriages between Eritreans and Ethiopians were commonplace.<sup>68</sup>

The turning point in the revolution for Eritrean independence

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<sup>57</sup> See CHRIS PROUTY & EUGENE ROSENFELD, *HISTORICAL DICTIONARY OF ETHIOPIA AND ERITREA* 184 (2d ed. 1994).

<sup>58</sup> See *id.* at 111.

<sup>59</sup> See *id.*

<sup>60</sup> See *id.* at 185.

<sup>61</sup> See HAROLD G. MARCUS, *A HISTORY OF ETHIOPIA* 153 (1994).

<sup>62</sup> See *id.*

<sup>63</sup> See *id.* It is reported that the Assembly at that time was highly controlled by pro-Ethiopian elements. See *id.*

<sup>64</sup> See MARCUS, *supra* note 61, at 158. Those opposed were Christian and Muslim factions. See *id.*

<sup>65</sup> See *U.S. Intervenes in Dispute Between Ethiopia, Eritrea*, CNN INTERACTIVE, (May 19, 1998) (visited Oct. 23, 1998) <<http://www.cnn.com/WORLD/africa/9805/19/ethiopia.eritrea/index.html>>.

<sup>66</sup> See Klein, *supra* note 11, at 8.

<sup>67</sup> See *id.*

<sup>68</sup> See *id.*

occurred in the late 1980s when the Eritrean People's Liberation Front (EPLF), which had become the dominant resistance group in Eritrea, and the Tigrayan People's Liberation Front (TPLF) initiated collaborative efforts.<sup>69</sup> The Ethiopian government's "refusal to consider provincial autonomy" upset the TPLF.<sup>70</sup> The enactment of a draft Constitution of Ethiopia in 1986 added to the dissatisfaction of both groups as the draft made no provisions for regional autonomy or secession of Eritrea from Ethiopia.<sup>71</sup> The two groups fought together to overthrow the existing Ethiopian government, ultimately succeeding in May of 1991.<sup>72</sup> On June 3, Meles Zenawi, the leader of the TPLF, took power over all regions of Ethiopia except Eritrea.<sup>73</sup> The EPLF and its leader, Isayas Afewerki, controlled Eritrea.<sup>74</sup>

In 1993, Eritrea seceded from Ethiopia following an independence referendum.<sup>75</sup> Zenawi and the Ethiopian government supported the quest for Eritrean independence.<sup>76</sup> After the referendum in 1993, the international community heralded relations between the two governments as a sign of new optimism in Africa.<sup>77</sup>

### III. Background Behind Present Conflict

The present conflict between Eritrea and Ethiopia derives from a dispute over the location of approximately four hundred kilometers of the border between the two countries.<sup>78</sup> The primary

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<sup>69</sup> See MARCUS, *supra* note 61, at 209-210; PROUTY & ROSENFELD, *supra* note 57, at 112. Tigray is a region in northern Ethiopia which borders Eritrea. See PROUTY & ROSENFELD, *supra* note 57, at xiv-xv.

<sup>70</sup> MARCUS, *supra* note 61, at 195.

<sup>71</sup> See *id.* at 210.

<sup>72</sup> See *id.* at 213, 217.

<sup>73</sup> See *id.* at 217.

<sup>74</sup> See MARCUS *supra* note 61, at 217; PROUTY & ROSENFELD, *supra* note 57, at 113.

<sup>75</sup> See Klein, *supra* note 11, at 7.

<sup>76</sup> See *id.*

<sup>77</sup> See UNDP in Africa, *Meeting The Challenges of the 21st Century* (visited Oct. 23, 1998) <[http://www.undp.org/undp/rba/undp\\_af/century.htm](http://www.undp.org/undp/rba/undp_af/century.htm)> (on file with author).

<sup>78</sup> See *Ethiopia and Eritrea Brace for War*, AFRICA NEWS, Oct. 26, 1998, at 1, available in LEXIS, World Library, Afrnws File.

border conflict is centered in the Ethiopian region of Tigray.<sup>79</sup> Following the 1993 independence referendum, distinct borders between northern Ethiopia and Eritrea were not newly demarcated.<sup>80</sup> The last demarcation of the boundaries was drawn at the end of the 19th Century during the period of Italian colonization.<sup>81</sup> The two governments have argued over order locations since Eritrea's independence but for many years their relations were peaceful.<sup>82</sup> Ironically, the leaders at the center of the conflict are Zenawi of Ethiopia and Afewerki of Eritrea who fought together in 1991 to overthrow the previous Ethiopian government.<sup>83</sup>

The cause of the present war over the border is disputed. Ethiopian officials assert that the conflict was instigated when Eritrean troops occupied Ethiopian territory near the border in the beginning of May 1998.<sup>84</sup> They allege that the troops invaded a village near Badme on May 12, which was followed by a June 5 air raid that killed a number of civilians, including children.<sup>85</sup>

Eritrean officials claim that the origins of the dispute actually preceded the May fighting.<sup>86</sup> They allege that Tigrayan troops occupied the Eritrean region of Bada in July 1997 and dismantled

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<sup>79</sup> See *U.S. Intervenes in Dispute Between Ethiopia, Eritrea*, *supra* note 65.

<sup>80</sup> See *From Comrades to Adversaries*, BBC ONLINE NETWORK (June 8, 1998) (visited Oct. 23, 1998) <[http://news.bbc.co.uk/hi/english/world/africa/newsid\\_107000/107332.stm](http://news.bbc.co.uk/hi/english/world/africa/newsid_107000/107332.stm)>.

<sup>81</sup> See *id.*

<sup>82</sup> See *From Comrades to Adversaries*, *supra* note 80.

<sup>83</sup> See *supra* notes 69-74 and accompanying text.

<sup>84</sup> See *U.S. Intervenes in Dispute Between Ethiopia, Eritrea*, *supra* note 65.

<sup>85</sup> See *id.*; *Statement by the Delegation of the State of Eritrea to the United Nations Human Rights Commission, Concerning Human Rights Violations Against Eritreans in Ethiopia*, United Nations General Assembly, Geneva (August 4, 1998) (on file with the *North Carolina Journal of International Law and Commercial Regulation*) [hereinafter *Statement by the Delegation of Eritrea*].

<sup>86</sup> See Ministry of Foreign Affairs of Eritrea, *Basic Facts About the Eritrea and Ethiopia Tension* (May 23, 1998) (visited Oct. 23, 1998) <<http://www.primenet.com/~ephrem2/newscom2/basicfact/0000.html>>. There are also reports that the initial conflict over the border was between the regional administration of Tigray and Eritrea. See *From Comrades to Adversaries*, *supra* note 80. The Ethiopian government may have entered into the conflict later. See *U.S. Intervenes in Dispute Between Ethiopia, Eritrea*, *supra* note 65.

the Eritrean administration.<sup>87</sup> Finally, Eritrea claims that it was not the aggressor of a May 6 attack in the Badme area and that its air attack on June 5 was in response to an earlier raid by Ethiopia.<sup>88</sup> Government officials stated that their target was a military base and that they regret the incidental deaths of civilians.<sup>89</sup>

There has also been speculation that the onset of the border conflict was actually prompted by the development of Eritrean currency in November 1997.<sup>90</sup> It is contended that this development hindered economic trade relations between the countries.<sup>91</sup> Neither government has confirmed this speculation.

The dispute over the correct location of the border stems from differing interpretations of maps drawn up in the early 1900s. Both countries appear to agree that the location of the present border should be defined by the colonial borders set out in treaties during Italian colonization.<sup>92</sup> The dispute lies in the actual location of that border.<sup>93</sup> Eritrean officials assert that the colonial border is clearly defined in the colonial maps and that both countries had agreed on the demarcation until recently.<sup>94</sup> They allege that Ethiopia printed an official map in 1997 which positions parts of

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<sup>87</sup> See Ministry of Foreign Affairs of Eritrea, *supra* note 86, at 1.

<sup>88</sup> See *Statement of the Eritrean Delegation in Exercise of Its Right to Reply*, United Nations General Assembly, Geneva, August 6, 1998, available in *Statement by the Delegation of Eritrea*, *supra* note 85 [hereinafter *Eritrean Right to Reply*].

<sup>89</sup> See *id.* Eritrea stated that "[t]he air raid was carried out at 3 p.m. in response to an air attack on Asmara airport launched from Mekelle air base at 2:10 p.m. earlier that day, in which 34 Eritrean civilians were either killed or wounded." *Id.* An Ethiopian air force base had reportedly been established at Mekelle airport. See *id.*

<sup>90</sup> See *From Comrades to Adversaries*, *supra* note 80. Prior to the introduction of the Eritrean currency (Nafka), Eritrea used the Ethiopian currency (birr). See PROUTY & ROSENFELD, *supra* note 57, at xix. The exchange rate of birr to U.S. dollars is approximately 5 birr to the dollar. See *id.* The exchange rate of Nafka to dollars is approximately 7.35 Nafka to one dollar. See Ngwenya, *supra* note 11, at 3.

<sup>91</sup> See FDRE Office of Gov't Spokesperson, *A Close Look at Ethio-Eritrean Conflict*, (Aug. 17, 1998) (visited Oct. 23, 1998) <<http://www.ethiospokes.net/News/Articles/August/a1808981.htm>>; Addis, *Asmara—No Longer at Ease*, AFRICA NEWS, May 19, 1998, available in LEXIS, World Library, Afrnws File.

<sup>92</sup> See *From Comrades to Adversaries*, *supra* note 80, at 1.

<sup>93</sup> See *id.*

<sup>94</sup> See *President Isaias Outlines Background to Border Dispute* (visited Oct 23, 1998) <<http://eritrea.org/EIB/Law/News/border.html>>.

colonial Eritrea within Ethiopia's boundaries.<sup>95</sup> Ethiopian officials, however, note that the location of the colonial borders was not clearly drawn at the time of colonization.<sup>96</sup> The officials state that the regions at issue are part of Ethiopia.<sup>97</sup> They deny allegations that the 1997 government map was produced to redraw the borders.<sup>98</sup>

Despite the eight month cessation of substantial fighting, thousands of individuals were forced to relocate from the border area as a result of the conflict.<sup>99</sup> Reportedly, entire families and villages have been forced to flee their homes by soldiers of both countries.<sup>100</sup>

Until the February 28 declaration by Eritrea that it would comply with the Organization of African Unity's peace agreements, attempts by the United States, Rwanda, and the Organization for African Unity (OAU) to settle the border dispute have been unsuccessful.<sup>101</sup> Ethiopia insisted that Eritrean troops vacate the disputed areas before Ethiopia will begin peace talks.<sup>102</sup> Eritrea maintained that both countries' troops should be required to leave the territories, which should be protected by a third party until the dispute is resolved.<sup>103</sup> The catalyst for Eritrea's concession appears to be a February 27 attack by Ethiopian troops in Badme in which Eritrean troops were expelled from that region.<sup>104</sup>

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<sup>95</sup> See *id.*

<sup>96</sup> See *U.S. Intervenes in Dispute Between Ethiopia, Eritrea*, *supra* note 65.

<sup>97</sup> See U.N. GAOR, 53rd Sess., 26th mtg. at 9, U.N. Doc. Press Release GA/9464 (Oct. 2, 1998).

<sup>98</sup> See *War of Words*, AFRICA NEWS, Oct. 19, 1998, available in LEXIS, World Library, Afrnws File.

<sup>99</sup> See *Ethiopia-Eritrea Border Clash Displaces Up to Quarter-Million People*, U.S. Committee for Refugees: 1998 Update on Africa (Sept. 1998) (visited Oct. 23, 1998) <[http://www.refugees.org/news/crisis/africa\\_ethiopia.htm](http://www.refugees.org/news/crisis/africa_ethiopia.htm)> [hereinafter *Ethiopia - Eritrea Border Clash*].

<sup>100</sup> See Klein, *supra* note 11, at 9.

<sup>101</sup> See *Ethiopia Head in Peace Talks*, *supra* note 1; *OAU Meeting at Ouagadougou*, *supra* note 51; Rosenthal, *supra* note 25.

<sup>102</sup> See *U.S. Intervenes in Dispute Between Eritrea, Ethiopia*, *supra* note 65.

<sup>103</sup> See *President Isaias Outlines Background to Border Dispute*, *supra* note 94.

<sup>104</sup> See Fisher, *supra* note 7, at 1.

The status of the OAU's peace agreement, however, remains unclear. The agreement provides that Ethiopia and Eritrea agree to cease hostilities immediately and discontinue activities which will be antagonistic.<sup>105</sup> The agreement further provides that the troops in Badme will be redeployed to their positions prior to the May 6 attack under the supervision of the UN and the OAU.<sup>106</sup> Other provisions of the agreement include: (1) an investigation of the May 6 attack in Badme and prior incidents occurring at the border; (2) the establishment of a follow-up committee representing both parties that will be presided over by the OAU; and (3) the formation of a collaborative effort with the international community to provide for the resources needed to assist persons who had been dislocated by the conflict.<sup>107</sup> Despite Eritrea's declared acceptance of the terms of this agreement on February 28, the peace agreement will not prevail if Eritrea and Ethiopia do not cease hostilities. Foreign officials have expressed concern that a peace agreement between the two countries is not imminent.<sup>108</sup>

The Eritrean Foreign Ministry reported that the agenda at an OAU meeting in November focused on "cessation of hostilities; demarcation of the border within six months; investigation of the July - August 1997 and the May 6, 1998 incidents to determine the causes of the dispute; demilitarization of the border areas and commitment to address the impact of the crisis on civilian population with particular reference to deportations."<sup>109</sup> In January, U.S. National Security Advisor, Anthony Lake, met with the OAU Secretary-General and officials from both countries, but had little success in alleviating the border conflict tensions.<sup>110</sup> Since the resurgence of fighting on February 6, 1999, numerous countries and international organizations have issued statements calling for

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<sup>105</sup> See *Security Council Demands Immediate Halt to Hostilities Between Ethiopia, Eritrea*, M2 PRESSWIRE, Mar. 2, 1999, available in LEXIS, World Library, Allnws file.

<sup>106</sup> See *id.* This objective may have been accomplished by the February 27 attack.

<sup>107</sup> See *id.*

<sup>108</sup> See Fisher, *supra* note 7, at 2.

<sup>109</sup> *Foreign Ministry Issues Statement on Ouagadougou OAU Meeting*, BRIT. BROADCASTING CORP., Nov. 12, 1998, available in LEXIS, World Library, Allnws File.

<sup>110</sup> See Jim Lobe, *Rights—Ethiopia: Amnesty Denounces Mass Deportations*, INTER PRESS SERVICE, Jan. 29, 1999, available in LEXIS, World Library, Allnws File.

the cessation of military aggression.<sup>111</sup>

#### IV. Expulsions and Detention

The governments of Ethiopia and Eritrea have continuously issued conflicting reports of the extent and nature of the expulsion and detention of their people respectively.<sup>112</sup> A review of the statements of both countries follows.

##### A. Allegations

##### 1. Against Eritrea

The Ethiopian Government reports the ongoing deportation of Ethiopian citizens from both Eritrea and territories occupied by Eritrean troops.<sup>113</sup> In late September, the Disaster Prevention and Preparedness Commission of Ethiopia released a statement that 24,970 Ethiopians had been expelled from Eritrea since the beginning of the conflict in May 1998.<sup>114</sup>

The government further reports widespread inhumane treatment by Eritrea against these individuals, including physical torture, detention in army camps, confiscation of property, and the "dumping" of Ethiopian citizens at the border.<sup>115</sup> The government also alleges that the Eritrean government has attempted to force

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<sup>111</sup> See generally *Russia Calls for End to Ethiopia-Eritrea Fighting, Offers Mediation*, BRIT. BROADCASTING SYS., Feb. 11, 1999, available in LEXIS, World Library, Allnws File; *U.N. Council Discusses Measures to Stop Border War*, DEUTSCHE PRESSE-AGENTUR, Feb. 10, 1999, available in LEXIS, World Library, Allnws File; *Text of Clinton Statement on Ethiopia and Eritrea*, U.S. NEWswire, Feb. 9, 1999, available in LEXIS, World Library, Allnws File; *Italy Calls for Ceasefire in Horn of Africa*, AGENCE FRANCE PRESSE, Feb. 9, 1999, available in LEXIS, World Library, Allnws File; *Ethiopia-Eritrea: OAU Calls for immediate Ceasefire*, AGENCE FRANCE PRESSE, Feb. 8, 1999, available in LEXIS, World Library, Allnws File [hereinafter *International Appeals for Ceasefire*].

<sup>112</sup> See *Brothers and Enemies*, supra note 8; *Hostile Ethiopia, Eritrea Still Deporting Each Others' Citizens*, AGENCE FRANCE PRESSE, Oct. 22, 1998, available in LEXIS, World Library, Allnws File.

<sup>113</sup> See *Nearly 25,000 Ethiopians Returned From Eritrea*, supra note 45.

<sup>114</sup> See *id.*

<sup>115</sup> See *Statement By Minelik Alemu Getahun, Observer for Ethiopia*, U.N. Sub-Commission on Prevention of Discrimination of Minorities, 50th Sess., at 4-6 (Aug. 5, 1998) (on file with author) [hereinafter *Statement by UN Observer for Ethiopia*].

Eritrean citizenship on Ethiopians living in the border areas, to make Ethiopians sign statements that they are leaving Eritrea freely and without harm, and to deny Ethiopian residents both the right to work and the right to return to Ethiopia.<sup>116</sup> An Ethiopian government newspaper reported that the Eritrean government was imposing exorbitant costs on Ethiopian citizens who desired to return to Ethiopia by requiring them to pay 532.20 Nafka to make the trip.<sup>117</sup> Those who could afford the fees reportedly had a twenty-seven hour sea trip in which the only sustenance was a few rolls and tea.<sup>118</sup> There are also reports that Ethiopian citizens have been raped, beaten, harassed, intimidated, burned, and murdered by Eritrean soldiers.<sup>119</sup>

## 2. *Against Ethiopia*

The Eritrean Foreign Affairs Ministry has reported that over 35,000 people of Eritrean descent have been expelled from Ethiopia since May, 1998.<sup>120</sup> It further reports that over 1,500 Eritreans are being detained illegally in Ethiopia, including thirty-seven students who were studying at the University of Addis Ababa on an exchange program.<sup>121</sup> Most recently, the government reported that ICRC notified them that three youths who had been detained in an Ethiopian prison for four months died of malaria and starvation.<sup>122</sup>

The Eritrean Relief and Refugee Commission (ERREC) issued a report summarizing the characteristics of the deportees who arrived in Eritrea in June and July of 1998.<sup>123</sup> ERREC manages the

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<sup>116</sup> See *id.* at 5-6.

<sup>117</sup> See *Ethiopian Deportees Survive Sea Journey*, ADDIS TRIB. (July 8, 1998) (visited Oct. 23, 1998) <<http://addistribune.ethiopiaonline.net/Archives/1998/08/07-08-98/Solome.htm>>. The report further noted that laborers only earn 3-5 Nafka per day and that anyone who could not afford the charge was not allowed to leave Eritrea. See *id.*

<sup>118</sup> See *id.*

<sup>119</sup> See *Statement By UN Observer for Ethiopia*, *supra* note 115, at 4-6.

<sup>120</sup> See *Eritrea Condemns Death of Three of Its Citizens in Ethiopian Detention Camp*, BRIT. BROADCASTING CORP., Nov. 20, 1998, available in LEXIS, World Library, Allnws File.

<sup>121</sup> See *id.*

<sup>122</sup> See *id.*

<sup>123</sup> See *A Preliminary Report On the Eritrean Nationals Expelled From Ethiopia*



reception centers which were opened by the Eritrean government to greet and register the individuals deported from Ethiopia.<sup>124</sup> The report is based on interviews with 3,159 deportees and provides demographic information on the deportees.<sup>125</sup> It cites numerous accounts of inhumane treatment reported by the deportees while in detention centers and en route to Eritrea.<sup>126</sup>

## *B. Response to Allegations*

### *1. Eritrea's Response to Ethiopian Allegations*

Eritrea denies the allegations that it is deporting and inflicting inhumane treatment on Ethiopian citizens.<sup>127</sup> Eritrea has admitted detaining seventeen Ethiopian citizens for security reasons.<sup>128</sup> It reports that the ICRC has full access to these individuals.<sup>129</sup> The government further states that it has collaborated with ICRC to assist Ethiopians who desire to return to their own country.<sup>130</sup> In response to the allegations that Ethiopian citizens are not allowed to work, Eritrea reports that unemployment has risen among "daily laborers" because of Ethiopia's decision to reroute its shipping away from the Assab port.<sup>131</sup>

On June 26, 1998, the Eritrean National Assembly issued the following resolution:

[I]n contrast to the inhuman policy of the Ethiopian government, the Eritrean government has not, and will not, take any hostile actions against Ethiopians residing in the country. Their right to live and work in peace is guaranteed. If this right is infringed under any circumstances or by any institution, they

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*During June-July 1998, ERITREAN RELIEF AND REFUGEE COMMISSION (July 27, 1998) (visited Oct. 23, 1998) <<http://www.primenet.com/~ephrem2/newscom2/ERRC.html>> [hereinafter *ERREC Report*]. The findings of the ERREC agree with and support the findings of the UN and Klein teams. See *infra* notes 166-260 and accompanying text.*

<sup>124</sup> See Klein, *supra* note 11, at 4.

<sup>125</sup> See *ERREC Report*, *supra* note 123.

<sup>126</sup> See *id.*

<sup>127</sup> See *Eritrean Right to Reply*, *supra* note 88.

<sup>128</sup> See *id.*

<sup>129</sup> See *id.*

<sup>130</sup> See *id.*

<sup>131</sup> *Id.*

have full rights of redress. This policy that can see a horizon beyond the conflicts of today will not change even if the current crisis deteriorates to any degree.<sup>132</sup>

The Eritrean government has challenged the UN and international human rights organizations, such as ICRC and Amnesty International, to investigate Ethiopia's allegations.<sup>133</sup>

## 2. Ethiopia's Response to Eritrean Allegations

The Ethiopian government has issued numerous statements denying Eritrea's allegations that it has illegally and inhumanely deported and detained Eritrean nationals.<sup>134</sup> While the government does not deny the deporting Eritrean nationals, it instead challenges the supposition that it is illegal.<sup>135</sup> Citing national security concerns during the border conflict, the Ethiopian government first ordered the expulsion of Eritreans in mid-June 1998.<sup>136</sup> The government stated that the individuals who were being expelled were "alleged spies, Eritreans raising money for Eritrea's war effort, and staff at the bureau of the Eritrean People's Liberation Front (EPLF)."<sup>137</sup> Following this proclamation, more than 700 Eritreans were deported from Ethiopia.<sup>138</sup> The government claims that such expulsions are in accordance with international law.<sup>139</sup>

On July 9, 1998, the Prime Minister of Ethiopia, Meles Zenawi, stated that Ethiopia also has a right to deport Eritreans who are not national security risks.<sup>140</sup> He stated that the Eritreans are "foreign national[s]" who are allowed to live in Ethiopia because of the "good will of the Ethiopian government."<sup>141</sup>

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<sup>132</sup> *Eritrea Responds to Amnesty Charges*, *supra* note 10.

<sup>133</sup> *See id.*

<sup>134</sup> *See 370 Eritreans Leave Ethiopia for Home*, *supra* note 42; Interview with Prime Minister Zenawi, *supra* note 27.

<sup>135</sup> *See* Interview with Prime Minister Zenawi, *supra* note 27.

<sup>136</sup> *See* Rosenthal, *supra* note 25.

<sup>137</sup> *Id.*

<sup>138</sup> *See id.*

<sup>139</sup> *See* Interview with Prime Minister Zenawi, *supra* note 27.

<sup>140</sup> *See id.*

<sup>141</sup> *Id.*

Therefore, they were not out of their rights to deport Eritreans for any reason they chose, even factors as arbitrary as the "colour of [the Eritrean's] eyes"<sup>142</sup> The Prime Minister noted that "[Eritreans] have the chance to live in Ethiopia as long as they respect the laws and regulation[s] of the country, though we have the right to [expel], because our stand is not based on hating people."<sup>143</sup> The Ethiopian government has further denied all allegations that it treated the deportees and detainees inhumanely, reporting that the ICRC is aware of and supervising all of the government's actions.<sup>144</sup>

### C. Neutral International Sources

To date, there are only two reports<sup>145</sup> which have been issued by neutral international sources on the deportations and expulsions in Ethiopia and Eritrea. While both reports confirmed most of the findings issued in the ERREC report, they did not confirm the

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<sup>142</sup> *Id.*

<sup>143</sup> *Id.* (third alteration in original).

<sup>144</sup> *See id.*

<sup>145</sup> Two additional reports were issued prior to publication of this Comment that further confirm the allegations of mass deportation of Eritrean nationals. In January, Amnesty International issued a news report following a visit by its representative to Eritrea and Ethiopia. *See Amnesty International Witnesses Cruelty of Mass Deportations* (visited Feb. 2, 1999) <<http://www.amnesty.org/news/1999/12500299.htm>>. The representatives visited Ethiopia in October 1998 and Eritrea in January 1999, and met with government officials and "returnees" from both countries. *See id.* The news release cites findings consistent with the Klein and United Nations reports. *See id.* The report indicates that 6,300 additional individuals of Eritrean descent were deported in the month of January. *See id.* Amnesty International was unable to confirm reports of the forcible deportation of Ethiopian citizens. *See id.* A second report written by Craig Calhoun, a professor of sociology and history at New York University, was recently published. *See Craig Calhoun, Ethiopia's Ethnic Cleansing*, DISSENT 47 (Winter 1999). Mr. Calhoun visited Eritrea in July and spoke with a number of deportees who were being sheltered temporarily by the Eritrean government. *See id.* at 49. There is an additional report that has been compiled by Citizens for Peace in Eritrea based on interviews with deportees from Ethiopia. *See Asmarom Legesse, Citizens for Peace in Eritrea, The Uprooted: Case Material on Ethnic Eritrean Deportees from Ethiopia Concerning Human Rights Violations* (July 26, 1998) (visited Oct. 23, 1998) <<http://primenet.com/~ephrem2/legesse/legesse.html>>. Although this group is not affiliated with the Eritrean government, its membership is made up of Eritreans and, therefore, this author did not classify it as a neutral source for the purposes of this Comment. *See id.*

Ethiopian government's allegations.<sup>146</sup> The remainder of this Comment addresses the content of these two reports.

### 1. *United Nations (UN)*

A team of representatives led by the UN visited Eritrea in July, 1998 and issued a report of its findings.<sup>147</sup> The team included representatives from the UN Fund for Population Assistance (UNFPA), the UN Children's Fund (UNICEF), the UN Development Programme (UNDP), the International Committee for the Red Cross, the Eritrean National Red Cross, and the media.<sup>148</sup> Members of the team visited the Eritrean cities of Assab, Mendefera, and Adi Quala at the invitation of the Eritrean government.<sup>149</sup> The three cities house reception centers that were developed by Eritrea to receive deportees from Ethiopia.<sup>150</sup> The team first traveled to Assab<sup>151</sup> on July 16-17, 1998.<sup>152</sup> The team interviewed approximately 250 of the 382 deportees who arrived in Assab on July 15 and were being temporarily accommodated by the Eritrean government in hotels.<sup>153</sup> The team also met with twenty-five Ethiopians who were permanent residents in Assab and five teachers from the Ethiopian Community School during this visit.<sup>154</sup>

The UN team then traveled to the Mendefera and Adi Quala reception centers on July 17, 1998.<sup>155</sup> These reception centers

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<sup>146</sup> See *infra* notes 166-271 and accompanying text.

<sup>147</sup> See Ngwenya, *supra* note 11.

<sup>148</sup> See *id.* at 2.

<sup>149</sup> See *id.* at 1-3.

<sup>150</sup> See *id.*

<sup>151</sup> Assab is located in the southeastern tip of Eritrea and is a major port on the Red Sea. See PROUTY & ROSENFELD, *supra* note 57, at 37.

<sup>152</sup> See Ngwenya, *supra* note 11, at 4. The Assab economy has suffered greatly since the closing of the Ethiopian border, making any permanent maintenance of deportees in the area impossible. See *id.* However, many deportees continue to arrive from Ethiopia. See *id.*

<sup>153</sup> See *id.* at 4.

<sup>154</sup> See *id.* at 4, 6.

<sup>155</sup> See *id.* at 3.

greet deportees who enter Eritrea through the Mereb Gate.<sup>156</sup> The UN team conducted random interviews with individuals from a group of 1,987 deportees who arrived on July 17 in Mendefera.<sup>157</sup> On July 19, the UN team met up with a group of 102 deportees who had just walked two kilometers and were waiting for transport to the Adi Quala reception center.<sup>158</sup> This group was originally part of the group interviewed in Mendefera but was detained in Adwa, a village in Tigray, for questioning.<sup>159</sup>

## 2. *Report by Natalie Klein, Australian Lawyer*

A second report was issued in September by Natalie Klein, a Barrister and Solicitor of the Supreme Court of South Australia, who is a doctoral candidate at Yale Law School.<sup>160</sup> Klein traveled with a team to Eritrea and personally interviewed sixty-five deportees from four reception centers in August 1998.<sup>161</sup> The team additionally spoke with the Attache from the Ethiopian Embassy in Eritrea and a representative of the 203 Ethiopians who were staying at the embassy compound.<sup>162</sup>

The Klein team interviewed deportees who were temporarily staying in dormitories or reception centers because they have no relatives in Eritrea.<sup>163</sup> Other interviewees were new arrivals to Eritrea who were waiting to be registered at the reception center and then transported to Asmara to be put in contact with family in Eritrea.<sup>164</sup> Klein additionally interviewed seven farmers who were forced to vacate farms in northern Ethiopia due to the border

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<sup>156</sup> See *id.* at 3. The Mereb Gate is located on the border between the Tigray region of Ethiopia and Eritrea. See *id.* at 8.

<sup>157</sup> See *id.* at 8.

<sup>158</sup> See *id.* at 9.

<sup>159</sup> See *id.* at 10.

<sup>160</sup> See Klein, *supra* note 11, at 2.

<sup>161</sup> See *id.* at 4. The deportees interviewed were housed at reception centers in Mendefera, Tessenay and Decamhare, and at the university dormitories in Asmara. See *id.* The interviews were largely conducted through translators in Amharic or Tigrinya. See *id.* at 4, 5.

<sup>162</sup> See *id.* at 5.

<sup>163</sup> See *id.*

<sup>164</sup> See *id.* at 4.

conflict and were trying to establish farms in the southern part of Eritrea.<sup>165</sup>

### 3. Findings

The findings reported by the UN and Natalie Klein are summarized in the following section. Neither team was able to confirm the reports of mass expulsion and inhumane treatment of Ethiopians.<sup>166</sup> The interviews do confirm Eritrea's allegations that individuals of Eritrean national origin are being expelled from Ethiopia in mass numbers.<sup>167</sup> The reports also confirm allegations that the deportees are being treated inhumanely by the Ethiopians.<sup>168</sup> The accounts of beatings and harassment by military officials, however, appear to be more pervasive among deportees who traveled through Tigray.<sup>169</sup>

### 4. Characteristics of the Expulsions and Detentions of Eritreans

#### a. Demographics

The majority of the deportees are Ethiopian citizens.<sup>170</sup> The remainder of the deportees are Eritrean citizens who were temporarily and legally residing in Ethiopia.<sup>171</sup> Many of the individuals who were interviewed had produced proof of their Ethiopian citizenship at the time of their arrest.<sup>172</sup> In some cases, these documents were confiscated and passports were stamped "expelled, never to return."<sup>173</sup> The deportees are from all areas of Ethiopia, and the deportation was the first time some of these

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<sup>165</sup> See *id.* at 5.

<sup>166</sup> See *id.* at 22; Ngwenya, *supra* note 11, at 6-7.

<sup>167</sup> See Klein *supra* note 11, at 2; Ngwenya, *supra* note 11, at 2.

<sup>168</sup> See Klein *supra* note 11, at 2; Ngwenya, *supra* note 11, at 2.

<sup>169</sup> Compare Ngwenya, *supra* note 11, at 5, with Ngwenya, *supra* note 11, at 8.

<sup>170</sup> See Klein, *supra* note 11, at 12; Ngwenya, *supra* note 11, at 5. Of the 250 deportees interviewed by the UN team in Assab, all reported Ethiopian citizenship. See Ngwenya, *supra* note 11, at 5.

<sup>171</sup> See Klein, *supra* note 11, at 2.

<sup>172</sup> See *id.* at 12.

<sup>173</sup> *Id.*

individuals had ever been to Eritrea.<sup>174</sup> Many do not speak any of the languages of Eritrea.<sup>175</sup>

The deportees include men, women, and children and range in age from infants to the elderly.<sup>176</sup> The UN's account of the deportees in Assab indicates that approximately two-thirds of that group were men and there were only eleven children.<sup>177</sup> However, children accounted for over twenty-five percent of the group interviewed outside the Mereb Gate.<sup>178</sup> Few families were deported intact.<sup>179</sup> Many of the deportees were forced to separate from their families because their spouses were not of Eritrean ethnicity.<sup>180</sup> The decision to allow parents to bring children with them depended arbitrarily on the sympathy of Ethiopian authorities.<sup>181</sup> Some deportees reported being allowed to bring some of their children while having to leave others in Ethiopia.<sup>182</sup> Children were left behind in the care of spouses, maids, relatives, and neighbors, or were simply left home alone, despite the pleas of parents.<sup>183</sup> The Klein report indicates that efforts to separate families continue throughout the deportation process.<sup>184</sup> A representative of the Ethiopian government admitted that families are being purposefully separated but noted that if both spouses are "security risks," one will be allowed to remain in Ethiopia for one

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<sup>174</sup> See *id.* at 4, 9; Ngwenya, *supra* note 11, at 4-5.

<sup>175</sup> See Klein, *supra* note 11, at 4, 9.

<sup>176</sup> See *id.* at 3; Ngwenya, *supra* note 11, at 4-5.

<sup>177</sup> See Ngwenya, *supra* note 11, at 4-5.

<sup>178</sup> See *id.* at 8.

<sup>179</sup> See *id.* at 5. The United Nations report indicates that there were no intact families in the group interviewed in Assab, one intact family in the group which arrived on July 19th at the Mereb Gate, and more intact families in the group interviewed in Mendefera. See *id.* at 5, 10, 11. The Klein report, however, also included interviews with Eritreans who were evicted from their farmlands in the Tigray region. See Klein, *supra* note 11, at 9. The deportees reported that families and entire villages were evicted as a whole and ordered to walk across the border. See *id.*

<sup>180</sup> See Klein, *supra* note 11, at 13; Ngwenya, *supra* note 11, at 4.

<sup>181</sup> See Klein, *supra* note 11, at 13; Ngwenya, *supra* note 11, at 5.

<sup>182</sup> See Klein *supra* note 11, at 13; Ngwenya, *supra* note 11, at 14.

<sup>183</sup> See Klein, *supra* note 11, at 13; Ngwenya, *supra* note 11, at 13.

<sup>184</sup> See Klein, *supra* note 11, at 12.

month to settle the family's affairs before being deported.<sup>185</sup> Both international sources expressed concern about the financial stability of the families left behind, the emotional effects of the separation on adults and children, and the inadequacy of time given to settle affairs.<sup>186</sup>

The deportees consist of people of all occupations, including teachers, mechanics, university lecturers, retirees, lawyers, shop owners, business people, civil servants, garage owners, farmers, physicians, priests, housewives, and even a retired UN official.<sup>187</sup> They are rarely given a reason for their arrest and deportation; most assume they were deported because of Eritrean ancestry.<sup>188</sup> The following reasons for deportation were cited by a representative of the Ethiopian Embassy interviewed by Klein: (1) service in Eritrean government; (2) performance of national service in Eritrea; (3) participation in Eritrean community groups; (4) assistance with fund-raising for Eritrea; (5) assistance to Eritrea "in any way," or (6) participation in activities in Eritrea.<sup>189</sup> The representative noted that such people have been identified as "security risks."<sup>190</sup> Klein notes that "these broad and vague criteria effectively ensure that every Eritrean and Ethiopian of Eritrean origin in Ethiopia is a candidate for deportation."<sup>191</sup>

This classification effectively includes a group of young women whose "help to Eritrea" constituted a month of planting trees, digging wells, and building dams last summer in Eritrea.<sup>192</sup> It also includes people who voted for the 1993 independence referendum and anyone who has assisted Eritreans, even by

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<sup>185</sup> *Id.* at 14.

<sup>186</sup> *See id.* at 5, 12, 14; Ngwenya, *supra* note 11, at 7, 13.

<sup>187</sup> *See Klein, supra* note 11, at 10, 14; Ngwenya, *supra* note 11, at 4, 8, 9.

<sup>188</sup> *See Klein, supra* note 11, at 4. The deportees interviewed by Klein indicated that it would not be difficult for the Ethiopian government to know those people with Eritrean descent. This information is often known by the local neighborhood authorities, called the kebele, "due to the person's language, friends and/or community group involvement." *Id.* at 10. Some deportees also reported being mandated to go and register as Eritreans with their local kebele. *See id.*

<sup>189</sup> *Id.*

<sup>190</sup> *Id.*

<sup>191</sup> *Id.* at 10-11.

<sup>192</sup> *Id.* at 11.



renting hotel rooms to them.<sup>193</sup> The irony of this matter is that Ethiopia supported the independence referendum, membership in Eritrean community groups, and the provision of assistance to Eritrea, such as the tree-planting program, until this past summer.<sup>194</sup> These activities were not previously illegal and there is no evidence that laws have since been passed which prohibit such activities.<sup>195</sup> The Klein report further indicates that some deportees stated that they were deported for being in the wrong place at the wrong time.<sup>196</sup> These deportees provided accounts that Ethiopian officials came looking for their relatives, and being unable to find the relative, arrested them instead.<sup>197</sup>

*b. Method of Expulsions*

*i. Arrests*

The deportees reported being picked up at work, home, church, and "in the streets" both during the day and night.<sup>198</sup> Often only one family member was arrested.<sup>199</sup> There are also reports of mass arrests of all the Eritrean nationals residing in a village, presumably as a result of the kebele registration.<sup>200</sup> In Tigray, entire villages were reportedly evicted.<sup>201</sup>

Some deportees reported being coaxed to the police stations under false pretenses, such as to make a statement or to serve as a

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<sup>193</sup> See *id.* The Klein report details an interview with an Ethiopian hotel owner who was not of Eritrean ethnicity, had no Eritrean lineage, and no connection with Eritrea itself. The owner was deported for renting rooms to Eritreans who "had connections with [the] Eritrean government." *Id.*

<sup>194</sup> See *id.*

<sup>195</sup> See *id.* One deportee reported that he challenged an Ethiopian official about the legality of his voting in the independence referendum, noting that it had been held "with the support of the Ethiopian government." *Id.* He stated that the official responded that "this was true, but now it is changed." *Id.*

<sup>196</sup> See *id.* at 11-12.

<sup>197</sup> See *id.*

<sup>198</sup> *Id.* at 4; Ngwenya, *supra* note 11, at 5.

<sup>199</sup> See Klein, *supra* note 11, at 16; Ngwenya, *supra* note 11, at 5.

<sup>200</sup> See Klein, *supra* note 11, at 17.

<sup>201</sup> See *id.* at 9.

witness.<sup>202</sup> Others were arrested outright.<sup>203</sup> Deportees consistently reported not being able to contact family<sup>204</sup> and not being able to get personal belongings or money.<sup>205</sup>

*ii. Detention*

There are two groups of detainees. The first group is being detained indefinitely, while a second group is being detained pending expulsion from Ethiopia.<sup>206</sup> The Klein report notes that the majority of the individuals being detained indefinitely are "young and able bodied" males who are former fighters for Eritrea or who performed national service in Eritrea.<sup>207</sup> This group includes thirty-seven students from the University of Asmara who were on an exchange program studying in Addis Ababa.<sup>208</sup> The conditions of their detention are not known.<sup>209</sup> It is suspected that there are a number of detention facilities around Ethiopia and that the ICRC has only been given access to a few.<sup>210</sup> One former detainee in the camp in Fiche, which is located outside of Addis Ababa, was interviewed by the Klein team.<sup>211</sup> He reported that detainees were required to wear coveralls and that they were not allowed to wear shoes.<sup>212</sup> He stated that there was inadequate food and water and that detainees were limited to using the bathroom two times per day.<sup>213</sup> He also stated that both the OAU and ICRC had visited the facility but that prisoners who spoke with them

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<sup>202</sup> See *id.* at 17.

<sup>203</sup> See *id.*

<sup>204</sup> See Ngwenya, *supra* note 11, at 5. This practice was especially stressful for mothers picked up on the streets whose children were at home alone. See *id.*

<sup>205</sup> See Klein, *supra* note 11, at 9; Ngwenya, *supra* note 11, at 5. The few deportees who were being allowed to take any personal documents or belongings generally reported that they were confiscated later by officials. See Ngwenya, *supra* note 11, at 5.

<sup>206</sup> See Klein, *supra* note 11, at 3.

<sup>207</sup> *Id.*

<sup>208</sup> See *id.* at 11.

<sup>209</sup> See *id.* at 3.

<sup>210</sup> See *id.* at 21.

<sup>211</sup> See *id.*

<sup>212</sup> See *id.*

<sup>213</sup> See *id.*

were beaten afterwards.<sup>214</sup>

The second group of detainees is housed in Ethiopian facilities for a period of a few days to a few months and then deported on buses to Eritrea.<sup>215</sup> The reports indicate overcrowded conditions and inadequate provision of food and water.<sup>216</sup> Deportees reported being housed in prison cells or metal shipping containers with twenty to fifty other people.<sup>217</sup> One interviewee stated that there was not enough room for people to lie down to sleep.<sup>218</sup> A few deportees reported that they were placed in solitary confinement or in manacles for various periods of time.<sup>219</sup> Some of the people interviewed said that they were required to purchase their own drinking water, while others said that it was supplied to them.<sup>220</sup> All of the deportees reported that they had to provide for their own food while being detained.<sup>221</sup> Family and friends brought food to the detention facilities but were not allowed to see the detainees.<sup>222</sup> The detainees were limited to two trips to the bathroom daily.<sup>223</sup> Lack of health care and extreme heat also created problems.<sup>224</sup> Children were not given any special treatment or consideration.<sup>225</sup>

### *c. Transport to Eritrea*

This second group of detainees was loaded on buses to make the trip to the border of Eritrea.<sup>226</sup> The deportees reported overcrowded conditions, lack of food and water, and exposure to extreme heat.<sup>227</sup> The average length of the bus ride was generally

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<sup>214</sup> See *id.*

<sup>215</sup> See *id.* at 4; Ngwenya, *supra* note 11, at 5.

<sup>216</sup> See Klein, *supra* note 11, at 17-18.

<sup>217</sup> See *id.* at 18.

<sup>218</sup> See *id.*

<sup>219</sup> See *id.*

<sup>220</sup> See *id.* at 17.

<sup>221</sup> See *id.*

<sup>222</sup> See *id.*

<sup>223</sup> See *id.* at 18.

<sup>224</sup> See *id.*

<sup>225</sup> See *id.*

<sup>226</sup> See Klein, *supra* note 11, at 19; Ngwenya, *supra* note 11, at 5, 12, 13.

<sup>227</sup> See Klein, *supra* note 11, at 19-20; Ngwenya, *supra* note 11, at 5, 6, 13. The

three days, however, some buses were arbitrarily detained, making the trips longer.<sup>228</sup> The buses departed from various areas of Ethiopia and gathered in one predetermined, undisclosed, location.<sup>229</sup> If one bus arrived early, it had to wait for the others to arrive.<sup>230</sup> The buses then traveled in a caravan to some point near the Eritrean border.<sup>231</sup> Some deportees reported that the buses would only travel at night and would not use headlights.<sup>232</sup> The deportees who traveled through the Tigray region of Ethiopia reported that they were harassed, abused, and threatened by the Tigrayan military.<sup>233</sup> One group was detained in Adwa for further interrogation.<sup>234</sup> The deportees in this group reported that the Tigray officials attempted to separate the men, women, and children on different buses but were dissuaded by the persistent protests of the group.<sup>235</sup> The group noted conflicts between the Addis and Tigray officials regarding this treatment.<sup>236</sup> Three deportees were reportedly detained and taken away from the group after protesting that the group was being left without an escort from Addis Ababa.<sup>237</sup>

Once arriving at their destination near the border, the deportees were forced to get off the buses and to walk across the border.<sup>238</sup> They reported that the length of the walk varied from two to ten

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deportees reported that they received a ration of bread and water once a day. *See* Ngwenya, *supra* note 11, at 5. When buses were stopped, the deportees were not allowed to open windows in extreme heat and overcrowding. *See id.* One group reported being without food and water for one full day and night in Adwa. *See id.* at 8.

<sup>228</sup> *See* Klein, *supra* note 11, at 20.

<sup>229</sup> *See id.* at 19; Ngwenya, *supra* note 11, at 5.

<sup>230</sup> *See* Ngwenya, *supra* note 11, at 5.

<sup>231</sup> *See id.* at 6.

<sup>232</sup> *See* Klein, *supra* note 11, at 20. The deportees speculated that the Ethiopian officials did not want other Ethiopian citizens to be aware of the number of expulsions, *see* Ngwenya, *supra* note 11, at 13, or that the officials did not want the deportees to see an Ethiopian military base, *see* Klein, *supra* note 11, at 20.

<sup>233</sup> *See* Ngwenya, *supra* note 11, at 8.

<sup>234</sup> *See id.* at 10.

<sup>235</sup> *See id.*

<sup>236</sup> *See id.* at 13.

<sup>237</sup> *See id.*

<sup>238</sup> *See id.* at 6; Klein, *supra* note 11, at 19.

kilometers.<sup>239</sup> Most deportees were made to walk across the border at night and expressed fear because they were walking through highly militarized zones.<sup>240</sup> The temperatures in the region at times reached 110 degrees Fahrenheit.<sup>241</sup> The walk was especially harrowing to children and the elderly.<sup>242</sup> One full-term pregnant woman gave birth to a baby while walking to the border and was unable to produce milk to breast-feed the child because of her malnourishment.<sup>243</sup> A fifty-six year old man reportedly died on the walk to the border.<sup>244</sup> One group reported being forced to walk through a flooded area where they had to wade through a river to get to the border.<sup>245</sup> The Ethiopian government provides no notice of the location, the time, or the number of deportees who will be dropped off near the border.<sup>246</sup>

Upon learning of the arrival of deportees, Eritrea sends buses to a checkpoint and transports the arrivals to a reception center to register them.<sup>247</sup> This service is provided by the Eritrean Relief and Refugee Commission (ERREC).<sup>248</sup> Once registered, ERREC assists the deportees with contacting relatives and provides temporary housing and access to food.<sup>249</sup> The UN report notes that the Eritrean government has provided each family with a one-time payment of 1,500 Nafka and a monthly payment of 65 Nafka to each family member for a six month period.<sup>250</sup>

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<sup>239</sup> See Klein, *supra* note 11, at 20; Ngwenya, *supra* note 11, at 20.

<sup>240</sup> See Klein, *supra* note 11, at 20; Ngwenya, *supra* note 11, at 6, 14. Some groups reported being met by Eritrean scouts who told them to wait until morning to cross the zone. See Ngwenya, *supra* note 11, at 6.

<sup>241</sup> See Klein, *supra* note 11, at 20.

<sup>242</sup> See *id.* at 20; Ngwenya, *supra* note 11, at 6.

<sup>243</sup> See Klein, *supra* note 11, at 10.

<sup>244</sup> See Ngwenya, *supra* note 11, at 6.

<sup>245</sup> See Klein, *supra* note 11, at 19-20.

<sup>246</sup> See *id.* at 19.

<sup>247</sup> See *id.* at 4.

<sup>248</sup> See *id.*

<sup>249</sup> See *id.*

<sup>250</sup> See Ngwenya, *supra* note 11, at 3. The one time payment computes to USD \$204.08. See *id.* The monthly payment of 65 Nafka per family member equals USD \$8.84. See *id.*

*d. Seizure of Property*

The Klein and UN reports confirm that the Ethiopian government is forcing deportees to forfeit their assets by leaving them behind.<sup>251</sup> Because the deportees are arrested and detained without notice, they do not have an opportunity to settle their finances.<sup>252</sup> Some of the deportees had considerable wealth in Ethiopia.<sup>253</sup> Many reported being tricked by officials to list all of their assets under the pretext of signing power of attorney over to a designee.<sup>254</sup> These documents were invalid as Ethiopian law requires validation in a court of law.<sup>255</sup> However, this tactic provided Ethiopian officials with complete information on the deportee's assets.<sup>256</sup> Some deportees have been told that their properties were reassigned.<sup>257</sup> Deportees from the Tigray farmlands were forced to leave behind their farm equipment and animals.<sup>258</sup> Klein cites a BBC news article which indicated that the Ethiopian government is taking over confiscated businesses.<sup>259</sup> The report also notes that the Commercial Bank of Ethiopia is monitoring eleven large Eritrean-owned companies for "security reasons."<sup>260</sup>

*5. Contact with Ethiopians Living in Eritrea*

Both the UN and Klein teams also met with Ethiopians residing in Eritrea to investigate the Ethiopian government's allegations.<sup>261</sup> The individuals interviewed did not confirm the

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<sup>251</sup> See Klein, *supra* note 11, at 14-16; Ngwenya, *supra* note 11, at 8.

<sup>252</sup> See Ngwenya, *supra* note 11, at 8.

<sup>253</sup> See Klein, *supra* note 11, at 14.

<sup>254</sup> See *id.*

<sup>255</sup> See *id.*

<sup>256</sup> See *id.*

<sup>257</sup> See *id.* at 13.

<sup>258</sup> See *id.* at 14.

<sup>259</sup> See *id.* at 15.

<sup>260</sup> *Id.*

<sup>261</sup> See Klein, *supra* note 11, at 5; Ngwenya, *supra* note 11, at 6. The UN report notes that the Ethiopian citizens interviewed by the team in Assab were brought to the site by the Eritrean government. See Ngwenya, *supra* note 11, at 6. Therefore, the report indicates that the group may not be representative of the broader Ethiopian

reports of mass expulsion by the Eritrean government.<sup>262</sup> In fact, the representative interviewed at the Ethiopian Embassy in Asmara confirmed that Eritrea was not forcibly expelling Ethiopians.<sup>263</sup> The representative, however, stated that Ethiopians were being "indirectly expelled" by Eritrea because they lost their jobs and faced discrimination.<sup>264</sup> Lack of work and extreme financial concerns were cited by the majority of Ethiopians interviewed by both teams.<sup>265</sup> Two hundred and three Ethiopians were being housed at the Embassy compound.<sup>266</sup> They wanted to return to Ethiopia but could not afford an exit visa.<sup>267</sup> The Klein report noted that, following the team's visit, the Eritrean government agreed to waive the exit visa fee for Ethiopians who desired to return to their country but were unable to afford it.<sup>268</sup> The Ethiopians interviewed did not report mistreatment by the Eritrean government.<sup>269</sup>

The representative interviewed at the Ethiopian Embassy further contradicted the statement by the Ethiopian Ministry of Foreign Affairs that ICRC is supervising the transfer of Eritreans to the border.<sup>270</sup> The representative said "the Ethiopian

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community in Eritrea. *See id.* The report further notes, however, that impromptu conversations with Ethiopian workers in an Assab restaurant also indicated that there was no widespread mistreatment of Ethiopians by the Eritrean government. *See id.*

<sup>262</sup> *See* Klein, *supra* note 11, at 23; Ngwenya, *supra* note 11, at 6.

<sup>263</sup> *See* Klein, *supra* note 11, at 23. An Eritrean Foreign Ministry official also asserted that the only Ethiopians being detained by the Eritrean government are serving sentences for criminal violations. *See id.*

<sup>264</sup> *Id.*

<sup>265</sup> *See id.*; Ngwenya, *supra* note 11, at 6. The Ethiopians interviewed by the UN team in Assab were primarily dock laborers who had lost their jobs as a result of the Ethiopian government's decision to reroute the shipping of Ethiopian goods from the Assab port. *See* Ngwenya, *supra* note 11, at 6. A second group was composed of teachers from the closed Ethiopian Community School. *See id.* The teachers were employees of Ethiopia, but had not been paid in four months. *See id.*

<sup>266</sup> *See* Klein, *supra* note 11, at 22.

<sup>267</sup> *See id.*; Ngwenya, *supra* note 11, at 6-7.

<sup>268</sup> *See* Klein, *supra* note 11, at 23.

<sup>269</sup> *See id.* at 20; Ngwenya, *supra* note 11, at 6.

<sup>270</sup> *See* Klein, *supra* note 11, at 20. The representative's assertion is also supported by a letter from the ICRC to the Prime Minister of Ethiopia refuting a June 24th statement by the Ministry of Foreign Affairs that ICRC had supervised the transport of 1405 "civilian internees" to the border. *See* Letter from Head of Delegation,

government prefers the sole responsibility for the transportation for security reasons.”<sup>271</sup>

## V. Violations of International Law

Ethiopia is a charter member of the United Nations Organization (UN) and, therefore, is subject to international law governing the protection of human rights.<sup>272</sup> The Universal Declaration of Human Rights (Declaration) was adopted by the General Assembly of the UN on December 10, 1948.<sup>273</sup> The purpose of the Declaration was to serve “as a common standard of achievement for all peoples and all nations” in the area of human rights.<sup>274</sup> The Declaration is considered the model for other international human rights instruments.<sup>275</sup> In 1966, the UN opened for signature two international human rights laws: the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights (ICCPR).<sup>276</sup> Both covenants entered into force in 1976.<sup>277</sup> Ethiopia acceded to ICCPR in 1993.<sup>278</sup>

The UN has also ratified subject-specific human rights laws. Two laws relevant to this Comment are the International Convention on the Elimination of All Forms of Racial Discrimination and the Convention on the Rights of the Child.<sup>279</sup>

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International Committee of the Red Cross, to Prime Minister Meles Zenawi of Ethiopia (July 10, 1998) (on file with the *North Carolina Journal of International Law and Commercial Regulation*).

<sup>271</sup> Klein, *supra* note 11, at 20.

<sup>272</sup> See FASIL NAHUM, CONSTITUTION FOR A NATION OF NATIONS: THE ETHIOPIAN PROSPECT 25 (1997).

<sup>273</sup> See THE RAOUL WALLENBURG INSTITUTE COMPILATION OF HUMAN RIGHTS INSTRUMENTS 27 (Göran Melander & Gudmundur Alfredsson, eds., Martinus Nijhoff Publishers 1997) [hereinafter WALLENBERG].

<sup>274</sup> *Universal Declaration of Human Rights*, G.A. Res. 217, 3rd Sess., U.N. doc. A/810 (1948) [hereinafter *UDHR*].

<sup>275</sup> See NAHUM, *supra* note 272, at 109.

<sup>276</sup> See *id.* at 111.

<sup>277</sup> See WALLENBERG, *supra* note 273, at 33, 43.

<sup>278</sup> See Klein, *supra* note 11, at 29 n.6.

<sup>279</sup> See *Convention on the Rights of the Child*, G.A. Res. 44/25, 44 U.N. GAOR, Supp. No. 49, U.N. Doc. A/44/736 (1989) (entered into force Sept. 2, 1990); *International Convention on the Elimination of All Forms of Racial Discrimination*,



Ethiopia acceded to both of these conventions.<sup>280</sup> Finally, Ethiopia's own constitution, which was ratified in December 1994, contains provisions to protect human rights.<sup>281</sup> Moreover, it states that "[a]ll international agreements ratified by Ethiopia are an integral part of the law of the land."<sup>282</sup> The Ethiopian government's actions regarding treatment of people of Eritrean ethnicity violate both international and domestic law.

The mass expulsion of these individuals from Ethiopia violates Article 9 of the Declaration, which provides that "[n]o one shall be subject to arbitrary arrest, detention or *exile*."<sup>283</sup> It further violates Article 13 of the Declaration, which states that "[e]veryone has the right to freedom of movement and residence within the borders of each state. Everyone has the right to leave any country, including his own, or to return to his country."<sup>284</sup> The reports confirm that the deportees are being prevented from such movement.<sup>285</sup>

The ICCPR also prohibits restrictions on freedom of movement but differentiates between citizens of the state and aliens.<sup>286</sup> It provides that aliens may be expelled from a territory only after being afforded due process unless there are "compelling reasons of national security."<sup>287</sup> Neither the UN nor the Klein teams found evidence that the Eritreans who were legally residing in Ethiopia on a temporary basis were being afforded due process.<sup>288</sup> Furthermore, the ICCPR contains no provisions that

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opened for signature Mar. 7, 1966, 660 U.N.T.S. 195 (adopted by the U.N. General Assembly in New York on Dec. 21, 1965, entered into force on Jan. 4, 1969) [hereinafter *CERD*].

<sup>280</sup> Ethiopia acceded to the International Convention on the Elimination of All Forms of Racial Discrimination in June 1976 and the Convention on the Rights of the Child in May 1991. See *id.* nn.8, 11.

<sup>281</sup> See ETH. CONST. ch. III, pt. 1.

<sup>282</sup> ETH. CONST. ch. II, art. 9, § 4.

<sup>283</sup> UDHR, *supra* note 274, at art. 9 (emphasis added).

<sup>284</sup> *Id.* at art. 13.

<sup>285</sup> See *supra* notes 172-73 and accompanying text.

<sup>286</sup> See *International Covenant on Civil and Political Rights*, G.A. Res. 2200, U.N. GAOR, 21st Sess., Supp. No. 16, art. 12, at 54, U.N. Doc. A/6316 (1966) (entered into force March 23, 1976) [hereinafter *ICCPR*].

<sup>287</sup> *Id.* at art. 13; Klein, *supra* note 11, at 6.

<sup>288</sup> See *supra* notes 166-271 and accompanying text.

authorize the expulsions of citizens under any circumstance.<sup>289</sup> In fact, Article 12, Section 4 of ICCPR provides that "no one shall be arbitrarily deprived of the right to enter his own country."<sup>290</sup>

Additionally, the Ethiopian Constitution prohibits restrictions on freedom of movement. Article 32 states:

Any Ethiopian or foreign national lawfully in Ethiopia has, within the national territory, the right to liberty of movement and freedom to choose his residence, as well as the freedom to leave the country at any time he wishes to. . . . Any Ethiopian national has the right to return to his country.<sup>291</sup>

The Ethiopian Prime Minister has claimed that the citizens who were deported are "foreigners" and, therefore, do not possess this right.<sup>292</sup> This claim, however, has no legal basis.<sup>293</sup> The Ethiopian Constitution provides that "[n]o Ethiopian national shall be deprived of his or her Ethiopian nationality against his or her will."<sup>294</sup> The government does not contest that most of the deportees were once citizens of Ethiopia, but instead maintains that the independence referendum divested them of their citizenship status.<sup>295</sup> However, there was no understanding during the independence referendum process that people of Eritrean descent would lose their Ethiopian citizenship.<sup>296</sup> Contrary to the government's claims, the majority of the deportees are not foreigners, but Ethiopian citizens.<sup>297</sup> This expulsion of its own citizens is "contrary to the strong presumption in international law

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<sup>289</sup> See ICCPR, *supra* note 286.

<sup>290</sup> *Id.* at art. 12, § 4.

<sup>291</sup> ETH. CONST. art. 32.

<sup>292</sup> Interview with Prime Minister Zenawi, *supra* note 27.

<sup>293</sup> See Klein, *supra* note 11, at 8. Most of the deportees possessed full documentation of their Ethiopian citizenship before their arrest. See *id.* Ethiopian authorities confiscated many of these documents during the deportation process. See *id.*

<sup>294</sup> ETH. CONST. art. 33, § 1.

<sup>295</sup> See Klein, *supra* note 11, at 8.

<sup>296</sup> See *id.*

<sup>297</sup> See *id.* The Ethiopian government persistently ignores the fact that many of the deportees are Ethiopian citizens, "choosing to focus on ancestry or national origin as the means to categorize Ethiopians of Eritrean origin as 'foreign'." *Id.* at 9.

against rendering people stateless."<sup>298</sup>

The Klein report confirms that Ethiopia is deporting individuals because of their Eritrean descent.<sup>299</sup> This policy violates the International Convention on the Elimination of All Forms of Racial Discrimination.<sup>300</sup> This Convention prohibits states from discriminating or infringing on the rights of individuals based on national or ethnic origin and protects the right to freedom of movement, to return to one's own country, and to nationality.<sup>301</sup>

The arbitrary arrest and detention of the deportees also violates numerous international provisions and the Ethiopian Constitution. As noted above, Article 9 of the Declaration prohibits the arbitrary arrest and detention or exile of any person.<sup>302</sup> A similar provision is contained in ICCPR.<sup>303</sup> Article 17 of the Ethiopian Constitution also mandates that "[n]o person may be detained without a charge or conviction against him."<sup>304</sup> The UN and Klein reports indicate that the arrest and detention of the deportees has been arbitrary.<sup>305</sup> In most cases, the deportees are given no reason for their arrest and detention.<sup>306</sup> There are no reported cases that deportees were charged with any crime prior to being detained.<sup>307</sup> The

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<sup>298</sup> *Id.* The individuals who are being deported are not Eritrean citizens, therefore their exile from Ethiopia effectively renders them stateless. *See id.*

<sup>299</sup> *See id.* at 9.

<sup>300</sup> *See CERD, supra* note 279.

<sup>301</sup> *See id.* at art. 5(d).

<sup>302</sup> *See UDHR, supra* note 274, at art. 9.

<sup>303</sup> *See ICCPR, supra* note 286, at art. 9, § 1.

<sup>304</sup> ETH. CONST. art. 17.

<sup>305</sup> *See Klein, supra* note 11, at 16; Ngwenya, *supra* note 11, at 5.

<sup>306</sup> *See Klein, supra* note 11, at 9. This action also violates Article 9, Section 2 of the ICCPR, which provides that "[a]nyone who is arrested shall be informed, at the time of arrest, of the reasons for his arrest and shall be promptly informed of any charges against him." *ICCPR, supra* note 286, at art. 19, § 2. The Ethiopian Constitution contains a similar provision, which declares that "[a]nyone arrested on criminal charges shall have the right to be informed promptly and in detail, in a language which he understands, of the nature and cause of the charge against him." ETH. CONST. art. 19, § 1.

<sup>307</sup> *See Klein, supra* note 11, at 19. It is also not clear that members of the student group who are being detained indefinitely have been charged with a crime. *See University of Asmara Appeals on Behalf of Detained Exchange Students*, ERINA NEWS UPDATE (July 23, 1998) (visited Oct. 23, 1998) <<http://www.primenet.com/~ephrem2/>

arbitrariness of the decision to arrest and detain these individuals is underscored by Prime Minister Zenawi's statement, "if we say '[g]o because we do not like the colour of your eyes,' they have to leave."<sup>308</sup>

The reports depict the inhumane treatment of deportees.<sup>309</sup> The cruelty of the Ethiopian government extends to the separation of families, the overcrowded conditions of the detention centers and buses, the inadequacy of food and water, and the requirement that deportees walk through militarized zones.<sup>310</sup> Prohibitions of cruel and inhumane treatment are embedded in international law. The Declaration, ICCPR, and Articles 18 and 21 of the Ethiopian Constitution all forbid cruel, inhumane, and degrading treatment.<sup>311</sup>

Property rights are also protected by both international law and the Ethiopian Constitution. Article 17 of the Declaration provides that "[n]o one shall be arbitrarily deprived of his property."<sup>312</sup> The Ethiopian Constitution further states that the government can only expropriate private property for public use when it compensates the owner in advance in an amount commensurate with the value of the property.<sup>313</sup> Prime Minister Zenawi recognized this property right, declaring that "[p]eople . . . cannot have their property confiscated."<sup>314</sup> He denied that Ethiopia has taken anyone's property, legally or illegally.<sup>315</sup>

The UN and Klein reports indicate otherwise.<sup>316</sup> The Klein report characterizes the Ethiopian government's actions with respect to the property of deportees as "de facto expropriation"

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newscom2/atrocity/ 0004.html>. The Ethiopian Constitution provides accused persons the right to be informed specifically of the charges against them, and the right to a public trial. *See* ETH. CONST. art. 20, §§ 1 and 2.

<sup>308</sup> Interview with Prime Minister Zenawi, *supra* note 27.

<sup>309</sup> *See supra* notes 198-250 and accompanying text.

<sup>310</sup> *See id.*

<sup>311</sup> *See UDHR, supra* note 274, at art. 5; *ICCPR, supra* note 286, at art. 7; ETH. CONST. arts. 18, 21.

<sup>312</sup> *UDHR, supra* note 274.

<sup>313</sup> *See* ETH. CONST. art. 40, § 8.

<sup>314</sup> Interview with Prime Minister Zenawi, *supra* note 27.

<sup>315</sup> *See id.*

<sup>316</sup> *See* Klein, *supra* note 11, at 14; Ngwenya, *supra* note 11, at 13.

rather than confiscation.<sup>317</sup> Although the government is not seizing property prior to the deportation, it either prohibits people from settling their assets or it forces relatives or designees to settle them quickly.<sup>318</sup> Recent news reports estimate that the value of the property left behind by deportees is substantial.<sup>319</sup>

Perhaps the most callous of the Ethiopian government's actions is the forced separation of families.<sup>320</sup> Children and families are given special protections under both international law and the Ethiopian Constitution.<sup>321</sup> The Declaration states that "[t]he family is the natural and fundamental group unit of society and is entitled to protection by society and the State."<sup>322</sup> The Ethiopian Constitution contains the same recognition in Article 34, Section 3.<sup>323</sup> Furthermore, the Declaration provides "[n]o one shall be subjected to arbitrary interference with his privacy, family, [or] home . . . ."<sup>324</sup> The arbitrary separation of families by the Ethiopian government ignores both international and domestic protections afforded to families. The UN and Klein reports account numerous instances of families being torn apart by

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<sup>317</sup> Klein, *supra* note 11, at 14.

<sup>318</sup> *See id.* at 14-15.

<sup>319</sup> *See* Julia Stewart, *Ethiopian Government Under Fire for Deportation of Eritrean Businessmen*, BIRMINGHAM POST, Nov. 7, 1998, available in LEXIS, World Library, Allnws File, at 2; *From One DP to Another*, INDIAN OCEAN NEWSL., Oct. 31, 1998, available in LEXIS, World Library, Allnws File.

<sup>320</sup> *See* Klein, *supra* note 11, at 12. It has been confirmed that Ethiopia is now making efforts to reunify families. *See 370 Eritreans Leave Ethiopia for Home*, *supra* note 42. However, this involves the deportation of the remaining family members to Eritrea. *See id.*

<sup>321</sup> *See infra* notes 335-36 and accompanying text.

<sup>322</sup> UDHR, *supra* note 274, at art. 16, § 3. There is a similar provision in the ICCPR. *See ICCPR* note 286, at art. 23, § 1. It is worth noting also that Section 1 of the UDHR provides that "[m]en and women of full age, without any limitation due to race, nationality or religion, have the right to marry and to found a family." UDHR, *supra* note 274, at art. 16, § 3. Arguably, the current Ethiopian government policy restricts this right to marry regardless of nationality, because a person of Eritrean descent is subject to be arbitrarily separated from a spouse of Ethiopian descent. *See id.*

<sup>323</sup> *See* ETH. CONST. art. 34, § 3. "The family is the natural and fundamental unit of society and is entitled to protection by society and the State." *Id.*

<sup>324</sup> UDHR, *supra* note 274, at art. 12.

Ethiopian officials.<sup>325</sup> Children are often left alone with no parent.<sup>326</sup> Families are not allowed to communicate with a loved one who is being detained.<sup>327</sup> This restriction further violates Article 21 of the Ethiopian Constitution relating to the rights of all persons convicted or held in custody. Section 2 of this Article states that "[a]ll persons shall have the opportunity to communicate with, and to be visited by, their spouses or partners, relatives, friends . . . ."<sup>328</sup> The deportees are being denied this right.<sup>329</sup> Moreover, some deportees reported not knowing how to reach family members remaining in Ethiopia because the family had been relocated and their properties reassigned.<sup>330</sup> Of great concern to the UN and Klein teams in this regard is the financial stability of the families left behind.<sup>331</sup> Many of the deportees were reportedly the sole support of the family and expressed grave concerns about the ability of their wives and children to survive without them.<sup>332</sup>

Ethiopia acceded to the UN Convention on the Rights of the Child in 1991 and made special provisions regarding the rights of children in its constitution.<sup>333</sup> The Convention provides that "[s]tates . . . shall ensure to the maximum extent possible the survival and development of the child."<sup>334</sup> Article 9, Section 1 further provides that "[s]tates . . . shall ensure that a child shall not be separated from his or her parents against their will . . . ."<sup>335</sup> The Ethiopian Constitution states that "[e]very child has the right to know and be cared for by his or her parents or legal guardians."<sup>336</sup> Despite these provisions, the Ethiopian government is not

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<sup>325</sup> See Klein, *supra* note 11, at 12; Ngwenya, *supra* note 11, at 13.

<sup>326</sup> See Ngwenya, *supra* note 11, at 13.

<sup>327</sup> See Klein, *supra* note 11, at 17.

<sup>328</sup> ETH. CONST. art. 21, § 2.

<sup>329</sup> See Klein, *supra* note 11, at 17.

<sup>330</sup> See Ngwenya, *supra* note 11, at 13.

<sup>331</sup> See Klein, *supra* note 11, at 12; Ngwenya, *supra* note 11, at 13.

<sup>332</sup> See Klein, *supra* note 11, at 12; Ngwenya, *supra* note 11, at 13.

<sup>333</sup> See Klein, *supra* note 11, at 29 n.11.

<sup>334</sup> *Convention on the Rights of the Child*, *supra* note 279, at art. 6, § 2.

<sup>335</sup> *Id.*

<sup>336</sup> ETH. CONST. art. 36, § 1.

safeguarding the interests of children. Children are being separated from their parents.<sup>337</sup> The resulting lack of income threatens the very survival of these children.<sup>338</sup> Moreover, the removal of parents certainly has the potential to impede the emotional development of children. It is not disputed that this separation is against the family's will.<sup>339</sup> Most deportees who left families behind reported pleading with local officials to allow the children to go as well.<sup>340</sup> Furthermore, those children who are allowed to accompany their parents are subjected to the same inhumane treatment received by their parents.<sup>341</sup>

Finally, international law requires that violations of human rights be redressed. The Declaration provides that "[e]veryone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law."<sup>342</sup> The actions of the Ethiopian government have violated fundamental liberty and property rights guaranteed under international and Ethiopian law. The deportees have been forced from their land, homes, businesses, and community with nothing.<sup>343</sup> Retirees from civil service are no longer receiving their pensions.<sup>344</sup> Families and individuals must start over in a new country. In addition, the loss of liberty has led to a loss of life in at least one reported instance.<sup>345</sup>

Ethiopia continues to deny violating its own constitution and international law.<sup>346</sup> It asserts that it has the right to deport these individuals.<sup>347</sup> The Ethiopian government has expressed displeasure with international leaders who have alleged that

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<sup>337</sup> See Klein, *supra* note 11, at 12.

<sup>338</sup> See *supra* notes 186, 332 and accompanying text.

<sup>339</sup> See Klein, *supra* note 11, at 12.

<sup>340</sup> See *id.*

<sup>341</sup> See Klein, *supra* note 11, at 10, 12-13, 17-18.

<sup>342</sup> UDHR, *supra* note 274, at art. 8.

<sup>343</sup> See *supra* notes 251-60 and accompanying text.

<sup>344</sup> See Klein, *supra* note 11, at 15.

<sup>345</sup> See Ngwenya, *supra* note 11, at 6. A 56-year-old former teacher died of exhaustion and heatstroke during the walk to the Eritrean checkpoint. See *id.*

<sup>346</sup> See 370 *Eritreans Leave Ethiopian for Home*, *supra* note 42, at 1.

<sup>347</sup> See *id.*

Ethiopia is violating international law.<sup>348</sup>

## VI. Human Rights and the International Community

On July 1, 1998, the High Commissioner of Human Rights of the UN, Mary Robinson, issued a statement urging the government of Ethiopia to respect international human rights and to meet its obligations under international law.<sup>349</sup> Specifically, Robinson stated that she is "deeply concerned by the violation of human rights of Eritrean nationals being expelled from Ethiopia, and particularly by the fact that their passports are being stamped 'expelled, never to return.'"<sup>350</sup> On August 6, 1998, the U.S. State Department issued a statement urging the Ethiopian government to afford due process with regard to its national security concerns, to allow those expelled to return, and to establish a compensation system to redress financial loss and hardship.<sup>351</sup> The Klein team made similar recommendations after obtaining first-hand knowledge of the activities of the Ethiopian government.<sup>352</sup> Germany has reportedly withheld pre-approved aid to Ethiopia until the government agrees to stop using force and to settle the border dispute peacefully.<sup>353</sup> International human rights groups have also condemned Ethiopia's deportation policy.<sup>354</sup> Amnesty

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<sup>348</sup> See *Ethiopia Hits Back At Robinson Criticism*, AGENCE FRANCE PRESSE, July 2, 1998, at 1, available in LEXIS, World Library, Allnws File (reporting Ethiopia's response to criticism by Mary Robinson, UN High Commission of Human Rights); *Understanding America*, AFRICA NEWS ONLINE (Aug. 25, 1998) (visited Oct. 23, 1998) <[http://www.africanews.org/east/ethiopia/stories/19980825\\_feat1.html](http://www.africanews.org/east/ethiopia/stories/19980825_feat1.html)> (asserting that the United States is protecting its own interests in supporting Eritrea in the conflict).

<sup>349</sup> See UN Human Rights Chief "Deeply Concerned" Over Expulsions, *supra* note 50.

<sup>350</sup> *Id.*

<sup>351</sup> See *Ethiopia: Expulsions of Eritreans*, *supra* note 49.

<sup>352</sup> See Klein, *supra* note 11, at 23. The Klein team urged Ethiopia to cease all deportations, release all detainees, grant the ICRC full access to detention camps, cooperate to reunify families, compensate deportees for the loss of their property and "make reparations to Eritrea for the violation of diplomatic privileges and immunities." *Id.*

<sup>353</sup> See Sebhata Tesfay, *Ethiopia's Flagrant Human Rights Violations* (July 20, 1998) (visited Oct. 23, 1998) <<http://www.primenet.com/~ephrem2/newscom2/atrocity/0005.html>>.

<sup>354</sup> See *Ethiopia-Eritrea Border Clash*, *supra* note 99 (noting that "[f]oreign



International exerted pressure on both governments, but ceased their campaign against Eritrea once it received assurances that international human rights were being protected.<sup>355</sup>

The pleas of the UN High Commissioner on Human Rights, foreign states, and international human rights groups have not been heeded by the Ethiopian government. There has been no cessation of the deportations of people of Eritrean descent.<sup>356</sup> The Ethiopian government has stated that many of the individuals now being deported are family members of those already deported for national security reasons.<sup>357</sup> The government, therefore, proclaims that it is working to unify families.<sup>358</sup> Nonetheless, it is still deporting Ethiopian citizens because of their nationality.

It appears that Ethiopia will continue such action until the border conflict is resolved.<sup>359</sup> The deportations are particularly senseless because there is no logical connection between the individuals being deported and the border conflict. The government admits that these individuals are not necessarily national security threats.<sup>360</sup> Further, the deportees are not being displaced because of the proximity of the border conflict to their homes.<sup>361</sup> They are approximately forty thousand people that the Ethiopian government has decided it no longer wants in its country.

The motives behind the Ethiopian government's actions are difficult to comprehend. The reports indicate that the deportees were largely loyal to the government of Ethiopia.<sup>362</sup> Those individuals expelled include people who are married to Ethiopians, who fought in the Ethiopian military, and who had entire careers

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governments and international human rights organizations have condemned the mass deportations").

<sup>355</sup> See *Letter from Amnesty International*, AFRICA NEWS, Aug. 18, 1998, available in LEXIS, World Library, Afrnws File.

<sup>356</sup> See Last & Pecketon, *supra* note 16.

<sup>357</sup> See *Hostile Ethiopia, Eritrea Still Deporting Each Others' Citizens*, *supra* note 112.

<sup>358</sup> See *id.*

<sup>359</sup> See Last & Pecketon, *supra* note 16, at 2.

<sup>360</sup> See Interview with Prime Minister Zenawi, *supra* note 27.

<sup>361</sup> See *Ethiopia-Eritrea Border Clash*, *supra* note 99.

<sup>362</sup> See Klein, *supra* note 11, at 10.

in Ethiopian civil service.<sup>363</sup> There has been recent conjecture, however, that the current motive may be economic rather than political or ethnic.<sup>364</sup> A November news report noted that some deportees are labeling the expulsions as "economic cleansing" as opposed to ethnic cleansing.<sup>365</sup> The report noted that the Committee of Eritrean Businessmen Displaced from Ethiopia, which consists of only fifteen hundred of the deportees, has valued their assets and property left behind in Ethiopia at \$285 million.<sup>366</sup> Natalie Klein was quoted in the article, saying:

The vast majority of those coming out of Addis have significant business interests. In a number of instances, it seems that the police arrived to pick people up and already had information about the property owned . . . . The war has definitely provided Ethiopia with a window of opportunity for this property grab.<sup>367</sup>

The Ethiopian government has argued that deportees are allowed to sign over businesses to family members or designees before leaving.<sup>368</sup> It does admit, however, that they are often forced to sell at low prices.<sup>369</sup> Regardless of the motive, Ethiopia stands to gain substantially from the assets left behind as a result of the expulsions.<sup>370</sup>

Ethiopia has not offered any legitimate reason for its actions. It continues to assert that the deportations are to protect national security, yet it has defined its policy so broadly that this claim is dubious.<sup>371</sup> Furthermore, Prime Minister Zenawi insists that Ethiopia is not violating international law because the "Eritreans"

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<sup>363</sup> *See id.*

<sup>364</sup> *See* Last & Pecketon, *supra* note 16, at 2.

<sup>365</sup> Stewart, *supra* note 319.

<sup>366</sup> *See id.*

<sup>367</sup> *Id.*

<sup>368</sup> *See id.* at 1.

<sup>369</sup> *See id.*

<sup>370</sup> *See id.* Addressing the costs to Eritrea, an economist from the Bank of Eritrea noted, that "[i]n the short run, it can be a burden because the deported need to be housed, fed . . . . But in the long run, we are getting some of the most capable people." *Id.*

<sup>371</sup> Interview with Prime Minister Zenawi, *supra* note 27.

are foreigners.<sup>372</sup> In fact, Prime Minister Zenawi equated his deportation policy to the U.S. treatment of Mexican "aliens."<sup>373</sup> The obvious distinction between the practices of the United States and Ethiopia is the lack of citizenship of Mexican "aliens." Despite Ethiopia's assertions that individuals of Eritrean origin are aliens as well, there is no legal basis to this argument.<sup>374</sup> Up until the 1993 independence referendum, these people were citizens of Ethiopia.<sup>375</sup> There was no provision in the referendum divesting these individuals of Ethiopian citizenship.<sup>376</sup> Divesting them of citizenship would render them stateless, which is prohibited by international law.<sup>377</sup>

Perhaps a better, though still imperfect, comparison of the current Ethiopian practice to U.S. policy rests in history. More than fifty years ago, the U.S. government restricted the freedom of movement of people of Japanese ancestry during World War II.<sup>378</sup> The treatment of these individuals, like Ethiopia's treatment of Eritreans, was based on national origin and was applied regardless of the citizenship status of the affected persons.<sup>379</sup> The U.S. Military Order at issue in World War II provided for the exclusion of people of Japanese ancestry from certain war zones on the West Coast and for their subsequent detention in assembly or relocation centers.<sup>380</sup> The U.S. government stated that the action was necessary to prevent espionage and sabotage in an area that was threatened by Japanese attack.<sup>381</sup>

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<sup>372</sup> See *id.*

<sup>373</sup> See *id.*

<sup>374</sup> See Klein, *supra* note 11, at 8.

<sup>375</sup> See *id.*

<sup>376</sup> See *id.* Additionally, the Ethiopian constitution provides that "no Ethiopian national shall be deprived of his or her Ethiopian nationality against his or her will." ETH. CONST. art. 33, § 1.

<sup>377</sup> See Klein, *supra* note 11, at 8.

<sup>378</sup> See *Korematsu v. United States*, 323 U.S. 214, 216 (1944).

<sup>379</sup> See *id.* at 218-19.

<sup>380</sup> See *id.* at 221; see also Civilian Restrictive Order No. 1, 8 Fed. Reg. 982 (1942) (providing for the exclusion, detention, and relocation of individuals of Japanese ancestry by the U.S. government for national security reasons).

<sup>381</sup> See *Korematsu*, 323 U.S. at 218.

Two provisions in the U.S. policy towards people of Japanese ancestry were challenged on due process grounds in cases heard by the U.S. Supreme Court, *Korematsu v. United States* and *Hirabayashi v. United States*.<sup>382</sup> The first provision subjected people of Japanese ancestry to a curfew order.<sup>383</sup> The second provision excluded people of Japanese ancestry from certain war zones on the West Coast.<sup>384</sup> In both cases, the provisions were upheld.<sup>385</sup> The Court agreed with the government that it was within the national security interests of the United States to issue these military orders.<sup>386</sup> The *Korematsu* Court further agreed that it was reasonable for the government to conclude that people of Japanese ancestry who provided no security risk could not be separated from those who did during the exigency of war.<sup>387</sup>

Despite the similarities, there are distinct differences between the policies of the current Ethiopian government and the United States in World War II. First, Ethiopia is deporting these individuals from the entire country indefinitely.<sup>388</sup> The U.S. restrictions were limited to a region of the country during wartime.<sup>389</sup> Second, Ethiopia is no longer claiming national security as its justification for the deportation of its citizens.<sup>390</sup> Perhaps the most important difference, however, between the governmental human rights violations, is the fifty years that

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<sup>382</sup> See *id.*; *Hirabayashi v. United States*, 320 U.S. 81 (1943).

<sup>383</sup> See *Korematsu*, 323 U.S. at 217.

<sup>384</sup> See *id.* at 218.

<sup>385</sup> See *Hirabayashi*, 320 U.S. at 101; *Korematsu*, 323 U.S. at 219. In *Hirabayashi*, the Supreme Court found substantial basis for Congress to conclude that the curfew was necessary to meet the threat of espionage and sabotage in the time of war. See *Hirabayashi*, 320 U.S. at 95.

<sup>386</sup> See *Korematsu*, 323 U.S. at 219.

<sup>387</sup> See *id.* at 223-224. The United State Supreme Court decision in *Korematsu*, however, has been "widely and severely criticized." GEOFFREY R. STONE, CONSTITUTIONAL LAW 601 (1996). In fact, the U.S. Congress enacted legislation in 1988 that acknowledged "the fundamental injustice" of the evacuation by providing funding to redress the infringement on the rights of the individuals who were excluded from their homes during the period. 50 U.S.C.S. § 1989 (1988).

<sup>388</sup> See *supra* note 173 and accompanying text.

<sup>389</sup> See *Korematsu*, 323 U.S. at 219.

<sup>390</sup> See *supra* notes 140-43 and accompanying text.

separate the events.

The UN Organization and the international human rights laws that it has championed were formed after, and in response to, governmental actions during World War II.<sup>391</sup> The UN Charter was entered into force in October 1945 with an overall purpose of maintaining international peace and security.<sup>392</sup> The UN Organization then enacted the International Declaration of Human Rights in 1948.<sup>393</sup> As previously noted, the Declaration has been the model from which a multitude of international and domestic human rights instruments have been designed.<sup>394</sup> International laws now prohibit the restriction of a person's freedom of movement.<sup>395</sup> These laws would have challenged the legality of the U.S. policy in World War II. However, the United States cannot be charged with the violation of a law that did not exist.

Ethiopia is engaging in activities that potentially violate existing international law.<sup>396</sup> This is a fundamental difference between its actions and the actions of the United States in World War II. Ethiopia has been a party to the formation of international law regarding human rights and is aware of and bound to adhere to the Declaration.<sup>397</sup> Despite its participation in the formation of these international laws, Ethiopia is now violating a number of the Declaration's provisions.<sup>398</sup>

The question for the international community is: Why are acts like Ethiopia's mass expulsion still occurring, despite the numerous international laws prohibiting them? The good intentions of international leaders are of little solace to the more than 40,000 people of Eritrean descent who have been deported. The laws did not prevent Ethiopia from arbitrarily arresting,

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<sup>391</sup> See UNITED NATIONS DEPARTMENT OF PUBLIC INFORMATION, THE UNITED NATIONS AND HUMAN RIGHTS, 1945-1995, at 3, U.N. Sales No. 95.I.21 (1995).

<sup>392</sup> See U.N. CHARTER, art. 1, para. 1.

<sup>393</sup> See UDHR, *supra* note 274.

<sup>394</sup> See *supra* note 275 and accompanying text.

<sup>395</sup> See *supra* notes 283-91 and accompanying text.

<sup>396</sup> See *supra* notes 272-348 and accompanying text.

<sup>397</sup> See UDHR, *supra* note 274, at preamble.

<sup>398</sup> See *supra* notes 272-348 and accompanying text.

detaining, and exiling them en masse.<sup>399</sup> The laws did not keep their families together or protect their property interests.<sup>400</sup>

In his book *Mass Expulsion in Modern International Law and Practice*,<sup>401</sup> Jean-Marie Henckaerts suggests that the international human rights laws are not ineffective because of a lack of enforcement structure.<sup>402</sup> He notes that "the structures are there, the treaties are there, the provisions are available, the committees are in place and the experts are appointed."<sup>403</sup> International law affords remedies providing for voluntary return to the country and compensation for injury.<sup>404</sup> There are procedures in place for countries to protest the actions of an "offending" country, for dispute resolution, and for asserting political and economic pressure.<sup>405</sup> Henckaerts suggests, however, that it takes individuals, countries, and international organizations to make the protests and assert the pressure.<sup>406</sup> After all, "[s]tructures do not work, people do. Much depends on the initiative, the drive and the competence of human rights experts. . . ."<sup>407</sup> With the exception of a few public statements denouncing the deportations, little pressure has been asserted on Ethiopia to cease the expulsions.<sup>408</sup>

One area that Henckaerts suggests can be extremely effective in addressing international human rights violations is media coverage, especially television.<sup>409</sup> International media coverage on the deportations has been minimal. Electronic database searches of print media indicate that there has been minimal news coverage of the issue outside of Africa. It is not surprising that the majority of the news reports on the topic were found in Africa News.

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<sup>399</sup> See *supra* notes 166-246 and accompanying text.

<sup>400</sup> See *supra* notes 180-86, 251-60 and accompanying text.

<sup>401</sup> JEAN-MARIE HENCKAERTS, *MASS EXPULSION IN MODERN INTERNATIONAL LAW AND PRACTICE* 197 (1995).

<sup>402</sup> See *id.*

<sup>403</sup> *Id.*

<sup>404</sup> See *id.* at 183-89.

<sup>405</sup> *Id.* at 189-90.

<sup>406</sup> See *id.* at 197.

<sup>407</sup> *Id.*

<sup>408</sup> See *supra* notes 349-55 and accompanying text.

<sup>409</sup> See Henckaerts, *supra* note 401, at 196.

Regional coverage, however, is evidently not sufficient to combat these actions of the Ethiopian government.

This author speculates that the meager international attention to the expulsions is due to their connection to the border conflict. It is not clear which country is the aggressor in the border conflict, nor which country is correct about the border demarcation. This uncertainty may explain the hesitance of international leaders to exert pressure on Ethiopia to stop the human rights violations. On the other hand, it is highly probable from international sources that Ethiopia is the country at fault for the mass expulsions.<sup>410</sup> Despite confirmation of this fact, there is still minimal response from the international community.<sup>411</sup>

Regardless of the political situation, reports indicate that the rights of humans are being violated. People are being uprooted from their homes, separated from their families, stripped of their personal belongings and property, and divested of their citizenship.<sup>412</sup> It is disconcerting that the enforcement of international human rights law is permissibly curtailed because of politics. Violations of human rights are generally connected with political battles. If this is the case, then under what circumstances will international human rights laws be enforced?

Perhaps we now have an answer to this question. Since the resurgence of fighting between the two countries on February 6, 1999, the conflict has received extensive international news coverage. The international community has issued numerous statements urging a ceasefire.<sup>413</sup> Perhaps, then, heavy casualties and an "active" war are needed to get international intervention to enforce human rights laws. On the other hand, despite all the statements issued and the news coverage, there has been little mention of the over 52,000 individuals who were deported during the eight month cessation of active fighting.

It remains to be seen whether the deportations will continue with the resurgence of the fighting. Regardless, over 52,000

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<sup>410</sup> See *supra* notes 166-271 and accompanying text.

<sup>411</sup> See *supra* notes 349-55 and accompanying text.

<sup>412</sup> See *supra* notes 166-260 and accompanying text.

<sup>413</sup> See *International Appeals for Ceasefire*, *supra* note 111 and accompanying text.

people have been uprooted from their lives and families and forced to start anew. Also unknown is whether the international community will ever take a stand on behalf of these people. Addressing the border conflict and the fighting is simply not enough. The international community must give more than pretense to the enforcement of international human rights laws. Actions must be taken to force Ethiopia to cease the deportation of individuals from the country, release those in detention, and compensate deportees for financial hardship and losses. Anything less renders international human rights laws futile.

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